

January 12, 2021

# **Brevard County Board of County Commissioners**

*2725 Judge Fran Jamieson Way  
Viera, FL 32940*



## **Minutes**

**Tuesday, January 12, 2021**

**5:00 PM**

**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

**B. INTENTIONALLY OMITTED**

Roger Alexander gave an invocation.

**C. PLEDGE OF ALLEGIANCE**

Commissioner Zonka led the assembly in the Pledge of Allegiance.

**D. MINUTES FOR APPROVAL**

The Board approved the minutes from August 25, 2020.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**Absent:** Smith

**J.3 Approval, Re: Emergency Rental Assistance Payment Funds from the United States Department of the Treasury (Estimated \$18,034,939)**

Chair Pritchett asked the Board for consideration to hear this Item first as it is time sensitive and has to be in tonight.

Commissioner Smith noted he is on the phone at this time.

Ian Golden, Housing and Human Services Director, apologized to the Board for putting this Item on as an add-on; he stated the documents from Treasury only got to him on January 6 and they are due back at 11:59 p.m. tonight; this is an additional allocation of funds for rental assistance; these funds came out of the latest stimulus that was signed into law by President Trump on December 27, 2020; it allocates \$25 billion to rental assistance and the estimate that Brevard is going to receive is around \$18 million; that is not the Treasury's estimate it is National Association of Counties estimate and they are pretty spot on; and he believes part of the reason he has not heard from the Treasury yet is because agencies, communities, or governments that do not meet the deadline for receiving the document tonight accepting the terms will have their funds redistributed to the agencies that do, so it could be a different dollar amount. He noted the dollars themselves are very specific this time around, unlike the CARES act, so there will be a new application, a new policy which he hopes to bring back on January 26; the idea is because this is such a large amount of money, to reach out, as Commissioner Lober indicated, there are four major cities that currently do income verification as part of their Federal programs so he will be reaching out to them; that is one of the requested action items, to allow the County Manager to sign the interlocal agreements; and there are several not-for-profits in the community that do income verification so his Department will be doing an

invitation to bid to try to get them on board. He continued on by saying they already have an agency under contract that will be able to piggy back as they do income verification also; his Department will move forward with all of those different aspects; some of the other differences is in the income limitations; the previous program was 140 percent of area median income, that was a Board direction; the law itself this time, maxes it out at 80 percent of area median income; and another difference is it allows landlords to apply on behalf of their tenants, but the tenants do have to sign off. He went on to say as they market this they will also be marketing to the different landlords and rental associations.

The Board authorized the County Manager to execute the grant award terms for Emergency Rental Assistance through the United States Department of the Treasury; authorized you to complete the electronic submission of the grant award terms, including the financial institution details; authorized the Housing and Human Services Department, as the agency, to be responsible for the administration, oversight, implementation, and monitoring of the Emergency Rental Assistance Program; authorized the County Manager, or his designee, to execute future interlocal agreements, contracts, amendments, and/or modifications related to the Emergency Rental Assistance Program, upon approval of Risk Management and the County Attorney's Office; and authorized the County Manager to approve all related Budget Change Requests.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.1. West Cocoa and Silver Pines Federal Emergency Management Agency (FEMA) Grants for the Acquisition and Demolition of Flood Prone Properties**

Peter Carnesale advised he is not against the Items he just wants some clarification; the way he reads Item F.1., which is West Cocoa and Silver Pines Federal Emergency Management Agency (FEMA) Grants for acquisition of the flood properties, the federal funds would add up on the two of them to a little over \$3 million and the State funds would be a little over \$1 million; and as far as he can tell by reading the details there is no Brevard County input for that at all, and he just wanted to get verification of that.

Chair Pritchett stated she thinks that would be for Virginia Barker; and she knows in the briefing that Ms. Barker stated some of these for West Cocoa were with matching funds as far as the property that's being obtained.

John Denninghoff, Assistant County Manager, stated the funds referred to in this one are Federal funds for acquisition of flood prone properties and essentially no match is required as long as the County follows all the Federal rules associated with the acquisition process; there is actually two areas involved; one is the Silver Pines subdivision and he calls it West Rockledge; and the other is in the West Cocoa area in the Stratford Drive area where both locations have had quite a bit of flooding.

Mr. Carnesale commented that means his assumption that matching money is going to come from the State is correct.

Mr. Denninghoff responded it is.

Mr. Carnesale advised his other question is on Item F.2., and it is similar; the grant from the State Fish and Wildlife, which is a much smaller grant with State funds of \$54,000; and the paperwork going into the details, indicates a \$6,000 donation but it does not indicate where the

donation is coming from.

A representative from Natural Resources Management Department, advised the match is coming from donations from a local sports fishing organizations.

Chair Pritchett explained to Mr. Carnesale that any time he has questions like this and if he wants to call her at her office, she will get all of this to him before the meeting, so he has all the data he would like to have.

Mr. Carnesale stated basically people can tell by the detailed questions that he does read the details.

Chair Pritchett mentioned again that Mr. Carnesale can call and she would be glad to help him with some of this research beforehand; and that gives staff time to get the right answers too.

Mr. Denninghoff advised he has a correction on F.1., there will be some matching funds that will be coming out of stormwater fees for that District and the area involved, 25 percent.

Commissioner Pritchett asked if that was for F.1.

Mr. Denninghoff advised it is, and he apologized for his error.

Mr. Carnesale inquired if that is 25 percent of the total and if that means the County will be doing half of the State.

Mr. Denninghoff responded it is going to be 25 percent of the actual expenditures; historically on these situations, a lot of homeowners do not agree to the sale or they want more than the appraised value; and if that is the case, there will not be a transaction. He mentioned the maximum amount is what staff has noted, but it will not be half the State.

Commissioner Lober stated something real quick on F.1., and something real quick on F.2.; on Item F.1., he knows from having spoken to Natural Resources Management that in the very recent past they did in fact have one property and he does not know if it was included or already pulled out of that where they were not amenable to the price that was suggested to them so it may in fact be less than that, he just does not know if that was reflected in the current Agenda Item; and with Item F.2., he just wants to point out an addendum to what was said by staff, there are a couple other organizations that are contributing into that grant funding, Florida Institute of Technology (FIT) and University of Central Florida (UCF) are also involved. He pointed out they were all relatively low dollar values, maybe \$2,000 or \$3,000 but it was more than just the sport fishing group.

The Board approved FEMA Agreements, H0564- Project Number 4337-301-R and H0565- Project Number 4337-174-R; authorized the County Manager, or his designee, to sign and grant amendments; waived environmental site assessment report requirements unless deemed necessary by department(s); approved the Land Acquisition Department to offer appraised values; approved related property purchases; approved advertisement and execution of contract(s) for the demolition work; and approved related Budget Change Requests.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** John Tobia

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

**F.2. Permission to Accept a Grant from the Florida Fish and Wildlife Conservation Commission and Matching Fund Donations for Artificial Reef Construction**

The Board of County Commissioners, in regular session on January 12, 2021, authorized the Chair to execute FWC Agreement No. 20010 for Artificial Reef Construction; accepted the matching fund donations; authorized staff to competitively bid and for the County Manager to execute a construction contract with the lowest responsive and qualified bidder; and approved related Budget Change Requests.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** John Tobia

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

**F.3. Permission for Staff to Develop and Advertise an Invitation to Bid and Select the Most Suitable Applicants for Qualified Commercial Fisheries Operations to Lease the Buildings at Griffis Landing at Blue Crab Cove Site**

The Board authorized staff to develop and advertise an Invitation to Bid and select the most suitable applicants for qualified commercial fisheries operations to lease the buildings at Griffis Landing at Blue Crab Cove site, currently occupied by Doc's Baithouse and Mrs. Apple's Crab Shack.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** John Tobia

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

**F.4. Requested Approval of a Single Source Contract for Laboratory Services**

The Board approved Steward Rockledge Hospital, Inc. as a single source for lab services for the Brevard County Medical Examiner's Office; and authorized the Chair to execute the contract.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** John Tobia

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

**F.5. Brevard County v. Altman - Approval of Stipulated Final Judgment for Attorney's Fees and Costs at Trial for BRP Parcel 133 Hubbard Investments, Inc.**

The Board approved settling a Defendant's attorney fees and costs at trial for \$50,100.00; and authorized the County Attorney's Office and County Manager, or designee, to sign or file any necessary documents.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** John Tobia

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

**F.6. Appointment(s) / Reappointment(s)**

The Board appointed/reappointed Mayor Mike Brown and Tony Sasso, as Alternate, to Transportation Planning Organization (TPO) Citizens Advisory Committee, with said terms to expire December 31, 2021; Brian Germain to the Internal Audit Committee, with said term to expire December 31, 2022; Keith Winsten to the Tourist Development Council, with said term to expire December 31, 2024; and Robert Jordan, Kendall Moore, Robin Fisher, Alberta K. Wilson, James Minus, Yvonne Minus, Pat Woodard, Todd Pokrywa, and Sue Schmitt to the Redistricting Committee, with said terms to expire December 31, 2021.

**Result:** Approved

**Mover:** Bryan Lober

**Seconders:** John Tobia

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

**F.7. Resolution Honoring the Mayor Jake Williams, Jr.**

The Board adopted Resolution No. 21-001, honoring Mayor Jake Williams, Jr.

**Result:** Approved

**Mover:** Bryan Lober

**Seconders:** John Tobia

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

**G. PUBLIC COMMENTS**

Loretta Dozier stated she is a 30-year resident of Palm Bay and the CEO and founder of a local non-profit, Dove Bible Club; she is in attendance just to thank the Board for approving the selection of invocation speakers; she is happy to be there to hear the first one; and she noted her Bible Club has roughly 50-plus volunteers and they represent over 500 families. She went on to thank the Board for its sacrifice and service; and she said a prayer for the Board.

Jacob Gelman stated the main question that comes to mind when thinking why it is such a fight to pass an ordinance banning discrimination is why; he asked why there is any fight in advocating for an ordinance simply banning discrimination, simply passing an ordinance enumerating race, sexual preference, ability, gender, religion, or sex, as protected classes, any caring person, any caring government should be no fight, should seek no headlines, should simply be a routine process to correct a gap in policy; instead it seems there was reason after reason to wait, a court hearing, a bill in the State house which has been there for years with little to no hope of passing, a supreme court case; he was told there was interest but there was this or that case pending; they have all passed, so now he is asking again that Brevard County recognize the necessity to make clear a stance against discrimination in this County; he should not have to convince anyone why discrimination should not be allowed in any civil society; and he should not have to lay out theoretical, pragmatic, or emotional arguments convincing any lawmaker of their constituents humanity, it should just be known. He continued by saying the need for protection from abuse is known in his bones; yes as a queer person, he has personally experienced hatred based on who he is, but as a Jewish person his history is one of societal and governmental abuse; his family died in the USSR; his grandfather was denied employment; his great-grandparents homes in Eastern Europe were burned to the ground because the government did not protect them from abuse; and they did not recognize their humanity. He went on to say in spite of this, there is no recognition in Brevard County that Jewish people or any minority class are free from discrimination; there is no recognition of any protected classes, there is no Human Rights Ordinance (HRO) in Brevard County; this is not

political, not left or right, not blue or red, and not Republican or Democrat, this is merely a veneration of human rights; to paint it as anything else, to postpone it any more is to play political games with the humanity of the citizens of Brevard County; and for that reason an HRO in Brevard County is necessary.

Krishna Tewatia stated he is there to support an HRO; he would like to affirm that everyone's civil rights are equal; every single identity is protected by the Civil Rights Act and by the 14th Amendment; even Florida's own Civil Rights Act of 1992 protects against, "discrimination because of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status and thereby to protect their interest and personal dignity"; this request for human rights should not be seen as causing division; human rights does not mean rights for white people, straight people, or for non-disabled people; and he has faith in the decency and dignity of Brevard County's government. He went on to say he has seen this time and time again, he has seen it from attending a Brevard Leader Summit back in September, which Commissioner Tobia was at; Commissioner Tobia can attest, the civil rights leaders there were able to have civil discussions with the Sheriff's deputies who were also present; all the parties involved showed nothing but care and concern for each others grievances; he knows for a fact that this government cares about its people and now is the time to show it; what causes division, is when people are allowed to discriminate in this County; people should not be allowed to pick and chose which of the identities in the Civil Rights Act that it protects; and they all must be protected and an HRO will affirm that Brevard County is willing to do this. He stated people do not get to say everything is okay when it allows the murders of Gregory Edwards, Sincere Pierce, and Angelo Crooms; this HRO is necessary to prove that Brevard County condemns racism; right now this country is at a turning point in experiencing disorder and disunion comparable to before the Civil War; the riot at the Capitol on January 6, 2021, shows that people of different colors are treated differently; when BLM protesters were fighting for their rights to exist, the Capitol was ready for the event, however, when radical white supremacists stormed the Capitol and the government had warning it was going to happen, it still took four hours for them to fix it; and he thinks it is worth noting that the rioters at the Capitol were not regular people. He stated he is not standing there trying to disparage everyone on the right because of the actions of a few radicals; some of his best friends are on the right, but it has to be recognized that the two groups were treated differently; the same way he does not judge his fellow Brevard citizens based on the actions at the Capitol, people must not discriminate against groups in Brevard County because of the actions of a couple radicals or even because they refuse to understand them; and this country has dealt with the disorder before but right now Brevard County must take a symbolic move to show that it is willing to fight discrimination because it must show that where the Federal government has failed, where the country has seen this union, Brevard County can prevail and win.

Autumn Clayborn stated there is no relationship between the Sheriff or police department in low-income areas in Brevard County; they have yet to get an apology from the Sheriff on behalf of the deputy who murdered two young boys; the Sheriff has even said some alarming things to a Brevard County member who was sharing her concerns of the incident, stating, "Go ahead and share what you like, people like me could care less what you think. Go on now little fellow and stop thinking you matter."; the Brevard County Sheriff told a member of the community that he is supposed to protect, to stop thinking he matters; she is not there to keep complaining about this and how they continue to police the low-income areas way more and also harass people in those areas because that is something everyone knows is going on; she is there because it is time to change those things; she asked that Brevard County create those relationships in low-income areas, their only relationship should not be because they are continuously harassed by certain Sheriffs or cops; to only have bad interactions with someone will lead to harassment because that is all they are seen as; it is time to look into who is being policed outside of homes in the high-income areas, where people's neighbors are also seeing

them as a threat because they are hearing the things, not knowing they are more than just the bad situation that they continue to look for in those people; and she asked to have a meeting with the community leaders in the low-income areas to see how to create programs where everyone can build relationships. She mentioned both sides have to want better to create better in the community.

**H.1. An Ordinance to Revise the Membership of the Art in Public Places Advisory Committee and the Term of the Appointments**

Chair Pritchett called for public hearing on an ordinance to revise the membership of Art in Public Places Advisory Committee and the terms of the appointments.

Katherine Wall, Assistant to the County Manager, stated this is a revision to the Arts in Public Places Committee and what it does is it changes the membership from 10 members to nine members and the length of the term from one year to two years; and this is consistent with other boards that the County has.

The Board adopted Ordinance No. 21-01, amending Chapter 34, Article 11, Code of Ordinances of Brevard County, Florida, titled Art in Public Places, specifically amending Section 34-41(b) and (c), establishing the membership and qualifications and terms of appointment of members of the Art in Public Places Advisory Committee; deleting the Board of County Commissioners representative from membership; changing the term of members from one year to two years; grammatical changes regarding County Facilities member; providing for no term limit for the County Facilities member; and providing for severability and an effective date.

**Result:** Adopted

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**I.1. Request the Board of County Commissioners to Provide Direction to Staff Regarding the US Army Corp of Engineer Environmental Resource Permit Signature**

Euripides Rodriguez, Solid Waste Management Director, stated the Item in front of the Board is seeking direction regarding the Environmental Resource Permit on US 192 site, and it presents a series of options; the first option is to proceed with the US 192 site with some variables as far as the height is concerned; the second option is to take it to the Cocoa landfill and expand on the transportation and other items relating to it; and the third option is whatever the Board directs us to do.

Jack Kirschenbaum stated he represents Florida Recyclers; he asked that the Board not make a decision this evening on this issue that forecloses the County's ability to purchase the Florida Recycler's site; the reason is because this is a huge decision and the citizens and the taxpayers are entitled to have it fully vetted and fully understood; Florida Recyclers has been waiting since October 2019 for the second appraisal which the County received in October and Florida Recyclers did not see until Monday; and the Environmental Report which was ordered in October 2019, that Florida Recycler's also has not seen. He continued on by saying they learned of this meeting when Mr. Rodriguez was kind enough to inform him of it yesterday morning; because of the short notice, his appraisers and experts could not be there; these are huge decisions that have been 20 years in the making; Florida Recycler's understands the County has a great staff and that the Board is compelled to rely on their experts and their staff;



in this instance Florida Recycler's believes the report the Board received that is dated January 6, is incomplete, inaccurate, and presents numbers that are not accurate; two examples, one is the mulch issue adds \$2 million-plus to this purchase; Florida Recyclers has always said the mulch would be removed unless the County wanted it for land cover at the Sarno land site; second, the consent order, where a draft was referred to as of March 2020, but that consent order with the Florida Department of Protection (FDEP) is concluded and it has no financial impact, nor does it require the building of a perimeter road because it is already there; and this added \$700,000 to the proposed future expenses of this site. He went on to say the closure costs include in the report several million dollars that would not be necessary because they are already in escrow at the Sarno site and when it is closed that can be transferred over; Florida Recyclers believes there are very serious omissions and very serious overestimates that are in the report; and the Florida Recyclers are asking for a Workshop session where his experts can appear and talk about these issues with the Board.

Commissioner Lober stated he wants to make sure he is on the same page as Mr. Kirschenbaum; he knows they met in person, have spoken on the phone several times over the past year on this item, and emailed a little bit on this; he wants to make sure he understands what it is that Florida Recyclers is requesting; he does not necessarily believe that the County pursuing option one, namely constructing and permitting the US 192 landfill is necessarily prohibitive of the Board going and purchasing Florida Recyclers property if that is something that the County determines is in its interest; and he inquired if Mr. Kirschenbaum's issue is with the County taking a particular action that would exclude that possibility or if it is with the County moving forward with US 192 because there is a little bit of a difference there.

Mr. Kirschenbaum advised his client's concern is that a decision be made on the report the Board has that causes the Board, either tonight or later to no longer pursue what Florida Recyclers thinks is a good decision that is acquiring the Sarno site from Florida Recyclers; they do not want any decision made tonight that eliminates Florida Recyclers ability to negotiate and understand what is best for the County and the taxpayers, is their concern; they are not trying to prevent the County from taking any actions it needs to take to preserve its options; and he noted they do not want to be excluded from the possibility of what they believe to be a great option for the County.

Commissioner Zonka advised she pressed her light while Mr. Kirschenbaum was talking to see if the Board could give him more time at the mic and the reason being is this is such a big issue; she stated there is so much to unpack; she knows the Board just received this memo and she does not know whether or not Mr. Kirschenbaum should be watching the Agendas to see if this is on there, but that is an argument for another time; she understands where he is coming from and that he does not want to be excluded; she noted she received the report late this afternoon and Mr. Kirschenbaum's response to the County's report; and she is curious to know if it is okay with the Chair, for Mr. Kirschenbaum to expand on what issues Florida Recyclers has with the County's report.

Mr. Kirschenbaum stated he will go through some of the highlights of the report very, very quickly; most importantly the appraisals, he believes they must talk about the appraisals; Florida Recyclers had a high appraisal and the County ordered an appraisal that turned out to be in the middle; then a second appraisal that is the low appraisal; the County's two appraisals do not consider the variance that is in the works at the city of Melbourne that allows the height of the Sarno landfill to be raised; the County sought a similar variance for its landfill and obtained it; and Florida Recyclers is quite confident that it will acquire that variance unless the County objects to it for some reason, but he cannot imagine why it would. He mentioned that changes the dynamics and assumptions of the two appraisals that the Board has received so they would certainly be increased if the height is increased to 104 feet; secondly, once that

occurs, the expenses of the perceived cost of a cubic yard there dropped drastically from the \$11 that is estimated, which changes the length of time to recoup whatever expense that there is in modifying the site; the consent order added several million dollars with a perimeter road and others; that consent order is with the FDEP has concluded now and there is literally no expense to Florida Recyclers and it expires in a year; and it does not require any additional infrastructure. He went on to say the third one he had, and he thought to be the most important, were the environmental concerns; the environmental report is complete, although there were some trace elements of one chemical that everyone is very concerned with, but there are no standards for it and it does not exceed any standards, and the potential that such standards may be brought in later, really cannot be factored into the costs, but Florida Recyclers thinks there is at least \$10 million worth of future costs that have been included in this report that, with expert testimony, he believes the Board can be convinced that those are not real hard costs and that this is a great benefit to the County; and that is a summation of what his experts have been able to put together for him in just 24 hours.

Commissioner Smith stated that any decision he makes this evening regarding option one or option two would not be to the exclusion of future consideration for Florida Recyclers.

Commissioner Lober stated he would like to make a motion and he would suppose this would be under option three, although similar to one of the existing options; he would like to move to direct staff to proceed with final permitting activity, but do not authorize the construction of the landfill; if the Chair and the other members of the Board are so inclined to have a Workshop or to have this brought back at another time, he is fine with supporting that; but at this point he thinks the Board should go ahead and get the permits signed, return it to the Army Corp of Engineers, and have Mr. Kirschenbaum and his clients prepare to make whatever case they would like, understanding that the Board is really coming up against a very strict timeline.

Commissioner Zonka stated she could go into a diatribe of why she thinks developing US 192 is a big mistake especially with the opportunity to expand where the County is at, the opportunity for another 19 years; 19 years at the very least, for the County to break ground at US 192 without at least doing everything this Board can not to put itself in that position, she thinks it is reckless; the thing she really missed the first time she read the report, aside from the obvious misunderstandings and disagreements on what the County's report was compared to the response the Board received late today, was the polyfluoroalkyl substances (PFAS) comment; that seems to be a buzz word and it seems as though it was put in the report to try to incite emotion and she thinks that was irresponsible; and she is never going to support a landfill on US 192 for obvious reasons. She added whether or not this Board agrees with that she thinks this is beating a dead horse because they have all argued it, and she does not want to waste anyone else's time either if this the way the votes are going to go, if a Workshop is not going to change anyone's mind then that is up to the fellow Commissioners; if the Commissioners are open to the idea of not developing US 192 site, then she is okay with the Workshop, but she does not want to go into this with that risk and the permit being signed; and she noted she will never be comfortable with it because to put a landfill at the entrance to this County and to make another footprint for a dump, she thinks is a tragic mistake. She went on to say she thinks the Board should do everything in its power to make sure that it does not that, or at least so the Board Members can look at their children and say that this was something they were able to avoid; she reiterated she will not be supporting signing the permit; this is in her District and she realizes that some Commissioners may not care and some may see this as an opportunity to stick it to District 5, but either way that is sticking it to the entire County if anyone thinks a landfill is what anyone wants at the entrance to this County; and she noted this makes her really sad.

Commissioner Lober advised that at this point it may fail because he has not heard anyone

seconding the motion.

Chair Pritchett stated she has a motion by Commissioner Lober to move forward with the permit and a Workshop as well.

Commissioner Lober mentioned if there is a majority he would be happy to consider it; Mr. Kirschenbaum knows, based on conversations they have had, that Florida Recyclers has a little bit of work to do to get him to be in a position to where he would be remotely comfortable with proceeding; it would be an uphill battle for them, but that is not to say that it is impossible; he thinks they have a lot of legwork to accomplish on the front end; however, at this point, he really does think the County needs to get the permit signed. He noted he agrees with Commissioner Zonka that the Board should do everything it can reasonably to try to avoid breaking ground if there is another option that is a reasonable alternative, but he has yet to see that; he hates to tie two issues together but this reminds him of the Waste Management contract when it went out and the Board went with the lowest bidder, but there were a couple people who were disinclined to support that because it was politically unpopular at the time; this may be something that is politically unpopular but when there is no reasonable alternative, the answer is not that the Board sits on its hands and does nothing; therefore, he thinks giving Mr. Kirschenbaum and his clients one very final opportunity to make their case and see what they can come up with, and if he is able to rebut the arguments to the Commission's satisfaction or the majority of the Commission's satisfaction, the Board will have the ability to expand on US 192 or to start construction on US 192, but it does not obligate the Board to do so.

Commissioner Tobia stated he is inclined to generally have the permit signed and move forward, he is also in agreement with Commissioner Smith that these are not mutually exclusive; and he asked the Chair if he could ask Mr. Rodriguez a question.

Chair Pritchett responded in the affirmative.

Commissioner Tobia continued by saying the assumption made by the valuation deals with a height variance that is somewhere in Melbourne and he inquired if Mr. Rodriguez knew where that was.

Mr. Rodriguez advised the latest he heard this afternoon was that a representative from Florida Recyclers had dropped off a package this afternoon over to the city of Melbourne and it has not started a review yet; and he does not know regarding the state of it, all he knows is it was taken to the City of Melbourne at approximately 4:00 this afternoon.

Commissioner Tobia asked Mr. Rodriguez if this Board talked about a height variance months and months ago, and that there was conversations concerning the evaluation.

Mr. Rodriguez stated when the Board first started talking about it, he thought it was in April or May of last year; there was another Board meeting in July or June and then another regarding the same topic in October.

Commissioner Tobia mentioned he is not opposed to moving forward with the intent of Commissioner Lober's idea, however, he could not support something that would have a Workshop when there is a zoning issue before Melbourne that is not going to be resolved by the time the Workshop would be, and that is the difference; he just does not see a need for a Workshop at this point, because the County is not going to have any type of pertinent information to make a comparison at the scheduled Workshop; he does not see why Florida Recyclers, at any time, cannot come forward, or their representative can come forward, and the Board would provide them, as Commissioner Zonka was very helpful for providing extra time,

so if Commissioner Lober removes the Workshop he would vote for this; and he does not see any useful nature in that so he would vote against it with that provision.

Chair Pritchett asked Frank Abbate, County Manager, if it was just dropped off now, how long it would take for the Board to know if the City would approve the height change.

Mr. Abbate explained staff has no idea how long that process could be from the City's perspective.

Chair Pritchett asked Mr. Kirschenbaum to come to the podium.

Mr. Kirschenbaum stated that which was dropped off this afternoon was responses to questions that the City of Melbourne has had; they have had the application for over six months and it was scheduled to be heard this week or last month, he cannot remember which; it was postponed for additional comments from Florida Recyclers and this is at the tail end not the beginning of the application for variance; these were just minor comments or minor bits of information that the city needed; and it was not just initially dropped off in anticipation for this meeting.

Chair Pritchett inquired how long Mr. Kirschenbaum thinks it will be before he knows if that is approved.

Mr. Kirschenbaum stated he would estimate that February or March at the latest.

Chair Pritchett commented maybe it would be better to maybe do a Workshop in March after the Board knows that Florida Recyclers has that document.

Mr. Kirschenbaum commented that certainly makes sense and that is his understanding of the time frame.

Commissioner Lober stated he will go ahead and modify his motion to exclude the portion relating to the Workshop, but if someone wants to make that motion separately he will support it separately; he would like to get as much of this moving forward as he can; Mr. Kirschenbaum mentioned earlier that he was quite confident that they would acquire the variance, but he does not know if technically it is the variance that they are seeking, but he does see how it could be viewed to accomplish the same thing; and that said, he was actually at the Melbourne Commission meeting when the County had its height increase approved. He went on to say there were several staff members there and the fact that the County is the County and the vertical increase was put to them as being necessary for the County to continue its solid waste operations, he does not think that was lost on them; he is not saying that they will not or that it is impossible for them to grant the request of a private entity, but it seems to him they were very much focused on the fact that the County is the County and its needs are the community's needs; and whether it happens or not, he thinks that Mr. Kirschenbaum's level of confidence may exceed his level of confidence in them. He continued by saying the counter argument to what Commissioner Tobia had mentioned with potentially not having a benefit by way of having a Workshop, is that one of two things are going to happen, the variance is either going to be granted or not granted; if the pricing is such, the valuation is such, and the terms are such, that the County is not going to agree on any of it, regardless of whether it is granted, then he agrees there is no reason for a Workshop; however, if the Board can get to one of the scenarios where the County could potentially match things up in that direction, then he thinks there is a value in having that Workshop. He added the alternative, if people are just dead set against a Workshop, and he would like to make sure the Board does all of its due diligence, and he would invite Mr. Kirschenbaum to let him know what else he could have done in the

many times they have communicated on this, he wants to allow them the opportunity, but he does not want to do that if it means holding up the entire process; he would have to ask Mr. Rodriguez or John Denninghoff, Assistant County Manager, for their input by the way of how long it would take the Army Corp of Engineers to do what they have to after the County signs that permit and sends it back; if the County can do it within that time frame where it is not going to be held up, and by extension, subjecting the County to risk that it may have a problem if there is a hurricane in the next couple years, then he has no problem waiting; but if the County does not have that luxury, then it is a different story; and he noted he will modify his motion to remove the Workshop requirement.

Mr. Rodriguez stated a decision is really needed pretty soon; having a Workshop in March would make staff spend money that it would not spend in option two because they would not have to close down the landfill and transport the material over to Cocoa.

Chair Pritchett asked what class the Cocoa landfill is.

Mr. Rodriguez advised it is class one and it accepts class one and class three.

Chair Pritchett commented which is the one the County has and that the County has no other ones that can accept class one waste.

Mr. Rodriguez advised it is the only one.

Chair Pritchett commented if the County starts filling that up then it is going to be in big trouble with class one waste down the road.

Mr. Rodriguez responded affirmatively.

Chair Pritchett stated she would rather not increase to another spot but on the other side she is also not willing to give up property either; if the County permits it, it might be fine but she would not mind permitting it, but she still wants to move forward with the other options because she still thinks that is what is best for the County; she knows the Board has to look at the financial parts of it but if it can be maneuvered a little bit knowing the County has intentions of doing something different she is kind of hoping it can get a little more creative; and maybe the Board could even reduce the footprint of what the County is trying to do with this, anything that can be done to help with that end goal she would be appreciative of. She added she would really rather not have to do another spot; she would really like to explore in a Workshop, some options; she thinks the Board needs to do that; and as far as permitting, she is probably fine with that but on the basis that the County would really try hard to do something different; and she thinks as a community the County has to do better with the garbage because if it does not do it soon there are going to be some real problems. She noted the County has got to spend some money on figuring out how to deal with taking out the trash; and she is open to some ideas because it would be a good thing for this Board to leave behind when the Members leave the Commission.

Commissioner Smith stated he understands where everyone is coming from; he has his own ideas and option one makes the most sense; all the Board has to do is look at the push-back it received after it approved the most recent contract with Waste Management; they came in with the lowest bid, being 39 percent higher than what people were paying before and he had people calling his office who could not believe they approved this and they believed the Board was in with these people and waste management; he can only imagine how loud of an uproar if the Board does not have something like option one that it can lean on years from now, to place its own garbage; if the County gets to a point where it has filled the other places up and it has

to search for another County to take it, the money it would cost to truck it there would be astronomical; and the County would be totally at the mercy of the other County because they could charge anything they desired because this County would have no options. He mentioned if the County has at least option one on the table and it signs the paperwork, it is preventing any of that from happening, and this County can go forward securely knowing that it has the future covered as far as the landfill; this is a hot topic because, as Commissioner Zonka mentioned, she does not want it because of the eyesore that it could potentially be; he would submit that it could 20 years down the road before that hill would become visible; by then who knows what technology would provide; the County may not even need a landfill at that point in time; maybe the County could use that landfill that exists on US 192 when it is up and running, to supply electric to the south end of the County at some point in time; he is all-in on option one; however he is willing to listen to the other ideas that anyone might have, but he thinks the Board needs to secure this landfill. He added as Mr. Rodriguez has said time is running out, time is of the essence.

Commissioner Zonka stated the Board knows where she stands on this; she will never be in support of signing that permit; even if the Board allows staff to continue to negotiate on Florida Recycles, it will have been permitted to essentially make that a landfill; she understands that makes a property more valuable and that Chair Pritchett definitely does not want to sell the property; however, she would not want to sell it to another entity as a landfill anyway. She went on to say she thinks she has argued her point significantly over the last four years; it was something she was fighting before she was a Commissioner; she will never be in support of that landfill out there especially when there is that other option of opportunity that could potentially give the County 19 more years at Sarno; she thinks it is reckless; she is not taking a shot at anyone in particular, but this is her District; if the Commission wants to go forward with this or end up supporting breaking ground on US 192, Workshop or not, she would suggest that the Board modify its motion or move to make that motion to name the landfill after either Commissioner Lober who made the initial motion, or another Commissioner who wants to own it, because she does not want any part of it; she does not want to own it; and she thinks it is disgusting.

Commissioner Tobia stated regardless of how he votes, the one thing he wants, he would love a Tobia dump; and he thinks that would be a wonderful legacy to leave.

Commissioner Zonka stated Commissioner Tobia should have been the one to make the motion.

Commissioner Tobia went on to say there are two time frames coming up that Mr. Rodriguez was talking about, a time in which it is going to cost additional resources to take that to the Cocoa facility, and then Florida Recycler has a time frame as to the valuation of that land and that at that variance; he does not think it is fair to ask taxpayers to pay extra time; he thinks that Mr. Kirschenbaum working for Gray Robinson, can certainly hustle things along through that process; it sounds like potentially one other Commissioner may be in favor of a Workshop, but he thinks it would be fruitless to do it either after paying additional costs like Mr. Rodriguez said in May or June and it would also be fruitless to do one prior to getting the response back from the City of Melbourne; if that all aligned there would be significant hurdles, to be very clear, outside of that height variance; they are talking about somewhere in the neighborhood of about \$3 million in an escrow deposit that it is deficient; when the Board is looking at whether they value it at \$2, \$5 or \$8 million if the County were to take it over, there is a \$3 million deposit that the County would need to deal with; there is the \$2 million in mulch, the \$700,000 in road, there is water retention, a pond that may need to be switched, so there are many variables that are floating out there; however he does agree that the County needs to have all the information before the Board makes the decision to go one way or another; and he does not want to hold

off any longer to put taxpayers in a position that Mr. Rodriguez was talking about where the County has to taking the refuse to the facility in Cocoa. He noted he would support a Workshop, but he needs those two variables to come forward, otherwise it is just frankly a waste of time because the Board would not have all the information to make an accurate decision; and in the meantime he would agree with Commissioner Smith with option one being the right way to go.

Commissioner Lober stated the other alternative, listening to Commissioner Tobia with respect to the concerns over the timing on a workshop, he does not have a problem if folks are okay with Mr. Kirschenbaum approaching the Board outside of a Workshop as soon as he is comfortable and as soon as he is able to do that with the information as soon as it becomes available; he shares Commissioner Tobia's concern that the County has no option; that is the issue; he has heard that staff might have thrown in PFAS to start a commotion, and that there may be a Commissioner or some Commissioners that want to stick it to District 5, but that has nothing to do with it; the bottom line is there is no reasonable alternative; it is just like the Waste Management fee increase where the County had the lowest bidder that it went with and there was at least one Commissioner who stated they did not know what the answer was, but it was not that, and that one Commissioner would not support a fee increase; and he would ask what the alternative is, to let the trash pile up. He reiterated the County is in the same situation now as it was then, is it politically popular, no; he stated is it going to irritate people, yes; if someone comes up with a reasonable alternative, whether it is Florida Recyclers or otherwise he would be happy to go in that direction; if someone wants to name a landfill after himself or Commissioner Tobia, he does not care; if that is the right thing for the County name it after him or his dog, just not after his wife; the Commission can do whatever it needs to do to get its shot in, but when he looks at this he looks at it based on his fiduciary obligation he has to his constituents and based on how it would impact the County as a whole; and he has yet to hear anything that the County has a better option. He went on to say what he has not heard is a better option and he has not heard one in the two-plus years that he has been on the Commission; he heard from Commissioner Zonka that this is prior to her getting on the Board and maybe even prior to getting on Council down in Palm Bay, but he does not hear any alternative; the County has years and years of a problem but no solution that is a reasonable alternative; he is sorry and he knows it is not something that is wonderful in the sense that it is a perfect option; and he is going to stick with his original motion as modified to approve signing the permit. He added he really will give Mr. Kirschenbaum and his clients a fair shake moving forward; if someone wants to bully him into not supporting the US 192 project that is not going to have the desired outcome; that will be the fastest way to push him in the other camp; and quite frankly it sounds like there are two votes there already.

Chair Pritchett advised Commissioner Lober that Commissioner Tobia said he would change his to do a Workshop later and asked if he is changing his.

Commissioner Lober stated he is fine either way and he will defer to Commissioner Tobia with his motion reflecting it accordingly.

Commissioner Tobia reiterated those two conditions have to be met, he does not want the Workshop after; he asked Mr. Rodriguez when this crosses the proverbial rubicon in which the County starts taking that refuse to the Cocoa facility thus costing taxpayers in the long run, extra dollars.

Mr. Rodriguez explained there are a couple things that can be done parallel, and by that, he means signing the permit.

Commissioner Tobia stated he thinks the Board is there.

Mr. Rodriguez mentioned he thinks signing the permit is just the end of phase one, there are still a bunch of permits that have to be acquired; there is still a contract with Deseret that has to be followed and that means the County has to give them X amount of time in order to vacate a portion; what he is trying to explain is that there is no construction that is going to occur but there is a lot of paperwork that is going to occur in the next three or four months; and any construction that would be occurring would not be until late summer.

Commissioner Tobia asked Mr. Rodriguez to give him a month in which there would be an additional cost to taxpayers if the Board decided to go in the other direction.

Mr. Rodriguez advised he is looking at October of this year.

Chair Pritchett inquired if that means the County would not have to permit until October of this year.

Commissioner Tobia stated it sounds like the County would have the permit immediately.

John Denninghoff, Assistant County Manager, stated what Mr. Rodriguez is trying to explain is that the County needs to go now with the permitting; staff was directed previously to cease permitting activities and it needs to resume those for the US 192 site in order to be able to be in a position to start construction there in a manner and time that would allow staff to have the landfill ready when the Sarno landfill is full based on the projections that the County has currently; and if the County has a hurricane it may fill more quickly.

Commissioner Tobia inquired when that construction would start.

Mr. Denninghoff stated he thinks the County would be in a position to start the construction in the summertime which is what Mr. Rodriguez was saying; probably sometime late summer; right now staff needs to be able to go with the permitting and gear up to get ready to go to bid, get all the documents ready for the construction process to be able to begin in a timely manner which would be, he anticipates, in the summer; if staff cannot get it underway by October, then staff would be looking at probably having run out of time and time options that are associated with it; therefore, staff would have to accelerate construction which always costs a lot of money. Commissioner Tobia commented it looks like that window for the Workshop would be before late summer but after the potential approval of, and he thinks if Melbourne does not approve this there is just no way the numbers work because he does not know if the numbers even work this way, but after such a time that Melbourne approves that height variance, if there is such a window; and he mentioned he does not know if that period will ever occur but if it does he would support having a Workshop because at that point the Board would have all the information.

Chair Pritchett stated she knows the Board is doing this permitting; she sees that someone created a self-imposed height restriction; there was 311 and the County just imposed 106; she mentioned if the Board does the permit, it comes back and has a Workshop, the Board works on some things and figures out what the main fill of the landfill is, if there is something that is not very environmentally challenging that is being put in there, and maybe this is where the Board can put more restrictions on the County and only put mulch there; she thinks the County can do some more creative work on this; she thinks the Board needs a Workshop on this because people have ideas; and she thinks the Board can still work on some things creatively on how to be the least-damaging to this piece of property, and maybe never have to use it. She continued on by saying as long as the Board does not cause damage but spend as much time really examining this, she thinks that might be a good thing to do; she knows it is a lot of work but she would love for the Board to do that; if the Board permits this tonight but still comes



back and plans on a Workshop; and people get really creative with a bunch of different ideas; maybe the height can go down more and the County can do certain things to maximize certain facilities; she does not think the County should use the Cocoa one because it is the only class one the County has and it needs protected; but maybe there is some other creative things to do; and she thinks that might be what the Board needs to start having a conversation on. She went on to say she thinks the Board needs to have some good conversations with all the data and the costs.

Commissioner Smith commented he understands what Chair Pritchett is saying; the Board can have the Workshop if it approves option one; as he said previously, if the Board approves option and it does not exclude the Board moving from moving forward with Florida Recyclers, and that provides an intermediate option, then he thinks every one of the Board Members would go for that; however it still has the ace in the hole in that it has US 192 ready to go whenever the County gets to it, whether it be a year from now or eight years from now, the Board will have done what it needed to do; it is under a time constraint, January 21, to get that option accomplished; and the Board can have a Workshop in April or in the summer time depending on whenever it has all the information it needs on Florida Recyclers and whether height restriction option is given to the County by the City of Melbourne; and as said before, if the Board moves forward with option one, it does not preclude the Board from doing something different in the future, but it paves the way for the County to get this going and move forward from square one. He advised if no one seconds Commissioner Lober's motion he would like to make a motion to proceed with option one and continue to work with Florida Recyclers, and at which time they receive the variance, the County could have a Workshop and discuss what can be done with that site.

Commissioner Zonka noted the other option is Florida Recyclers, so to say there is not another option, the Board has been trying to work this other option for a long time; she cannot speak to what the County did before this Board was here; she knows they went through several years of litigation with Deseret Ranch and eminent domain issues and everything else; this is millions of dollars in the making, so a lot of decisions were made before this Board; however, this is the other option and it is a great option. She continued by saying if everything goes, and it looks like a strong possibility as planned, it could potentially, easily give the County 19 more years, assuming it has not found a better way of dealing with trash; there are things now where places are pulling waste out of landfills and using it for energy in other parts of the Country and other parts of the world; to say there is not another option is just not true; all the Board is doing is moving forward with the US 192 site because it is easy; that is the one the County has spent all this money for, spent all this time on, and got this nice beautiful land out there that is ready for a nice landfill; and if Commissioner Lober is not opposed to naming it after him, she would love that; and Commissioner Tobia could be Trash Mountain and Commissioner Lober could be Lober Landfill.

Commissioner Lober stated he likes it.

Commissioner Tobia stated he does not know if they have to be dead.

Commissioner Zonka advised she did not think so.

Commissioner Tobia commented then he is all for it.

Chair Pritchett noted she has learned in her District, it is better.

Commissioner Lober stated if the PFAS gets out maybe they will be dead.

Chair Pritchett stated she is going to have to have Commissioner Lober say his motion one more time.

Commissioner Lober asked Commissioner Tobia if he wants him to include the Workshop or not.

Commissioner Tobia stated the Workshop is fine as long as those two conditions are met: before there is additional burden placed on County taxpayers, and after such a time that Melbourne approves the variance.

Commissioner Lober stated his motion will be to go ahead and direct staff to take all necessary action to ensure permitting for the US 192 site, consistent with it being a landfill but not to commence any sort of construction activity; if staff needs to do anything by the way of waiving policy or putting in a Budget Change Request (BCR) this would authorize staff to do that as well at the County Manager's option; beyond that, if the Board is unable to come to consensus of a Workshop date with Florida Recyclers, by way of Mr. Kirschenbaum, he would ask that staff bring this Item back to the Commission in time for it to make a decision so it does not run into the problems that Commissioner Tobia mentioned, namely incur additional costs for taxpayers; and if the Board has the Workshop, that is the goal, but if it cannot figure out an appropriate date or Melbourne does not come back on the variance request at a drop dead date as determined by staff, staff is to bring it back to the Board for consideration of whether or not to pursue construction at that point in time.

Commissioner Smith stated the only difference between Commissioner Lober's motion and his own is that Commissioner Lober is putting the roadblock in there that the County cannot go forward with any construction unless it comes back to the Board first; and he asked if that is correct.

Chair Pritchett noted she thinks so.

Commissioner Lober stated that is his understanding.

Commissioner Smith stated if that is what the Board thinks works, then he is okay with that; he thinks at some point it is going to be obvious that the County is going to have to break ground whether it be six months or six years; he does not know why the Board is requiring staff to come back to the Board for another decision; he thinks the decision will make itself when it is needed; however, if the Board is good with that, he will support it.

The Board directed staff to proceed with permitting for the US 192 site to be consistent with it being used as a landfill, but not to commence any construction activity; authorized the County Manager to waive any Policy and/or make any necessary Budget Change Requests; and if staff is unable to come to agreement with Florida Recyclers on a Workshop date before an additional burden is placed on County taxpayers, and after such time as Melbourne approves the variance, staff is directed to bring this back to the Board for consideration of whether to pursue construction at that point.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** John Tobia

**Ayes:** Lober, Tobia, and Smith

**Nay:** Pritchett, and Zonka

Chair Pritchett advised she would really like to get a Workshop in and have all of those discussions and she knows the Board is good with it as well.

Frank Abbate, County Manager, stated that would cancel the Workshop that is scheduled in two weeks.

Chair Pritchett noted she does not think the Board can do that one with all the data; and she inquired if Mr. Kirschenbaum has any idea.

Mr. Kirschenbaum stated he thinks two weeks might be too tight, but if it is at all possible she will contact the County Manager.

Chair Pritchett advised she thinks they will need to discuss what the County wants to impose on itself and what it wants the end result to be as well, because staff is permitting now, which is what it had to do; and she thinks there needs to be a discussion on what is best for the County.

#### **J.1. Expansion of Vaccination Operations in Brevard County**

Matthew Wallace, Public Safety Director, this Items seeks the Commission to consider and allocate up to \$2 million from the Public Safety Fund to expand the County's vaccination program in Brevard County for up to six months; currently there is one vaccination location in Brevard County at the Department of Health; there is a huge success story there as they started out with 100 vaccinations per day with the capacity, but Emergency Management working with the Department of Health, they are now up to 700 vaccinations per day, on average; and they are hoping to do some process improvements, add a few more resources, and get that location up to 1,000 vaccinations per day. He went on to say this initiative would add a second location through either a vendor or through other opportunities.

Frank Abbate, County Manager, stated this will use the \$2 million to add additional capacity; how that will happen is not known yet; staff is going through a process looking at working with various partners which may include each of the hospital systems; it may also include private contractors; and staff is just looking for authority to move forward with that and have those dollars available with Board approval, to utilize from the Public Safety Fund.

Chair Pritchett stated this is going to rely heavily upon supply, and she inquired if that is correct.

Mr. Wallace responded affirmatively. He stated staff will bring that decision back to the Board once Purchasing and the team work to find out who can provide at capacity; the whole initiative of this is the State of Florida is talking to the counties with that bigger capacity that can demonstrate to the State and they will match that with vaccinations; if staff increases from 1,000 per day to 2,000 per day, the State of Florida will look positively and give the County more vaccine shots in the future as opposed if the County were to keep its capacity down; and therefore, this puts the County in a very good competitive place with the rest of the State to maximize those shots in arms to get into the citizens in Brevard County.

Commissioner Tobia mentioned he will be supporting this but he would be remiss if he did not particularly thank Commissioner Zonka for prioritizing public health of the County's residents over special interests and pet projects such as zoos, animal shelters, and large corporations; by allocating her District's funding of \$5 million to the Public Safety Fund, many lives can be saved, the economy will be able to recover more quickly, and residents will be able to feel more safe in their communities; and he noted it is probably nice to hand out millions of dollars to friends and local businesses, but she prioritized, and now the County is seeing the fruits of that

tough decision.

Chair Pritchett stated she also wants to thank her for working in the public health care and doing all that she does to help get people safely through this crisis.

Commissioner Zonka stated she thinks Mr. Abbate kind of addressed that; she wants to make sure, she does not know if because she is a provider and she has a State license, she has been receiving solicitations from companies that she guesses are contracting through the State; she does not know if they are legit or not, she assumes that they are; she wants to make sure the County is not competing with the State or paying triple of what it needs to for staff to administer these vaccinations, especially when she believes that one of the hospital systems has volunteers doing them now, on their own time; and maybe that is the call to see how many volunteers staff can get. She mentioned she would be happy, as someone who is licensed because she knows that criteria also just came out from the Department of Health where people had to hold certain licenses to be able to give them and that sort of thing; she would caution everyone just to make sure whatever agencies are being looked at, that is a question to ask, what they are paying their employees, if they want a County contract, because the Board wants to make sure the County is not being scalped; just because the money is there does not mean to be wasteful with it; the goal is to get them out as quickly as possible; but make sure that the County is not just blowing through it.

Mr. Abbate informed staff is definitely doing that; he has had that dialogue with the County's Central Services Director and he is making those inquiries.

Commissioner Lober stated this is separate from the motion, from the get go when the County started to get the vaccines, he has never wanted there to be a financial reason why the County is receiving less than the total number that are available for Brevard so if staff sees any other opportunity like with this, to increase the amount or set conditions such, that the County is likely to see an increased amount of vaccines made available to the County, he asked that staff please bring it to the Board; if another County Commissioner wants to call an out-of-session meeting for it, he gives his approval in advance, he will make himself available any day, and any time; and he just does not want there to be a financial reason why the County is not vaccinating as many people as it possibly can.

Mr. Wallace responded affirmatively.

The Board approved \$2,000,000 from the Public Safety Fund for County staff to expand the current vaccination program to provide the capability to distribute an additional 1,000 vaccination shots per day, in addition to the current Florida Department of Health (FDOH) capacity of up to 700 vaccination shots per day, and for the program to last up to six months from the start date; authorized waiving the Procurement Policy in obtaining this contracted service in an effort to have contract execution begin as quickly as possible; directed staff to bring back the contract(s) for Board approval once they have been identified to meet County requirements and timeliness; and authorized the Public Safety Funds be used for anticipated staffing, as well as logistical and site requirements.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**J.2. Legislative Intent and Permission to Advertise Amendments to Sections 2-244, 2-247 and 2-249, Brevard County Code of Ordinances**

Commissioner Tobia stated on December 22, the Board considered an item regarding a lease of property by Brevard County to the United States Specialty Sports Association (USSSA); during discussion of this Item, it was brought to the Board's attention that an amendment to the super majority requirement contained in Section 2-244 would be brought back for consideration as it seemed to have no applicable purpose; the County Attorney, Eden Bentley was asked to opine on whether there is specific historical current purpose for the super majority requirement in this section; Attorney Bentley was unaware of one and took further steps reaching out to her predecessor, Mr. Knox, who was also unaware of any specific purpose; the County Attorney's Office has further identified Section 2-247 as having a similar issue; this Item requests permission to advertise amendments to Section 2-244 and 2-247 to remove the super majority requirements; upon researching this topic, the County Attorney's Office made a suggestion of amending 2-249 in order to simplify administration of notices of such leases or sales; and the suggested amendment would allow for posting of the Agenda on Legistar to be sufficient for public notice.

Chair Pritchett advised Commissioner Tobia will have her support.

Commissioner Lober stated he is normally of the mind that if it is working reasonably well, then to leave it alone; if there is room for improvement then that is a different story; and he asked if this is something Commissioner Tobia feels real strongly about, because if it is important to him he will support it, otherwise, he is just not inclined to.

Commissioner Tobia stated he thinks super majority is extremely important for leases that are below market value, sales that are below, or purchases that are above market value; those that do not fall in that, he does not think that there is a need for a super majority; and for that reason he thinks this is just extraneous and can be done away with.

Commissioner Lober advised Commissioner Tobia has his support.

The Board approved legislative intent and permission to advertise amendments to Sections 2-244, 2-247, and 2-249, Brevard County Code of Ordinances.

**Result:** Approved

**Mover:** John Tobia

**Second:** Curt Smith

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

**L.2. Eden Bentley, County Attorney**

Eden Bentley, County Attorney, stated she has two relatively short Items that are merely updates; she will not be asking for any action by the Board; on December 22, at Commissioner Tobia's request, the Board directed staff to provide a report on two Items; the first Item addressed two Melbourne Community Redevelopment Agencies (CRAs) and the City; the question asked was whether based on the draft report issued by the Auditor General, has anything changed that would allow the County to recoup tax increment funds from the downtown CRA; first the Board should be aware that document was a draft and the entities mentioned in that report have an opportunity to respond; and their response is due January 19, 2021, thereafter the audit may be revised and finalized. She continued on by saying at that point the County can complete the review and analysis; the staff is waiting for the report to be finalized it is looking at finding 11 of the draft report which indicates the two CRAs did not

comply with Statutory requirements for year-end transfers in 2017-2018; staff is exploring various routes where options might be available to address that issue; of course if the response comes back and rebuts the findings in 11, the legal routes may change as well; therefore, staff will have to wait to come back to the Board after there is a final report. She went on to say the second Item was a request related to COVID-19 vaccines and the ability of the County to mandate vaccines for employees and First Responders; pursuant to guidance from the U.S. Equal Employment Opportunity Commission (EEOC) an employer is allowed to mandate COVID-19 vaccinations when employees pose a direct threat to themselves or others by their physical presence in the workplace without being immunized; in other words it is permitted if workers would pose a significant risk of substantial harm to the health or safety of the individual or others that cannot be limited, eliminated, or reduced by reasonable accommodation; however, if the County chose to mandate the First Responders get the COVID-19 vaccines, either as a condition of employment for new employees or as a mandate for existing employees, the County must do so in a manner that does not violate any Federal or State law, for example, an employer must consider reasonable accommodations for employees with disabilities, to illustrate this point an employee may have a medical reason for not getting vaccinated, in such a circumstance the employer cannot automatically exclude that person from the workplace nor take any negative action against them, the employer must have in place a systematic and interactive process of evaluating requests for reasonable accommodations. She stated Brevard County currently has an existing system in place for considering requests for reasonable accommodations A002, which can be utilized for this purpose; other considerations must be carefully contemplated in developing a policy for mandating a vaccine including the following: the impact of the Emergency Use Status of the vaccine, the impact to collective bargaining if any, and the continued protection of privacy rights of the employees; and staff will continue to work on these issues and come back with a report.

#### **L.4. Bryan Lober, Commissioner District 2**

Commissioner Lober stated he just wanted to reiterate what he said at the last meeting when this was first brought up; from his perspective he would certainly encourage everyone that is able to be vaccinated to be vaccinated; he thinks from a community standpoint that it is certainly beneficial; he has a real profound issue with the Board mandating that certain individuals be vaccinated; if there was a concern that they pose a risk to those folks with whom they interact, he would suggest maybe look at outing them in an alternate position; if there is a lateral option available he would certainly prefer that if there really is a risk; and he has a very negative opinion of forcing people to have medical treatment that they may not want, even if it is something that he would absolutely get himself. He added to the extent that the Board can incentivize them, as he has tried to do out of a portion of the CARES Act funding, that is wonderful, but it was a little depressing to see the poll that was put together by the Fire Union; it indicated something like 30 percent of those folks that responded would actually get vaccinated if the vaccine was available at no cost to them, which is in fact the case; he is hope that incentive that was put forth actually increases that to some meaningful degree; however, he has a real issue with telling people they have to be stuck with a needle for something they may have an anaphylactic reaction to or some other issue, he does not have any level of comfort in that. He continued by saying that if the Board wanted to go in that direction, he would feel more comfortable, although not necessarily in love with this idea either, if the Board said for new hires they have to agree to X,Y, and Z but for the people who are here and understood the terms and conditions of employment were as they were, he does not know that it is fair to tell them now they have to be stuck in the arm for something; and he feels real uncomfortable with that.

**L.5. John Tobia, Commissioner District 3**

Commissioner Tobia stated he has two reports; he has been lax on his appointment to the Tourist Development Commission (TDC) as his focus has been elsewhere; it is his understanding that a vote for a new Chair will be coming up and though he greatly disagrees with Mr. Winsten much of the time, he knows his heart is always in the right place; he knows he works extremely hard for not only the zoo but all of Brevard County; and he thinks he would be a great addition to the TDC. He noted unfortunately, by the time Mr. Winsten agreed, it was past the deadline; the reason he put it on his Board Report is to give him the opportunity to make that vote for the Chair of the TDC; he served as a subcommittee member previously so he has a great deal of expertise; Eden Bentley, County Attorney, was extremely helpful, there will have to be a disclosure in which he signs because five percent of the TDC revenue goes to the zoo; it has been cleared through the County Attorney's Office as well as Mr. Winsten spoke with the Board and they would be in support of that; and if the Board would like to wait until the next meeting, he would be more than willing to, but unfortunately he would not have the opportunity to vote for the Chair.

Chair Pritchett confirmed this is just to confirm placing Mr. Winsten on the TDC.

Commissioner Tobia confirmed.

The Board appointed Keith Winsten to the Tourist Development Commission (TDC) Board.

**Result:** Approved

**Mover:** John Tobia

**Second:** Bryan Lober

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

Eden Bentley, County Attorney, advised there is a conflict waiver with this.

Commissioner Tobia inquired if that needed to be voted on as well.

Attorney Bentley advised it does; she stated as Commissioner Tobia indicated it is because the zoo receives funds, it is an employment conflict, but for advisory boards that conflict can be waived; it was waived for Mr. Winsten for his subcommittee service; and this is just a new waiver for his new position.

The Board granted a Waiver of Conflict for Keith Winsten with Brevard Zoo.

**Result:** Approved

**Mover:** John Tobia

**Second:** Bryan Lober

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

Commissioner Tobia congratulated Matt Wallace, Public Safety Director and a proud alumni of the University of Alabama, on Alabama's win over Ohio State; and he commented he is happy that a South Eastern Conference (SEC) team won the National Championship.

**L.6. Curt Smith, Commissioner District 4**

Commissioner Smith stated he would like to piggyback on what Commissioner Lober was saying about that he had heartburn with regard to the Board requiring people to be stuck in the arm for something that they do not want; he thinks if the Board gives them the option then they

should have the option to say no; and he congratulated Colonel Wallace on the Alabama win. He went on to say he is seeking approval by vote of the Board to pay up to an additional \$20,000 per small business that can show equivalent loss of revenue from March to June of 2020; this would bring the potential reimbursement up to \$30,000 with COVID funds and CARES Act money; this would apply to businesses requesting additional funds by the announced deadline of 5:00 p.m. on December 18, 2020, and have a business address in Districts 1, 3, 4, or 5, which does not include District 2 businesses due to Commissioner Lober announcing he has his own plan for small businesses exclusively benefiting those in District 2 only; and he needs a second for this vote.

Commissioner Lober inquired if the total aggregate coming out, as contemplated by the motion, of the \$5 million that was delegated to District 4 to allocate.

Commissioner Smith responded affirmatively.

Commissioner Zonka inquired if there is going to be any County costs at all.

Commissioner Smith confirmed there will not be.

Frank Abbate, County Manager, advised there will be costs but they will come out of the funding from Commissioner Smith's allocation.

Commissioner Zonka asked if the entire amount is coming from that.

Mr. Abbate responded affirmatively, and he asked that it be added to the motion that he as County Manager has the authority to sign any necessary paperwork related to this.

The Board granted approval of up to an additional \$20,000 for small businesses that have shown equivalent loss of revenue from March to June 2020, and requested additional funds by the deadline date of December 18, 2020 at 5:00 p.m. within Districts 1, 3, 4, and 5 to be paid for out of the \$5,000,000 of CARES funds allocated to District 4; and authorized the County Manager to sign any necessary documents related to this.

**Result:** Approved

**Mover:** Curt Smith

**Second:** Bryan Lober

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

**L.7. Kristine Zonka, Commissioner District 5, Vice Chair**

Commissioner Zonka stated she wanted a consensus from the Board about reactivating the Builders Round Table because she thinks it may solve some of the problems that people are maybe having in coming to see the Commissioners in their offices to vet some of the issues they are having whether it be through permitting, issues with staff, issues with getting stuff returned; the developers and builders can help the County; and the County can better provide them with what they need to do. She added this was done before and it was successful but went by the wayside; then when the County Manager was switched, there was a bit of a transition, but she would like to reinstate that to possibly doing something like that quarterly; she mentioned it is basically where they bring staff in and have staff listen to the builders and developers in the County; she found it a useful exercise last time and she thinks they all learned a lot from each other; and she would like to see that again.

Commissioner Lober stated he likes the idea but he is curious as to what it costs County



before; and if it is a trivial cost he is happy and if it is tremendous maybe he is not.

Commissioner Pritchett stated she thinks it may save some money in the long run because they are able to take care of it without having to do a lot of extra work with staff and the Board.

Commissioner Zonka thanked Chair Pritchett.

Commissioner Lober inquired with the County Manager it is not something that is prohibitively expensive.

Frank Abbate, County Manager, advised it was staff time.

Commissioner Lober inquired if it is just a few hours here or there.

Mr. Abbate stated the meetings would go for a couple of hours; and he does not know if they were happening maybe quarterly.

Commissioner Lober mentioned that sounds reasonable.

Commissioner Zonka noted she does not think there was even a schedule, she thinks it was kind of whenever staff decided to do it, they would; it is just a couple hours of staff time; the Board usually tries to find ways to save money and to expedite things, so probably in the long run it is a savings for both, not just the people submitting plans to the County and having questions; and that saves staff time on that end, if they already have the answers.

Chair Pritchett responded if the Board needs a motion or if it is just good with it.

Commissioner Zonka stated she just wanted a consensus to see before she brought something back.

Commissioner Smith noted he is all for it.

Commissioner Zonka stated she would like a schedule; she thinks this is how the Board failed last time because the Board did not really have a schedule in place; and by doing that it holds everyone accountable to make sure it is not something that falls by the wayside.

**L.3. Rita Pritchett, Commissioner District 1, Chair**

Chair Pritchett stated she wants to remind everybody the Board probably had over 4,000 COVID-19 cases since the first of January, it might be a little higher than that; she knows the County has vaccines it is trying to get in; supply and demand are still very difficult; they are trying to vaccinate with all these people but they only got this many vaccines, so it is going to take some time; and just from her personal household having a lot of, well not her and her husband, but she had a lot of family members with it, and this thing hurts. She added even if someone is not in the high risk category, people do not want it; it lasts a few days; and she wanted to remind people to try to breathe good air, wear the mask if needed, try to stay out of heavy populated areas because it is highly contagious, and if someone is sick please stay home and do not come into her office. She mentioned she wanted to remind people of that because COVID-19 is here and it is really painful and messy and people do not want to get it.

January 12, 2021

Upon consensus of the Board, the meeting was adjourned at 6:38 P.M.

ATTEST



RACHEL M. SADOFF, CLERK



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