

# Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way  
Viera, FL 32940*



## Minutes

**Tuesday, January 26, 2021**

**9:00 AM**

**Commission Chambers**

**A. CALL TO ORDER 9:01 a.m.**

**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

**C. PLEDGE OF ALLEGIANCE**

Commissioner Zonka led the assembly in the Pledge of Allegiance.

**D. MINUTES FOR APPROVAL**

The Board approved the September 8, 2020, regular meeting minutes

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Bryan Lober

**J.5. Resolution in Opposition to HB 25 and SB 370**

Josiah Gattle, Space Coast Yong Republicans, expressed his appreciation to the Board for the opportunity to represent these Bills; the Bills represent an existential threat to our Second Amendment rights; the founders established their First Amendment rights to petition their government first and then the second one is to preserve it and having the ability to be able to represent this today is amazing; every person here is given three minutes to present on whatever issue is in front of them, on average it takes the emergency services five times that length of time to reach an incident or an active issue, and most active shooter situations are resolved within minutes; it would already be over by the time the incident is addressed by law enforcement or emergency responders, they do the best they possibly can; but citizens need the ability to defend themselves. He continued to say restricting the sale of ammunition decisions makes a gun a nice paperweight or a wall decoration; and it reduces it from something that is effective in defending ourselves and defending their property to something that is useless other than as a club or a paperweight. He added this ban is effective as a ban on firearms altogether the regulation of large capacity magazines as in House Bill (HB) 25 or Senate Bill (SB) 370 is also a restriction that is step in the wrong direction; they would like to strongly encourage the Board and thank it for its support of the Second Amendment as Teddy Roosevelt said a vote is as useful as a rifle, its usefulness depends on the person that wields it; and he thanked the Board for using its vote to continue to preserve their Second Amendment rights.

Commissioner Lober stated that he is not going to repeat what Mr. Gattle said, he said it as well as anyone could; he wants to focus just very briefly on HB 25 with respect to the ammunition; he thinks the arguments against SB 370 are pretty well evident; but as to HB 25, it may be well-intentioned it really does not matter what the intention is, the impact would be an erosion of the Second Amendment rights, both guaranteed by the Federal Constitution and guaranteed by the State Constitution; the fact of the matter is, even if that passes, there is certainly going to be lawsuits challenging its constitutionality; he thinks it is better to save the taxpayers the dollars on an uphill battle for something that does not need to be put in place; and as a lot of folks have been enthusiastic gun owners that go and practice often, a lot of them have noticed

that the availability of ammunition right now is depleted for one reason or another or for several reasons. He went on to say the fact of the matter is he has noticed himself, if the amount of time is increased from the time last practiced, that a person is not going to be as good of a shot, that would reduce the availability of ammunition to law abiding gun owners; quite frankly, and it is just more likely to make them inaccurate; he thinks the erosion of liberties is dangerous; and there are certain individuals in the legislature, certainly in the State level and the Federal level even more so, that he believes feel emboldened by some of the recent political changes they have had. He stated the fact is they need to be consistent and steadfast in the opposition to any erosions of constitutionally guaranteed rights; to him this is unquestionably unconstitutional, certainly that is an argument that he hopes does not even need to make it to the courts based on both of these measures failing; and with that he moves to approve the resolution.

The Board Adopted Resolution No. 21-002, opposing any efforts in House Bill 25 and Senate Bill 370 that directly and/or indirectly erode the constitutionally guaranteed right to keep and bear arms.

**Result:** ADOPTED

**Mover:** Bryan Lober

**Second:** Curt Smith

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

**F.11. Appointment of John A. Scott as Director of the Brevard County Emergency Management Department.**

Commissioner Lober stated he does not want to pull the Item, but he does want to make a brief comment; this is not a slight to John Scott, Emergency Management Interim Director, by any means; he has been extremely pleased with his service as Interim Director, in fact, he does not know if anyone could have done a better job than he has been doing; he has no complaints whatsoever; he just has a level of equivocation by moving someone up in that position this early in the process; he understands Mr. Scott had a tremendous role with respect to operations management; he has no qualms and no question that he is doing an excellent job in the six or seven months that he has been the Interim Director; he would feel more comfortable having the County get through an actual emergency or at least a larger chunk of the coronavirus; and if he votes against this, it is not a slight to Mr. Scott. He added if this were to come up six months from now, he would be inclined to support it or make the motion himself to pass it; he is not asking that it be pulled; but he just wanted to make the comments so that if folks wonder why he is voting against it, it is clear, and is not meant for anything negative towards Mr. Scott, whatsoever.

The Board confirmed appointment of John A. Scott as the Director of Emergency Management Department.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** John Tobia

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

**Nay:** Lober

**F.1. Approval, Re: Sidewalk Easement for the Coastal Septic Office Facility Project**

The Board executed and approved Sidewalk Easement for the Coastal Septic Office Facility Project.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

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

**F.2. Adopt Resolution and Release Performance Bond: Viera Boulevard Commercial Center I, Phase 1 - Developer: The Viera Company**

The Board adopted Resolution No. 2021-003, releasing the Contract and Surety Performance Bond dated July 9, 2019, for Viera Boulevard Commercial Center Phase 1-The Viera Company.

**Result:** ADOPTED

**Mover:** Curt Smith

**Second:** Kristine Zonka

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

**F.3. Approval Re: Warranty Deed and Public Utility and Drainage Easement from Thomas J. and Lynn C. Clark (Owners) for the Sunset Avenue Road Improvement Project Phase 2**

The Board accepted and approved Warranty Deed and Public Utility and Drainage Easement from Thomas J. and Lynn C. Clark for the Sunset Avenue Road Improvement Project Phase 2.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

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

**F.4. Adopt Resolution and Release Performance Bond: Avalonia Subdivision, Phase 1 Developer: The Viera Company**

The Board adopted Resolution No. 2021-004, releasing the Contract and Surety Performance Bond dated April 7, 2020, for Avalonia subdivision, Phase 1-The Viera Company.

**Result:** ADOPTED

**Mover:** Curt Smith

**Second:** Kristine Zonka

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

**F.5. Legislative Intent and Permission to Advertise an Ordinance establishing the Fats, Oils and Grease (FOG) Management program by amending Chapter 110. Utilities**

The Board approved Legislative Intent and granted Permission to Advertise an Ordinance

establishing the Fats, Oils, and Grease (FOG) Management program by amending Chapter 110, Utilities.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

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

**F.6. Approval, Re: Housing and Human Services Department Policy for Coronavirus (COVID-19) Burial Program (\$160,000)**

The Board approved and authorized the Chair to sign the Housing and Human Services Department Policy for Coronavirus (COVID-19) Burial Program (\$160,000).

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

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

**F.7. Approval, Re: Housing and Human Services Department Policy for Foreclosure**

The Board approved and authorized the Chair to execute the Housing and Human Services Department Policy for Foreclosure.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

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

**F.8. Approval of Budget Change Requests**

The Board approved Budget Change Requests.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

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

**F.9. Board Approval to Advertise and Request Proposals for County Telephone and Network Services**

The Board authorized the development and advertisement of a Request for Proposal (RFP) for County Telephone and Network Services; approved a Selection and Negotiating Committee comprised of Planning and Development Director, SCGTV Director, Utility Services Director, Information Technology Senior Network Administrator, and Information Technology Telephone Services Administrator; authorized the Chair to execute any resulting contracts and contract related documents upon review and approval by the County Attorney's Office, Risk Management, and Purchasing Services; and authorized the County Manager to approve any necessary Budget Change Requests, as well as approve and negotiated contract options.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

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

**F.10. CARES Act Funding Interlocal Agreement**

The Board authorized the Chair to execute the CARES Act Funding Interlocal Agreement between Brevard County Board of County Commissioners (BOCC) and Brevard County Sheriff's Office (BCSO); and authorized necessary Budget Change Requests to reimburse BCSO for eligible Tier 1 expenses, approximately \$7,600,000.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

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

**F.12. Appointment(s) / Reappointment(s)**

The Board acknowledged appointment to the Redistricting Committee.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Kristine Zonka

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

**I.1. Legislative Intent and Permission to Advertise Code Amendment RE: Chapter 62, Article VI, Zoning Regulations, Section #62-2118, Residential Boat Docks and Piers.**

Tad Calkins, Planning and Development Director, stated this is a request to grant legislative intent and permission to advertise a Code Amendment to Chapter 62, Article VI Zoning Regulations relating to Residential boat docks and piers to establish more consistent measuring points for dock projection, and creating some Riparian Clear Zones between Residential docks.

The Board granted legislative intent and permission to advertise a Code Amendment to Chapter 62, Article VI, Zoning Regulations, Section 62-2118, Residential Board Docks and Piers, to establish more consistent point for measuring dock projection and creating a riparian clear area between residential docks.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Curt Smith

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

**I.2. Expansion of Vaccination Operations in Brevard County**

Matthew Wallace, Public Safety Office Director, stated this is staff coming back to the Board on what was promised at the last meeting when the Board approved more capability in the

vaccination program; this Agenda Item brings the contracts forward with the vendors and the hospitals throughout the County where about 18,500 vaccinations can be given in a week; it also staggers as more vaccinations come in with a plan to incorporate those vaccinations as quickly as possible to the County; and he asked if Frank Abbate, County Manager, if he has anything to add.

Mr. Abbate responded no.

Commissioner Zonka commented that she would have to abstain because her employer is listed; she checked with legal and she will fill out the proper paperwork; and she will abstain from the vote.

The Board reviewed the proposed agreements with local hospitals systems; reviewed the proposed agreement with Caliburn Company (Comprehensive Health Services); and authorized the County Manager, to execute all agreements upon review and approval by the County Attorney's Office, Risk Management, and Purchasing Services.

**Result:** APPROVED

**Mover:** Curt Smith

**Second:** Bryan Lober

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

**Abstain:** Zonka

**J.2. Two Appointments to the Save Our Indian River Lagoon Citizen Oversight Committee**

Virginia Barker, Natural Resources Management Director, stated Item J.2. is for two appointments to the Save Our Indian River Lagoon (SORIL) Citizen Oversight Committee (COC); the Board has candidates for the two vacant voting member seats for real estate and technology; the first step is to hear public comments if there is any; hand in the ranking forms; she will then tally those while the Board continues on with the Agenda; and she will bring the results back for confirmation shortly thereafter.

**J.3. Approval, Re: Housing and Human Services Department Emergency Rental Assistance Policy (\$18,176,052.60)**

Ian Golden, Housing and Human Services Director, stated Item J.3. is as promised the policy and application as draft for the new Rental Assistance Program funded from the Federal Government, the fourth stimulus that was signed at the end of December; the document outlines a different dollar amount; however, there is a final amount from treasury; it went up from \$141,000 to \$18,176,052.60; most of the policy language comes from legislation regarding use of funds and eligibility; and there is one item that still needs some direction from the Board. He stated as he mentioned previously his department does not have any programs where an individual is paid directly, a third party is always paid; that was done with the previous rent and mortgage program, where a landlord or mortgage company was paid; the language of this legislation allows for if a landlord or a utility company refuses a payment from a local government they can be paid directly to the individual and let them make the payment; going through the draft there are highlighted sections where the Board's direction is needed and under that direction the policy will be revised; it will then go to Risk Management and the County Attorney, there are some minor adjustments that need to be made to the application, it

was pointed out that an email address is missing; and he will also go through it and make sure because treasury came out with some additional guidance covering everything that they require for reporting. He advised he does need direction from the Board on whether or not to make the payments directly to individuals in order to keep in line with what is currently being done.

Chair Pritchett mentioned that was going to be her comment because she deals with that in the other business that she works at; and if the landlord will not take the funds they are not going to take them from the tenant either.

Commissioner Lober agreed with Chair Pritchett; and he stated he does not want to pay them directly; it is intended to be for rental assistance; and he would like to be absolutely certain that is where it goes.

Commissioner Smith reminded the Board not to forget the .60¢.

The Board directed Ian Golden, Housing Human Services Director to make payments to the lessor or the utility provider on behalf of the eligible household; and authorized the Chair to sign the ERAP, upon approval by County Attorney's Office and Risk Management.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Curt Smith

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

Chair Pritchett stated Peter Kaiser turned in a speaker card for Item I.1. and the Item had already been voted on by the time she received his speaker card; and she is going to allow him to speak during public comment.

**J.4. Recommended Award of B-5-21-11: Petroleum Products - Lube Oil – Protest  
Received from Watkins Oil**

Chair Pritchett stated this Item was a protest, but Steve Darling, Central Services Director, met with the gentleman, and they came to a good agreement that gives the County the very best price possible; she asked Mr. Darling to read that; and she thinks the Board will be pleased with voting on this.

Mr. Darling stated after meeting with Mr. Watkins this morning and reviewing the tabulation, he will be posting a revised bid tabulation, and followed by a revised notice of award that awards Watkins Oil as primary lines 11, 12, 24, 34, 40, 42, 43, 45, 47, 48, 49, and 50; those are the lines that he was either lower or that the County did not receive a bid from the primary vendor on; he will then be secondary to all other line items that Seaboard was the primary on; if the Board approves it as written, he will post a revised bid tabulation today, and then go through the protest period; and post a revised notice of award next week. He informed the Board he has spoken with Mr. Watkins about that and he is in agreeance.

The Board approved a revised bid tabulation, followed by a revised notice of award that includes awarding Watkins Oil as Primary for Line Item Nos. 11, 12, 24, 34, 40, 42, 43, 45, 47, 48, 49, and 50 of the Petroleum Products – Lube Oil, and all other Line Item Nos. as Secondary



Chair Pritchett mentioned Mr. Darling and John Denninghoff, Assistant County Manager, did a really great job trying to get the best bid for the County, by working with everybody involved to resolve a problem.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

## K. PUBLIC COMMENTS

John Ryer expressed his support for option one of the proposed Code Amendment; Brevard County has established setback requirements for waterfront structures on residential canals, language is lacking to prevent other obstructions within the setback areas; setbacks are in place to provide waterfront owners with sufficient egress/ingress to their waterfront amenities; these amenities are to appropriately permit with fees, to be paid for residents taxed accordingly; without language clearly prohibiting any obstructions within the established setback almost anything could be placed more extended to this area which would block access to the next door permitted amenity; he explained that establishing a clear zone for setback areas so that nothing interferes with navigational access to riparian rights is needed in Brevard County; and he supports the proposed Amendment.

Peter Kaiser stated he has been a marine contractor for 22 years and it is his understanding that the Board has already approved to have a look at these two line items; and the measurement of the man-made waterways, he should really be addressing staff now because they are going to look at how to measure the width.

Chair Pritchett responded affirmatively; and she advised if he would like the Board can get some information to staff, if he wanted to work on that.

Mr. Kaiser stated he would do so, because there is several different permits being kicked back now because they cannot decide what the width of the waterway is.

Chair Pritchett stated that is right, the County was going to grandfather in the existing permits; and she asked the County Manager if that is correct.

Frank Abbate, County Manager, responded right; and he stated what comes back to the Board was the intent.

Chair Pritchett inquired if that helps.

Mr. Kaiser replied that does help, but the plat is there; he stated it is platted and in 90 percent of the canals they are platted with a measurement, that is what he has used for years, and now all of sudden it changed recently; the safe upland line is another good means; and he will get with staff and give them Collier County's Code which identifies how to measure the width of the waterway perfectly.

Chair Pritchett advised Brevard County has a wonderful staff and she knows they will sit down with him.

Mr. Kaiser agreed they did a great job with the packet; he stated the other issue is the setback

distance in the County, they are allowed to build a dock within seven and one-half feet of the property line; if a neighbor builds seven and one-half feet from the property line, there is 15 feet which is adequate to get a boat out; in his history it was found that some neighbors do not get along and they block their seven and one-half feet; they block it by putting up crab traps, floating docks, and vegetation; and if some sort of Code can be put in there to keep the area clear it would resolve this problem.

Sandra Sullivan provided the Board with a handout; she stated she is there to discuss the County covenants with regard to Hightower Park, which is part of the Oceanside Wildlife and Habitat preserve; the Preserve is important and was not only to protect the near shore, endangered threatened sea turtles, shore birds, and Scrub Jays, but also preserving in+ its native state the only natural coastal strand in pearl beach dune and coastal grassland within 30 miles which includes protected plant species and a mouse; in 2012 the County sold the park to Satellite Beach for \$10 with restrictive covenants; she previously requested County action regarding concerns of a breach of covenants; first, there was skyway approved by the city for commercial intensity hotel use into the Preserve which is not public use per covenants; secondly, the differential in fees actually paid by the County versus city residents with their approved parking management plan in December; and she inquired what the outcome was for that. She added third, the use of the park again for non-public use by a private university using the park's janitor room for electrical equipment and parking as part of a high frequency radar system, surprisingly at the County meeting the City Manager indicated they did not need County approval; she has a petition started with 500 signatures so far; and the project trenches sensitive areas of the preserve where there has been no survey done of the endangered and threatened plants in 20 years, because these plants are not allowed to be disturbed. She went on to say for the matter of differential fees, under the agreement of restrictive use, it says the property shall be used solely as a public beach park and for purposes which provide public recreational use, and related public activities; failure of the city to comply to the provision shall be considered a material default under this agreement and the property shall revert back to the County, subject to the terms regarding the same; respectfully County residents have a right to expect Brevard County to enforce covenants; and that is what is being asked for today. She stated prior to this becoming a preserve, the park was in unincorporated Brevard County or Hightower but both were under the County for Hightower and Pelican, with the County being a partner and a co-applicant respectively; and, therefore, the County residents also have a right to expect the Florida Communities Trust (FCT) preserve agreements to be fulfilled and she is asking the County to work with the State to see if those covenants on that preserve are enforced.

## **J.2. Two Appointments to the Save Our Indian River Lagoon Citizen Oversight Committee (Continued)**

Virginia Barker, Natural Resources Management Director, stated there were no ties and the highest ranked real estate member is Susan Hammerling-Hodgers; and the highest ranked technology member is Vinnie Taranto.

The Board ranked the candidates to fill the vacant member seats for Real Estate and Technology to the SOIRL COC; and appointed Susan Hammerling-Hodgers for Real Estate and Vinnie Taranto for Technology to the SOIRL COC.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Curt Smith

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

**L.1. Frank Abbate, County Manager**

Frank Abbate stated the Coronavirus Aid, Relief, and Economic Security (CARES) Act was extended to allow expenditure of funds past December 30, 2020, as a result of that he is asking the Board for authority to extend certain CARES, Interlocal Agreements and Grant Agreements as needed in order to effectuate the intention of the Board's past actions, to award a specified grants amount; and authorize him to execute any extensions that are necessary to accomplish this. He added under the Federal Legislation, that they previously had in the Interlocal Agreements and Grant Agreements, which were executed requiring that all infrastructure work and related expenses had to be completed by the December 30, 2020, deadline with the change in legislation that was extended to December 2021; there are a few situations where that work could not be completed with some of those Interlocal Agreements; and he asked for permission so they can effectuate what the Board's intent was.

Commissioner Tobia asked Mr. Abbate if this would have no impact on the gross total of the public safety fund; and if those were already allocated funds.

Mr. Abbate confirmed that the funds are allocated that the Board had previously approved in November.

The Board granted Frank Abbate, County Manager permission to have the authority to extend the CARES Act funds for certain Interlocal Agreements and Grant Agreements, as needed to allow expenditure of funds past December 30, 2020, to December 2021 effectuating Board intent; and authorized him to execute any extensions necessary.

**Result:** APPROVED

**Mover:** John Tobia

**Second:** Kristine Zonka

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

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

Commissioner Lober stated he has a couple things, one more pleasant than the other but neither are fun topics; he is sure most if not all have seen the email that was received from the Titusville-Cocoa (TICO) Fire Chief, without getting into a huge debacle he just wanted Board approval to send a letter to the TICO board and TICO Chief Executive Officer to essentially ask that they investigate the claims or advise the Board on what they have done in investigating the claims; some of the items that were mentioned were just totally unacceptable, if there is any degree of truth to them; and he does not want to get into the play-by-play here today, but he would like to ask for Board approval to authorize him to send a letter to the TICO board, asking them what they have done to investigate or in the alternative to ask them to investigate.

Chair Pritchett mentioned she is going to start attending those board meetings and she has called a couple of the board members to let them know, because it is serious and there are a couple of other things too; she agreed with Commissioner Lober; but she has done a little bit of research on her own as well on some other items.

Commissioner Lober stated he does not know if the Board wants him to make a motion out of it or if someone objects certainly, a lack of objection can be taken.

Commissioner Smith advised go for it.

Commissioner Lober stated he would do so. He added that when he is wrong he is wrong and he has to admit that he was wrong about something; he misunderstood after having spoken with staff how much was done on the frontend to vet the businesses that receive the \$10,000 Countywide grant; what he thinks the misunderstanding was on his part was, was some of those folks who submitted expenses were large enough that it threw them substantially over that \$10,000 limit; when he seen that he thought that they had been vetted for the entirety of what they had submitted, he was wrong; they were not; they were just vetted up to whatever expense or expenses got them over that \$10,000 hump, and then they stopped at that point; he does not know how much of this is common knowledge or not, but everyone in his office, Larry Lallo, Merritt Island Redevelopment Agency Executive Director, and he with respect to the areas that are within their strategic area; his office called and he visited a slew of businesses in District 2 when the Countywide grant program was still running, to encourage them to apply; he got 364 applicants that qualified for the \$10,000 grant, which is a tremendous number over and above what the next closest District had; and he felt based on the outreach efforts, having at least five people making calls and knocking on doors. He went on to say with respect to the motion that was approved previously to expand that \$10,000 by \$5,000 for those that had additional qualifying expenses; looking at the 364 average, he spoke with Mr. Lallo, Mary Ellen Donner, Parks and Recreation Director, and Kathy Wall, Assistant to County Manager, who did the vetting on the frontend, is taking them longer for the second vetting for the additional delta than it was to do the first; and he understands the individual factors, but he did not anticipate that. He stated looking at a rough number and having spoken with Ms. Wall, Mr. Abbate and Jill Hayes, Budget Office Director, without them having an objection with what he would like to propose; it seems the amount of staff time that it would spend putting out there that it would come out the CARES Act funding or what originated as CARES Act funding that the District 2 bucket essentially has at this point; he stated that it appears they might end up spending more, vetting these applications than saving by giving them awards less than \$5,000 that might not qualify for the full amount; to him even if they want to say it unjustly enriches some small number of folks from a business standpoint, it makes sense both fiscally to avoid that second level of vetting; and from a time perspective, the checks will probably go out a month sooner if they allow staff to waive that second level of screening for the businesses that have received \$10,000 in District 2 the 364 of them. He went on to say if they receive the \$10,000 then they will not require them to show qualifying expenses over that; they will simply cut a check for the additional \$5,000; given the fact that the program that was put in place was for a small number of months and the vast majority of folks, overwhelming majority would be able to substantiate another \$5,000 if not in that period then in the months that followed up until now; he just does not see that it is wise to spend perhaps 700 to 1,000 staff hours, which is a realistic ballpark to go through and to take a small percentage of the overall pot and say instead of \$5,000 they get \$4,370 or \$3,890; the amount being spent on doing that evaluation may be greater than the difference saved by writing the lesser amounts; he mentioned given that they have already all been vetted for other compliance with every other regulation; whether they do two things, one, is to allow staff to waive review of additional qualifying expenses; secondarily to keep the money focused in Brevard to the greatest extent possible; and allow staff to impose a requirement that only the businesses that have owners reside somewhere in Brevard County be funded; He stated if that is not readily apparent then he will leave it to staff as to how they wish to implement it, he does not want them to spend hours doing that; he thinks that there are folks that own businesses that are from Georgia the State or Georgia the Country; he would rather have the money focused here in Brevard and whatever they have left over is that much more money they have to put work in Brevard; his motion would be to modify the procedures with respect to District 2 small business grants for those District 2 grantees that have already received \$10,000 namely the 364 of them from the Countywide Grant program of authorizing staff to implement a requirement that only District 2 businesses in which one or more owners reside in Brevard County will be eligible for additional grant funding ; and, given that the 364

District 2 business which receive the \$10,000 in grant funding in order to avoid expending hundreds of additional staff hours as mentioned and reviewing those qualifying expenses they would waive the review of additional qualifying expenses for those businesses.

Chair Pritchett asked if they are waiving the additional criteria, will it still be COVID-19 related, and is staff comfortable with that.

Frank Abbate, County Manager replied it is believed that it would be COVID-19 related; he stated that is not a requirement at this point using the District 2 funds, there is no clawback concern relative to that because they are not dealing with CARES funding; remember that funding was funding that the Board allocated back in November to each Commissioner and what was done at the end of the year was able to convert that using the public safety payroll; he explained they do not have the same issue outstanding at this point relative to COVID-19 funding and the answer to the question is yes.

Commissioner Smith stated he thinks Mr. Abbate kind of answered his question; he wanted some input from Mr. Abbate and Eden Bentley, County Attorney because this kind of appears to him to be okay but he would like to have some more input.

Attorney Bentley stated this is the first that she has heard of it; she feels the question is whether or not they can, if there is a question when we are audited at some point which should not be under the original criteria whether or not they can establish that they were grant entitlements pursuant to the procedures; and she thinks if setting out the procedures, then the criteria has been created that will be the terms of the audit.

Mr. Abbate stated if there were any concerns, at this point, it would be the Clerk's office willingness to process it, and there is no reason to believe that; since the Board would be approving it that, that would be a concern.

Commissioner Tobia stated that he is going to lean on Chair Pritchett experience as an accountant; his understanding is A company had expenses that totaled \$11,000 in losses they would receive the full or would they have already received the full \$10,000; however their losses were \$1,000 more than that \$10,000; now they are going to waive the qualification for that additional \$5,000 and instead write those businesses a \$5,000 check so that business A would get an additional \$5,000 check; they would have \$11,000 worth of losses and \$15,000 worth of public funds; he understands the logic that it would cost money; he asked what Chair Pritchett's opinion is on this.

Chair Pritchett responded as an accountant they are doing that with the Paycheck Protection Program (PPP) funds she stated it is directly related to ongoing payroll expenses, they are giving extra funds to help stimulate the economy and job creation; she asked Ms. Bentley how this would pan with her; because someone might say this is not fair due to different business receiving something different; and they could take it to court to receive the same. She stated she assumes that was figured out legally, but in running the numbers she is always consistent; and she would have to know what risk is being taken, because low-risk was always said to be done with this.

Commissioner Lober stated briefly anyone can sue anyone for anything they would like; in terms of whether or not there is possibility of lawsuits, there is a possibility of lawsuits by doing anything or by doing nothing; he thinks the better question would be is there a possibility of a meritorious lawsuit which is a totally different question; he does not see there being a cause of action that someone would have against the County, any reasonable degree of merit; anything

approaching that with respect to this; the bottom line is the County is not discriminating based on any factor other than the criteria that is being set out; namely geographic and by setting requirements the County is entitled to set; for instance they have to have already gone through the vetting they have to do e-verify, and all the stuff they said on the frontend and if someone is simply unhappy about it that does not generate a meritorious cause of action for them to turn around and sue. He added they could sue Commissioner Smith because they do not like the shirt he is wearing, in terms of the likelihood of netting them something, other than perhaps being on the hook for attorney's fees it is essentially nil; he does not have any concerns that anyone will file a lawsuit against the County that has any degree of merit based on putting these policy changes in place moreover, they are insured, and granted the deductible is \$50,000; and if that is a concern he will leave \$50,000 out of District 2 pot aside to account for; but, the short answer is no, and he does not have any concern of being sued and having a verdict against the County for putting this in place.

Commissioner Zonka stated that she is more concerned more about the audit factor; she knows that those funds have moved into a special fund; she is sure it will be quick for scrutiny if they come back and audit the County, because every dollar is spending; and just because the County has it does not mean it should spend it. She expressed that she did not like this program to begin with, because it only targeted one District's businesses; she did not like the idea of the allocation to each District which is a separate issue with this, she is not comfortable with just blankly giving businesses \$5,000 checks because it does not cost as much staff time; and she will not be supporting it.

Chair Pritchett asked Commissioner Lober if he was giving this to all of his businesses in his District.

Commissioner Lober replied yes; he stated he is not picking anything; the only thing he would like to do in order to emphasize as much money in Brevard as possible, is to say at least one owner has to live in Brevard; he will give staff the flexibility where if they cannot readily determine that they can use their best judgment; if a business wants to appeal it or if they want to send a voter ID or something by all means do it; they will go ahead if that is the only thing preventing a check from going out; and send something in and they will make it happen.

Chair Pritchett asked if these are businesses that have already applied and received funds.

Commissioner Lober replied it is limited to the 364 businesses in District 2 that have already been vetted fully and received the \$10,000.

Chair Pritchett asked what are his thoughts on the audit process.

Mr. Abbate responded that he does not have any concerns and neither did Kathy Wall, Assistant to County Manager, or Jill Hayes, Budget Office Director, when they discussed it from an audit perspective they felt they were good.

**Result:** APPROVED

**Mover:** Bryan Lober

**Second:** Curt Smith

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

**Nay:** Zonka

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

Commissioner Tobia stated he provided a handout of Policy and he would like to get the Board's opinion on potentially waiving this Policy; a pillar in the community Samuel Lopez died on January 11; Mr. Lopez was the founder of United Third Bridge in the Florida Puerto Rican Hispanic Chamber of Commerce and he was formerly a member of the Brevard County Historical Commission, as an activist he spearheaded local efforts to provide hurricane relief for Puerto Rico after the devastation of Hurricane Maria in 2017; it was a large part of renaming Airport Boulevard in Melbourne to honor Dr. Martin Luther King, Jr.; Mr. Lopez was instrumental in the improvements made to Ponce de León Landing Park in Melbourne Beach as many people are aware of dealing with the flag that is currently flying over that Park; he believes it would be appropriate and fitting to rename the Park in Mr. Lopez's honor; currently the Policy requires a 12-month period before it goes to the review process; and given Mr. Lopez's unquestionable contributions, he would like to see if there is consensus to waive this and send it to the advisory board to find out what their opinion would be.

Commission Lober asked if the Park is within his District.

Commission Tobia replied yes.

Commissioner Lober advised he will support this; and to consider this as a second.

Chair Pritchett stated that she always thinks it is interesting that the people he has head-on things with, he is always so respectful and kind; she just thinks it is incredible the way he does that; they can all bash with him and he is still respectful; she thinks that is really cool because Mr. Lopez was really strong at fighting for things he believed in as well; and she is supportive of this.

The Board authorized the waiver of a Policy for the Historical Commission Advisory board to consider the renaming of Juan Ponce de Leon Landing Park to Samuel Lopez Park.

**Result:** APPROVED

**Mover:** John Tobia

**Second:** Bryan Lober

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

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

Commissioner Smith mentioned that a former Commissioner Ron Pritchard passed away recently; he was a waterways activist and he knew him for an excess of 20 years; he was a Commissioner from 2002 to 2006 and he asked all to keep his wife in their prayers.

Commissioner Smith provided the Board with an update on the Central Florida Expressway Authority (CFEA); he stated at the last meeting members were given a speech by the Engineering Research Center in Utah; the primary subject was wireless electrification transfer from roads to vehicles; he asked if anyone ever heard of that, because he had not; but it is pretty astounding. He went on to say there is a track in Utah for energy that does not have to be carried onboard; but with electro magnification coming from the road, just imagine the possibilities; CFEA is going to take part in the research; there will be smart powered lanes; and are projecting a roadway being opened to do this. He added that if a person has an electric car, they could drive from Melbourne to Tampa and Tampa to California, and never have to stop for gas or to recharge the battery. He mentioned asking what kind of time frame would

January 26, 2021

this be; he was told probably in 20 years this will be seen on a consistent basis; it is very feasible because it simply means to electrify Brevard County roads, the top surface has to be milled, put the electromagnet grids down, and pave over it.

Upon the consensus of the Board, the meeting adjourned at 9:54 a.m.

ATTEST:



RACHEL M. SADOFF, CLERK:



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