

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, May 27, 2021

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:04 PM

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

Zoning Statement

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

C. PLEDGE OF ALLEGIANCE

Commissioner Smith led the assembly in the Pledge of Allegiance.

D. MINUTES FOR APPROVAL

The Board approved the March 4, 2021 Zoning minutes.

Result: APPROVED

Mover: Curt Smith

Second: Bryan Lober

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

F.1. Amendment for Time Extension of three City of Melbourne Save Our Indian River Lagoon (SOIRL) Septic to Sewer Projects

Sandra Sullivan indicated that Item F.1. is about extending the time on the septic to sewer; she advised that 10 percent of septic systems account for 80 percent of the problem; she

commented that it is great that they are being prioritized; she reported that sewage pipes are also leaking into the Lagoon; and she encouraged the Board to allocate the excess funding from the Lagoon tax, that can be used for capital improvements and capital upgrades, be allocated to Utilities, which has not been addressed.

The Board authorized the Chair to execute time extensions of the three City of Melbourne Septic to Sewer Contracts: SOIRL 18-04, SOIRL 18-61, and SOIRL 20-62.

Result: APPROVED

Mover: Bryan Lober

Second: Curt Smith

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

F.6. Approval, Re: Department of the Army Right-of-Entry for Environmental Assessment and Response

Sandra Sullivan reported she advocated extensively for the right-of-entry for the Corps of Engineers' flood site, formerly used as a Defense site, in South Patrick Shores; the site for the right-of-entry is the South Patrick Community Park, which was formerly a sewage plant area; just as one is seeing the Per- and Polyfluoroalkyl Substances (PFAS) at 10 times the drinking water level through Influx and Infiltration (I&I) in the sewage pipes, it is currently going to Cocoa Beach sewage; and the contamination in the ground water would also be going to South Patrick Community Park. She requested that when the Board approves this, and the right-of-entry is given, that the County advocate to the Corps of Engineers to do Directional Push Technology and not just test the surface soils or minimal testing; she would like to see the proper testing that the military would do on their own base be applied here; and the appropriate testing should be Directional Push Technology.

Commissioner Lober informed the Board he had no idea, in terms of Directional Push Technology, whether it is good, bad, appropriate, or inappropriate; if the Board wanted to look into whether it is appropriate to suggest that to the Army Corps of Engineers, he asked Ms. Elmore what the best course of action would be to cause that to happen; he does not know if the Board can tell them they have to do that; and he inquired what is the best way to get them to consider it.

Amanda Elmore, Planning and Development Assistant Director, stated she would have to defer to Ms. Barker.

Virginia Barker, Natural Resources Management Director, reported that her Department could send an email to the Army Corp of Engineers asking for information on what technology they plan to use and why they would use it; and she explained this is their process, protocol, and expertise so she is uncertain what the Commissioner wants.

The Board approved and authorized the Chair to execute the Department of the Army Right-of-Entry for Environmental Assessment and Response for the South Patrick Shore Community Park and any other Army requested County-owned property within the Naval Air Station Banana River Off-Base Disposal Area; and directed staff to send an email to the Army Corp of Engineers inquiring as to the nature of the technology they plan on using and depending on the response, if it is appropriate, bring it back to the Board for further discussion.

Result: APPROVED
Mover: Bryan Lober
Second: Curt Smith
Ayes: Pritchett, Lober, Tobia, Smith, and Zonka

**F.2. Final Plat Approval, Re: Lakes at St. Sebastian Preserve, Phase Three
– Atlantic Coast Paladin Estates, LLC**

The Board of County Commissioners, in regular session on May 27, 2021, granted final plat approval and authorized the Chair to sign the final plat and contract for Lakes at St. Sebastian Preserve Phase 3 - Developer: Atlantic Coast Paladin Estates, LLC subject to minor changes, if necessary, receipt of all documents required for recording, and developer responsible for obtaining all other necessary jurisdictional permits.

Result: APPROVED
Mover: Kristine Zonka
Second: Bryan Lober
Ayes: Pritchett, Lober, Tobia, Smith, and Zonka

**F.3. Approval, Re: Transportation Impact Fee Technical Advisory Committee for the
Central Mainland Benefit District Project Funding Recommendations**

The Board approved the project funding recommendations in the amount \$2,571,700 as prepared by the Technical Advisory Committee of the Central Mainland Benefit District on April 30, 2021; and authorized the Budget Office to execute a Budget Change Request necessary for implementing these appropriations.

Result: APPROVED
Mover: Kristine Zonka
Second: Bryan Lober
Ayes: Pritchett, Lober, Tobia, Smith, and Zonka

F.4. Approval, Re: Disbursement of Educational Facilities Impact Fees

The Board authorized the disbursement of Educational Facilities Impact Fees in the amount of \$3,736,440.37 to the School Board of Brevard County in accordance with the terms of the Interlocal Agreement; and authorized the Budget Office to execute any Budget Changes required to implement this disbursement.

Result: APPROVED
Mover: Kristine Zonka
Second: Bryan Lober

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

F.5. Approval, Re: Local Agency Program Supplemental Agreement Number Seven and Resolution, Interlocal Agreement with the City of West Melbourne, and Agreement to Amend and Extend the Professional Services Agreement for the St. Johns Heritage Parkway at Ellis Road (Ellis Road Widening)

The Board adopted Resolution No. 21-076, authorizing the execution of Local Agency Program Supplemental Agreement No. 7 with Florida Department of Transportation (FDOT) for St. Johns Heritage Parkway at Ellis Road; approved and authorized the Chair to execute the Local Agency Program Supplemental Agreement No. 7; approved and authorized the Chair to execute the Interlocal Agreement (ILA) with the City of Melbourne for the utility relocation design; approved and authorized the Chair to execute the Agreement to amend and extend the Professional Services Agreement for the Ellis Road Design upon FDOT concurrence; and approved any necessary Budget Change Requests associated with this action.

Result: APPROVED

Mover: Kristine Zonka

Second: Bryan Lober

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

F.7. Appointment(s) / Reappointment(s)

On the recommendation of Commissioner Bryan Lober, the Board acknowledged the appointment of Kevin McCann to the Board of Adjustment. Said term of appointment expires December 31, 2021.

On the recommendation of Commissioner Kristine Zonka, the Board acknowledged the appointment of Vic Luebker to the Charter Review Commission. Said term of appointment expires December 31, 2021.

Result: APPROVED

Mover: Kristine Zonka

Second: Bryan Lober

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

G. PUBLIC COMMENTS

Chair Pritchett stated she is going to hold a community meeting on Monday, June 21, 2021 at 5:00 p.m. in a wonderful facility in Mims; and she is looking to receive public input and let the consumers of Mims have the ability to make a decision on their water.

Dr. Angela McKnight informed the Board she is an orthodontist and has three offices in Brevard County, which are in Merritt Island, Melbourne, and Viera; she mentioned that she was also

born and raised in Brevard County, specifically Satellite Beach; and as President of the Brevard County Dental Society, her organization is excited to hear about the June 21 meeting. She thanked Chair Pritchett for opening up discussion about fluoridating the water in Brevard; she stated it is important to her organization to keep fluoride in the drinking water for children and adults; no credible studies have shown any systemic evidence of harm; the upcoming meeting will be great to go through the research and show both sides; and she would love all the Commissioners to attend the meeting so they can hear, firsthand, what the experts have to say on either side of this conversation on this issue. She reported that Mims water has been fluoridated since the 1990's; she advised her organization is going to give a lot of research and statistics that will show the Board the rates of decay before and after fluoridation; she encouraged the Board to come to the meeting; her organization is a resource for the Board if any member has any questions between now and then; she thanked the Commissioners who already set up meetings with her; and she noted the Brevard County Dental Society is available to the Board if it has any questions.

Dr. Curtis Hill stated he is in favor of placing the question of whether or not to fluoridate Mims' water on the Agenda so that it can be properly vetted and discussed rather than what was done previously regarding the decision, and he does not know the status of that vote; he informed the Board he is a member, and past president, of the Brevard County Dental Society, a delegate to the Florida State Dental Association, and a Florida Certified Board Examiner for the Board of Dentistry; and due to the history of Pharmacology, which was his background in Medical School, and the history that has long been around for 75 years from Michigan, where the topic of public fluoridation has been well studied ad infinitum, it is seen to be grossly safe, contrary to popular opinions and comments about how unsafe fluoride is. He indicated that he gave fluoride to his own children for decades as they were growing up, and he takes fluoride tablets on his own behalf on a regular basis; he would like to discuss with anyone that has a different opinion on the validity and safety of fluoride in the public water systems; it has been around a long time; and he does not see anybody falling down due to fluoride toxicity. He advised there are places where fluoride is dangerous; fluoride is excessively high in the public water levels in the Rocky Mountain Range in the west part of the Country; that area has Hyper fluorosis, and the water there has to be filtered; that does not have to be done around here; fluoride is a naturally occurring substance in the earth's crust; it is the 13th most prevalent element in the earth's crust; and it is a naturally forming piece of chemistry that everyone has to deal with. He explained that Florida is not in the West and has naturally low occurring levels of fluoride in the public water system; years ago the public fluoride level was set at 1.0 parts per million as a safety level; it is now at .7, by agreement of the concerned bodies; the Center for Disease Control (CDC), the Food and Drug Administration (FDA), the American Dental Association (ADA), and anybody else that can be named, has studied this from 75 years ago; and he recognizes that there are people who will say that fluoride is dangerous and has toxic levels or side effects to be concerned with. He mentioned he will give the best of his personal 40-years of experience in private practice dentistry, to anyone who has questions about it; and he requested the Item be placed on the Board's Agenda for a public hearing to restore Mims water and to discuss the safety and dangers, or supposed dangers, of this topic.

Chair Pritchett expressed she looks forward to hearing from him at the workshop in June.

Dr. Gerald Bird informed the Board he is an oral and maxillofacial surgeon; he explained that he is medically out of the best part of his life; he was hit while riding his racing bike; he was riding with a group of people and was on the last bike, in the back of the group; he was directed off the road by car and hit a big rock on the side of the road; and he had several broken bones on the right side of his body, including his head through his helmet. He went on to say that he went to a hospital down south; he was picked up and put back to working together; he was one of those cases that probably could have died; this all happened last September 1; and he

spent three months in the hospital to heal, and now he can talk. He indicated that he did not know this was going on; he wrote some things down that he thinks may be of interest to the Board; and he read aloud, "My wife Geralyn, who is sitting in the back with me, and I are from Grand Rapids, Michigan. We were the first city in the entire United States to make fluoride in the water, as part of the law. That happened in 1944. He was born in 1954. His wife was born in 1955. We lived in Grand Rapids, where fluoride was passed at that point. Every big State and the rest of the Country gradually came about it. My wife was in the Grand Rapids her entire life up until she was 29 years old. I went to Dental School in Detroit and did my residency in oral and maxillofacial surgery, but he had treated water there. In 1985, we moved to the City here, South Rockledge, and I opened up my practice there. Obviously, Rockledge water was already way ahead."

Chair Pritchett told Dr. Bird that she will give him a call tomorrow, so he can finish the rest of his story.

Dr. Bird stated he is 67 years old and his wife is 66 years old, and they have drank this water all their lives.

Chair Pritchett expressed the Board was glad he was able to work through this tragedy really well.

Dr. John Andrews stated he realizes the Commissioners do a lot of stuff that he never gets to see; he appreciates all their efforts and recognizes that it is not an easy job; that said, as a practicing dentist for almost 30 years, he has seen the effects of what is going on, and he is not going to go into the science of it; he sent a letter to all the Board members this week, because the thing that bothered him is that the public should have been involved in this decision prior to the decision being made; and some of the responses he received all involved Home Rule. He advised that Home Rule is good, but at the same time, the people in Mims did vote for fluoride.

Chair Pritchett informed Dr. Andrews that there will be a community meeting.

Dr. Andrews replied that he understands that, but at the same time the residents voted for it; he went on to say that the preponderance of the evidence of 7,000 articles is much stronger than a few dentists that might even have gone to school, who even believe fluoride is okay, but have taken different positions; and it bothers him. He indicated that the people that are affected by this are not the people that are coming to his practice; they are the people who cannot afford dental care or basic dental services; they end up in hospitals, because they have not had fluoride and get bad abscesses; they feel like they have nowhere to turn; those people are everybody's concern, because everyone has to pay those bills on a local, State, and Federal level to take care of those things, and that is what bothers him; and he wishes the Board would reconsider this.

Sandra Sullivan stated she received an email that Central Florida Expressway (CFX) is moving forward with three public meetings coming up; she advised the Board that this cannot move forward without the County's approval; she believes there has been a lot of stewing amongst people; and she would like the Board to go on record as to where it stands on the three east-west corridors. She indicated that she is mainly here to talk about the Hightower and Pelican Park Preserves along with some additional concerns that have come out this week; the City of Satellite Beach is planning to remove the County park and the State lands from the project site from both of these parks; the County was a co-applicant and is the current, registered recipient with Florida Communities Trust (FCT); the reason that multiple government levels cooperate to create larger project sites is because one level of government cannot fund a large resource that is for environmental protection; and they join together to create a larger

project site. She reported that this site is presently protected by a legal document, a management plan, and the covenants; what concerns her, is if this goes to the FCT Governing Board, it will look at why CFX sent a letter to Commissioner Smith giving him the information on how to appoint someone to the CFX Board; the FCT Governing Board could also ask why Commissioner Smith tried to appoint former Commissioner Barfield to the CFX Board; the Assistant Manager of the City of Satellite Beach is close friends with Mr. Barfield, because he used to work for him; putting local influence on the CFX Board, at this time, is very concerning, considering there is an agenda at play, to modify the managing plan for the site, which can trigger the release of covenants that govern those parks; and this very much concerns her. She revealed she made a broad records request from FCT; these emails showed up; she wrote the Appointment Office for the Governor, and fortunately no local influence was put on that Board; the County requested to release the covenants on the Park, and the City wants all of the covenants released; that would further take away the protections on that Park for public use only; and she asked the Board not to make any changes to the covenants protecting those Preserves.

Chair Pritchett declared that she would probably put Jim Barfield on any Board that she could talk him into serving on.

Commissioner Smith expressed that conspiracy theorists are about as reputable with their thoughts as anybody; and he stressed that he does not know what to say.

Michael Marks proclaimed they were all around.

Commissioner Smith concurred.

Mr. Marks informed the Board that he has lived in Brevard County all of his life; he went to kindergarten right behind Byrd Plaza; he graduated from Rockledge High School; then he went on to Eastern State College; and in the past, he produced broadcast public service announcements for Brevard Community College, WBC-TV Bin Network, helping the local community and surrounding areas. He continued to say that his portfolio includes being part of the Shuttle Program, producing STS Mission Designs from NASA, such as: STS-101, STS-104, STS-109, and STS-107, just to name a few; he expressed Godspeed to the mission and crew of STS-107, and others as well; and he was also a part of Lockheed Martin's Apache Hellfire Missile Defense Program. He asserted that defending the Country's war fighters is job number one; with all that being said, it can be assured that he cares about Brevard County and its residents; recently, he saw a post on social media about CFX possibly wanting to slide under the rug, tolls for Brevard County; with his design and multimedia experience, he placed a picture on the internet; his opinion is it just is not going to happen; a few seconds after he posted it, the floodgates of emails and responses were overwhelming, quite literally in the thousands; and he cannot believe the uplifting response of a no that his area has given. He read aloud some of the responses, "Fourth District Commissioner, Curt Smith, wants to turn over our section of State Road 528 to the Central Florida Expressway. He just shot himself in the foot."; "Traffic on SR 520 will be a nightmare. Let's fight."; "Please find some good candidates to replace the current on our Commission Board."; "The day after they approve the slush fund for themselves. They should all be removed."; and "Curt Smith has to be getting something out of this. We are being straight up sold." He stressed that these comments are just a fraction of the community saying no to CFX's thought process; he quoted what Laura Kelley, CFX Director, stated on May 21, "Brevard is not a part of the CFX family."; and he mentioned that Ms. Kelley wants to hear from Brevard County residents.

Chair Pritchett informed Mr. Marks that he can send the rest of his comments to the Commissioners so they can read it, but his time is up.

Chanisara Netsuwan stated she just moved to Merritt Island from Cleveland, Ohio about a month ago; she indicated that she has seen speculation on social media over the possibility of toll roads being placed on SR 528; and she expressed concern that CFX's plans are not transparent enough. She advised that the possible tolls would divert a lot of traffic to roads, such as SR 520 and Sea Ray Drive, and especially Sykes Creek Bridge; the increase of traffic on these roads would degrade the infrastructure; the infrastructure may not have been made for that extent of traffic; and there would be additional costs to rebuild them. She mentioned that she previously lived in Michigan, where there were no toll roads; she has seen the impact of that also; she is not completely opposed to tolls; she would like more transparency from CFX as to where the possible toll funds would be directed to; if it would be allocated to Brevard County or to Merritt Island; and she just does not want to see the money go to somewhere like Orlando, since it probably already has a lot of money.

Shannon Campbell informed the Board that tolls have already existed in portions of State Road 528 at one time; it was meant to pay for the construction of the causeways, with the promise that it would be removed when the repayment of the construction was complete; it happened a lot faster than anyone anticipated, but the tolls remained far beyond that time; if the tolls go in now, they will very likely remain there forever; and there probably would not be an agreement to take them out just because it is paid for. She went on to say that it is her understanding that the Florida Department of Transportation (FDOT) already has plans and funding for improvements to State Road 528; she remarked that CFX was not clear on what would happen if there was an acquisition; she revealed she was born and raised in Merritt Island; she also operates a service-based business on Merritt Island, which means she has multiple trucks on the road all day, every day; and the majority of her business is in Central Brevard, which means it costs her more to do business. She indicated that her business already pays a lot of tolls going to and from Orlando to pick up products and other related items; it will cost her company more money just to do its job; the reason for that is the barrier islands and Merritt Island have so few options for travel to the mainland; and that, to her, is the biggest concern. She pointed out there are only a few options; in larger areas, it is a choice to go on toll roads to pay extra in order to have a little bit less traffic aggravation; Merritt Island residents will not have that choice; it will be a necessity, because there are only three options to get from the islands to the mainland; and she agreed with other speakers about there being a higher volume of traffic on State Road 520 and the side roads, that were not ever purposed for that volume of traffic.

Commissioner Lober expressed he had a couple thoughts about the CFX issue; he complimented Mr. Marks on his photo shopping, Microsoft Paint skills, or whatever application he used; he remarked that he could not help but get a kick out of them, especially some of the texts combined with the graphics; he gave him an A plus for it; and he revealed that he was probably one of those several thousand responses that he saw. He addressed the public speakers who came to the meeting to discuss the issue; he thanked them for coming out; he stressed that it is very easy to be a keyboard warrior, but it is a lot harder to take time out of one's day and show up to a Commission meeting; he noted that most people are a little nervous behind the podium in front of a decent sized audience; and they have his respect for that. He pointed out that he agrees with some, but not everything that was said; what he agrees with most is the aspect of tolls; whether CFX takes over a portion of the roadway or not, it is secondary to whether or not there is a possibility or likelihood there will be tolls there; the concerning question to him is whether or not CFX will be able to put tolls there; and if there will be restrictions to what those tolls might be. He stated he agrees with the speakers who suggested there is some ambiguity in regards to the tolls; he asserted that he is not going to give the greenlight for the Board to commit to anything that moves it down that path, unless there is clarity that there will not be tolls put in place on that roadway in Brevard County; if CFX wants it because it can increase its ability to secure favorable interest rates for bonds by having

a larger system, and it is limited to that, then that may be a good idea; but if it is doing it for the purpose of expanding revenue to be used, even if it were all used here, he would still not be certain if he would be thrilled with it. He revealed that he is not categorically opposed to any condition under which CFX could take State Road 528 over; however, he is opposed to CFX taking it over, if it involves any likelihood it will have the ability to institute tolls on that roadway; it will certainly have an impact on any District, but it has a disproportionate impact on his; and he noted that the speakers were disproportionately from his District, and they will be impacted on a daily or multiple times a day basis, as opposed to just being impacted when they travel to and from Orlando. He asserted that he agreed with other speakers that expressed concern over additional traffic that could be diverted to State Road 520 and the Sea Ray Drive Bridge; he feels that is a very likely outcome; he reported it is beneficial that the County has allocated several million dollars to rebuild that bridge, that is just north of State Road 528 on Sea Ray Drive; and he believes that anyone who has contemplated a large percentage of the volume of traffic on State Road 528, making use of that bridge on a routine basis. He concluded that although he is not as thrilled with the proposal as his colleague, Commissioner Smith, was initially, he has zero thought that there is any ill motive or personal gain for him; he indicated that he saw some things on the internet that suggested Commissioner Smith has a financial interest; he asserted that is a conspiracy theory; and he has no doubt that Commissioner Smith has a proper, good motivation for this. He advised that a portion of Commissioner Smith's motivation goes towards CFX maintaining the road at a very high standard, which is generally better than what the FDOT does; the question for him, though, is not whether CFX will maintain the road better, but does the County potentially want the additional costs of having it maintained better; and he related that every one of his constituents that have reached out to him on this issue, directly or indirectly, have been against it. He pointed out that the one exception, he heard indirectly through his office by text today, is a woman who said she was in favor of the tolls, because her property tax may decrease as a result of tolls; he remarked that he did not think that was a possibility; and therefore, the one person who was in favor of it did not have a right, solid basis for favoring it. He thanked the speakers for coming out; and he asserted that making comments on the internet may not have the same level of impact as one voicing his or her opinion at a meeting.

Commissioner Smith thanked the public commenters for coming; he explained it is interesting to hear different points of view; he asserted there has not been a Board discussion with CFX about taking over SR 528; there has been no discussion about tolls; he went on to say that all this hyperbole is speculation and fear; and he suggested it could even be fear mongering if there is someone out there with an agenda to drive, but he is not certain of that. He pointed out that the road needs a lot of upgrades; a lot of money needs to be spent on it; FDOT is the owner of that road, and CFX owns the rest of SR 528; and it only makes sense to him that CFX should own all of it. He reasoned that if CFX owns it, it is more responsive to the local people, because it is a local organization; FDOT is in Tallahassee; nobody knows who they are; nobody knows how to reach them or how responsive they are; he proclaimed that CFX is very responsive, and one can drive to its meetings; and no one can drive 60 minutes to a meeting in Tallahassee. He concluded that there are a lot of reasons for it; he stressed that talking about tolls is putting the cart before the horse; the Board has not even arrived at that point yet; no one knows who is going to own this road; somebody is going to have to upgrade this road at some point in time; and he asked who is going to pay for it and how. He proposed that tolls is one way to pay for it; that is considered a user fee; and user fees make a lot of sense for a lot of different reasons. He indicated that the Board passed a resolution to join the CFX Authority in 2017 to give itself a voice; he reported that Brevard is part of Central Florida, so why would it not have a voice; it makes sense to him; and in 2019, this Commission voted on a resolution to support CFX owning and operating all local toll roads in CFX's jurisdiction, including the segment of SR 528. He concluded by saying if residents are driving on SR 528 to Orlando, they are already paying a FDOT toll; he declared he was dispelling the myth that there is no

toll; he indicated that the last toll on Dallas Road is a FDOT toll that CFX collects; he questioned how many more tolls will FDOT put on there; and his answer is, no one knows. He reiterated by saying that FDOT already has a toll on the section of SR 528 that is in Brevard County, and CFX does not; he proposed before going any further with the discussions, imaginations, and conspiracy theories, to wait until all the facts come in; that is all he asks; if it makes sense the Board will do it; if it does not make sense the Board will not do it; and he thanked those who came out, because he feels their voices are important.

H.1. Lantzcom MI, LLC Requests a Change of Zoning Classification from RU-2-30 to RU-2-15 (21Z00007) (Tax Account 2416989)

The Chair called for a public hearing for a request from Lantzcom MI, LLC to change the zoning classification from RU-2-30 to RU-2-15.

Amanda Elmore, Planning and Development Assistant Director, read aloud, Item H.1., Lantzcom MI, LLC requests a change of zoning classification from RU-2-30 to RU-2-15 (21Z00007) (Tax Account 2416989) into the record.

Commissioner Lober disclosed that the applicant sent an email to his office on May 17 regarding the proposal; he explained this is actually a reduction in density, and he is happy to approve it at this point; and he motioned to approve.

There being no further comments or objections, the Board approved changing the zoning classification from RU-2-30 to RU-2-15 as recommended.

Result: APPROVED

Mover: Bryan Lober

Second: Curt Smith

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

H.2. J.W. Dunn Lodge No. 37, Inc. (Patrick Meyer) Requests a Change of Zoning Classification from IN(L) to RR-1 (21Z00008) (Tax Account 2718745)

The Chair called for a public hearing for a request from J.W. Dunn Lodge No. 37, Inc. (Patrick Meyer) to change zoning classification from IN(L) to RR-1.

Amanda Elmore, Planning and Development Assistant Director, read aloud, Item H.2., J.W. Dunn Lodge No. 37, Inc. (Patrick Meyer) to change zoning classification from IN(L) to RR-1 (21Z00008) (Tax Account 2718745) into the record.

There being no further comments or objections, the Board approved changing the zoning classification from IN(L) to RR-1.

Result: APPROVED

Mover: Curt Smith

Second: Bryan Lober

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

H.3. Habitat for Humanity of Brevard County, Inc. (Kim Rezanka) Requests a Change of Zoning Classification from AU to RU-1-13 (21Z00010) (Tax Account 2802066)

The Chair called for a public hearing for a request from Habitat for Humanity of Brevard County, Inc. (Kim Rezanka) to change zoning classification from AU to RU-1-13.

Amanda Elmore, Planning and Development Assistant Director, read aloud, Item H.3., Habitat for Humanity of Brevard County, Inc. (Kim Rezanka) to change zoning classification from AU to RU-1-13 (21Z00010) (Tax Account 2802066).

Commissioner Zonka disclosed that Ms. Rezanka called her yesterday to see if she had any questions; and she declared that she had no issues at all with this Item.

There being no further comments or objections, the Board approved changing the zoning classification from AU to RU-1-13.

Result: APPROVED

Mover: Kristine Zonka

Second: Bryan Lober

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

H.4. KAT-CAM, LLC. (Patricia Garagozlo) Requests a Small Scale Comprehensive Plan Amendment (21S.02) to Change the Future Land Use Designation from NC to CC (21PZ00018) (Tax Account 2410506)

The Chair called for a public hearing for a request from KAT-CAM, LLC. (Patricia Garagozlo) requesting a Small Scale Comprehensive Plan Amendment (21S.02) to change the Future Land Use Designation from NC to CC.

Amanda Elmore, Planning and Development Assistant Director, read aloud, Item H.4., KAT-CAM, LLC. (Patricia Garagozlo) requests a Small Scale Comprehensive Plan Amendment (21S.02) to change the Future Land Use Designation from NC to CC (21PZ00018) (Tax Account 2410506).

Commissioner Lober expressed that he was comfortable approving Item H.4., as is.

There being no further comment or objections, the Board adopted Ordinance No. 21-15, setting forth the Second Small Scale Plan Amendment of 2021, 21S.02, to change the Future Land Use designation from NC to CC.

Result: ADOPTED

Mover: Kristine Zonka

Second: Curt Smith

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

H.5. KAT-CAM, LLC. (Patricia Garagozlo) Requests a Change of Zoning Classification from AU to BU-2 (21Z00006) (Tax Account 2410506)

The Chair called for a public hearing for a request from KAT-CAM, LLC. (Patricia Garagozlo) requesting a change zoning classification from AU to BU-2 (21Z00006) (Tax Account 2410506).

Amanda Elmore, Planning and Development Assistant Director, read aloud, Item H.5., KAT-CAM, LLC. (Patricia Garagozlo) requests a change in zoning classification from AU to BU-2 (21Z00006) (Tax Account 2410506).

Commissioner Lober disclosed that he spoke with the applicant on May 25 and May 26 regarding the proposal; he mentioned that he looked at a lot of the conversation that pertained to this Item when it went before the Dependent Special District; the Board for that District was looking for BU-1, but the applicant was requesting BU-2; when he looked at what is consistent with the area, he noted that BU-2 hugs both sides of this; and on one of the sides that goes north and south, the front eastern half that hugs Courtenay Parkway, is BU-1, and the back western half, furthest from Courtenay Parkway, is BU-2. He mentioned that he does not have a problem mirroring the least imposition of those two comparable properties that are immediately adjacent to this one; he motioned to approve the eastern half, that hugs Courtenay Parkway, BU-1 and the western half, furthest from Courtenay Parkway, BU-2; and he deferred to Ms. Elmore and Ms. Garagozlo to see if this works for them as well.

Ms. Elmore remarked that her Department spoke with the applicant about the westerly 130-feet being zoned as BU-2 and the remaining portion as BU-1.

Commissioner Lober inquired if that was roughly the halfway mark.

Ms. Elmore replied affirmatively; she added that there are different dimensions on the north and south property line.

Patricia Garagozlo affirmed that was good.

There being no further comments or objections, the Board approved changing the zoning classification from AU to BU-2 on 130 feet of the Western half of the North and South boundary and from AU to BU-1 on the remaining Eastern portion of the North and South boundary.

Result: APPROVED

Mover: Bryan Lober

Second: Curt Smith

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

H.6. Cooltural Land, LLC (Thomas Jones) Requests a Change of Zoning Classification from BU-1 to BU-2 (21Z00009) (Tax Account 2317004)

The Chair called for a public hearing for a request from Cooltural Land, LLC (Thomas Jones) requesting a change of zoning classification from BU-1 to BU-2.

Amanda Elmore, Planning and Development Assistant Director, read aloud, Item H.6., Cooltural Land, LLC (Thomas Jones) requests a change of zoning classification from BU-1 to BU-2 (21Z00009) (Tax Account 2317004) into the record.

Commissioner Lober disclosed he received an email with an attachment on May 17 from Bruce Moia, who represents the applicant; he received another email from him on May 18 with a Binding Development Plan (BDP) draft; he revealed he discussed the proposal with him on May 20, May 24, and May 26; and he sent an email to him, which included BDP content, on May 28.

Commissioner Tobia disclosed he spoke with Mr. Moia on May 24 over the phone for approximately three minutes regarding this Item.

Commissioner Lober stated he will be moving to approve the request with the applicant agreeing to a Binding Development Plan (BDP) that includes all the conditions that he will read aloud to the Board; he provided a picture slide of the lot; he referred to the dotted, red line that runs along the east and the north; he advised it represents a 20-foot vegetative buffer that runs along the entire north and east of the lot; and he indicated that it will be specified in the BDP with no administrative waiver of any portion of it. He went on to say that normally a waiver could be obtained to reduce it 13.2 feet; the 20-foot buffer that will be specified in the BDP is over 50 percent larger than the 13.2 buffer that is generally available with an administrative waiver; the solid crimson line represents a 25-foot Use buffer; it is an additional five feet beyond the 20-foot vegetative buffer; and all that can be done on it is to maintain the buffer and the fencing. He indicated there will not be any kind of parking, storage, or sales there; the goal is to buffer as much as possible between the residential areas; there is an agricultural residence to the north and residences to the east; and this is designed to mitigate any sort of impact that might be felt there. He continued to say that in addition to the vegetative buffer and the use buffer, the lesser of either eight feet from finished floor elevation or 12 feet from filled grade, not existing grade, there will have to be an opaque fence installed along the entire Use buffer; not at the edge of the property, but further in so that it obstructs more visually and auditorily; it will be the choice of the applicant to install a Polyvinyl Chloride (PVC) fence or wood; and he does not care as long as it is opaque. He mentioned there had been issues in the past when people would install a chain link fence with a cloth and say that is opaque; he is not talking about that here; BU-2 does not typically have a requirement to go beyond a six-foot fence, or any sort of a physical barrier like that, so this is substantially higher; the maximum six-foot barrier, that is occasionally required with a BU-2, is on existing grade; this eight-foot fence that he mentioned is eight feet from finished floor elevation, which is generally going to have fill, a slab, and flooring on top of that; a 12-foot fence will have to be on filled-grade; and it will be a substantial burden that will do a lot to isolate any sort of negative impact to the north and the east. He provided a list of excluded uses that are normally permitted under BU-2; he reported that these were pulled from Section 62-1483(1)(b); he read aloud, "aquariums, auditoriums, automobile hire, automobile repairs (as defined in Section 62-1102), automobile washing, billiard rooms and electronic arcades, bottling beverages, bowling alleys, cafeterias, child or adult day care centers, colleges and universities, commercial schools offering instruction in dramatic, musical, or other cultural activity, including martial arts, conservatories, convenience stores, with or without gasoline sales, dancing halls and academies, dry cleaning and laundry pickup stations, dry cleaning plants, dyeing and carpet cleaning, fertilizer stores, foster homes, fraternities and sororities, funeral homes and mortuaries, furriers, group homes, levels I and II..."

Commissioner Zonka inquired if he had another page of this.

Commissioner Lober replied one more.

Commissioner Zonka asserted that she would have preferred this to be part of the Agenda, especially if this is something he is bringing to the Board, because he lost her when he talked about a buffer for ten minutes; she explained that it is a lot; she stated he started out making a motion to include all of this; she is certain the Clerk is confused as to what is part of the motion; and she inquired if there was a way to simplify it.

Commissioner Tobia asked if he would see if the applicant is in favor, since the applicant may have already seen this.

Commissioner Zonka inquired if the applicant has seen this.

Commissioner Lober replied yes.

Commissioner Zonka commented that would be easier.

Commissioner Lober proposed if Attorney Bentley is fine with including the items that were addressed; he indicated that Attorney Bentley has provided him a list of all the permissible uses under BU-2 with strikethroughs; and he noted that all the items on the screen represent those that were stricken through on the copy that she has.

Commissioner Zonka explained that she is just trying to save time and have a little less confusion.

Commissioner Lober suggested that as long as Attorney Bentley is convinced that the exclusions are sufficiently identified for the purpose of the motion, he is okay with it.

Eden Bentley, County Attorney, stated she believes he has to continue with the list or provide the Board with it so everyone can read it and know what is being voted on; and she advised at this point it is probably best to continue.

Commissioner Lober provided the Board with copies of the BDP proposal.

Mr. Moia, representative of the applicant, stated he talked with the potential owner; he mentioned that the applicant was fine with all the recommendations, except for two minor changes; he did not want to exclude boat sales, since recreational vehicle (RV) sales are allowed; and he wanted to stop the buffer at the zoning line. He went on to say the front half is BU-1, and only the second half of the adjacent property is AU residential; he would like to stop the buffer at the zoning line of the property to the north; and those are the only two things the applicant would like to see.

Commissioner Lober requested a recess so that he could speak with Mr. Denninghoff.

The Board recessed at 6:00 p.m. and reconvened at 6:03 p.m.

Commissioner Lober informed the Board he had a chance to get this Item sorted out; he indicated that he spoke to the applicant about why he is not in favor of scaling back the buffer, and the applicant agreed to keep it in place; there will not be a change with the buffer requirement he proposed; he is fine with allowing boat sales, which is ordinarily allowed with BU-2; and all the other prohibited uses that were identified in either of the two pages that he provided the Board will remain unchanged. He reiterated the BDP will include a vegetative buffer with no administrative waiver, a Use buffer, the fencing, as discussed, along the entirety of the north and east at the 25-foot Use buffer location, and not at the property edge; he

remarked that is important, because the closer to the structure it is, the more it obstructs for the same unit height; and the precluded uses are identical to what he noted earlier, with the exception of boat sales. He stated the motion is to approve it with a BDP with all those conditions.

There being no further comments or objections, the Board approved changing the zoning classification from BU-1 to BU-2, with a Binding Development Plan, to include a 20-foot Vegetative Buffer with no administrative waiver, on the entire north and east boundaries; to include a 25-foot Use buffer on the entire north and east boundaries; to include an 8-foot opaque PVC or wood fence, from finished floor elevation, or a 12-foot opaque PVC or wood fence, from filled grade, at the entirety of the north and east boundaries at the 25-foot Use buffer location, not at the property edge; to preclude the following uses, as defined in Section 62- 483(1)(b): aquariums, auditoriums, automobile hire, automobile repairs (as defined in Section 62-1102), automobile washing, billiard rooms and electronic arcades, bottling beverages, bowling alleys, cafeterias, child or adult day care centers, colleges and universities, commercial schools offering instruction in dramatic, musical, or other cultural activity, including martial arts, conservatories, convenience stores, with or without gasoline sales, dancing halls and academies, dry cleaning and laundry pickup stations, dry cleaning plants, dyeing and carpet cleaning, fertilizer stores, foster homes, fraternities and sororities, funeral homes and mortuaries, furriers, group homes, levels I and II, hospitals, ice plants, kindergartens, laundries, nursing homes, paint and body shops, parking lots (commercial), pawn shops, pet kennels, pet shops, resort dwellings, sale of alcoholic beverages, package only, seafood processing plants, sharpening and grinding shops, television and broadcasting stations, theaters, tobacco stores, and welding repair; and to preclude the following uses, as defined in Section 62-1483(1)(c): assisted living facility, automobile and motorcycle repair (major) and paint and body work, automobile tires and mufflers (new) (sales and service), cemeteries and mausoleums, commercial entertainment and amusement enterprises, crematoriums, engine sales and service, farm machinery sales and services, garage or mechanical service, gasoline service stations, manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products, motorcycle sales and service, railroad, motor truck and water freight and passenger stations, recovered materials processing facility, service station for automotive vehicles and U-Haul service, substations, transmission facilities, tourist efficiencies and hotels and motels, and treatment and recovery facility.

Result: APPROVED

Mover: Bryan Lober

Second: Curt Smith

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

H.7. Amendment to Resolution 13-002 in order to Adopt the Water and Sewerage Maintenance Index for Setting Annual Increases in the Barefoot Bay Water and Sewer District Monthly Water and Sewer Charges in lieu of the Consumer Price Index (CPI-U)

The Chair called for a public hearing for amendment to Resolution No. 13-002 in order to adopt the water and sewerage maintenance index for setting annual increases in the Barefoot Bay Water and Sewer District monthly water and sewer charges in lieu of the Consumer Price Index (CPI-U).

Eden Bentley, County Attorney, read aloud Item H.7., amendment to Resolution No. 13-002 in order to adopt the water and sewerage maintenance index for setting annual increases in the Barefoot Bay Water and Sewer District monthly water and sewer charges in lieu of the Consumer Price Index (CPI-U) into the record; she explained that on this Item, the Commission is sitting as the governing Board for the Barefoot Bay Water and Sewer District; the Board reviewed this item previously, but it had to be advertised for a night meeting; and that is why the Board has it before them tonight to approve.

Commissioner Tobia opined that this is the same index that everything has been set to, and it would be unfair to set it to a lower index; and he is strongly in favor of this.

The Board, as governing body of the Barefoot Bay Water and Sewer District, adopted Resolution No. 21-001, adopting the Water and Sewerage Maintenance Index for setting annual increases in monthly water and sewer charges in lieu of the Consumer Price Index (CPI-U).

Result: ADOPTED

Mover: John Tobia

Second: Curt Smith

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

J.1. Approval of Resolution and Real Estate Contract for Sale of Property in County-owned Commerce Park in Titusville

Troy Post, North Brevard Economic Development Zone Director, informed the Board that this is another offer in Commerce Park in Titusville; there is a company that bought a vacant building in the park in December; the company discovered, after moving into it, that the loading area did not have a sufficient amount of land there for an 18-wheeler truck to turn around; and the company has a lot of products that are delivered and shipped on 18-wheelers. He revealed that the County is the owner of the adjoining property, and the company has proposed to buy a 60-foot wide piece of property from the County that would allow it to build a sufficient truck turnaround to allow them to use the facility efficiently; he expressed that he is real excited about this company; it has been growing the last few years; it made several honors here in Central Florida for its growth; and they plan on adding another ten people once they are fully moved into this facility.

The Board adopted Resolution No. 21-077, authorizing conveyance of real property interest in a parcel within the Spaceport Commerce Park to Shepard Drive, LLC, d/b/a as Raider Outboards; and approved and executed the Real Estate Contract for the sale of approximately 0.3 acre of land in the County-owned Spaceport Commerce Park, Titusville to Shepard Drive, LLC, d/b/a Raider Outboards for \$11,100.

Result: APPROVED

Mover: Curt Smith

Second: Bryan Lober

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

J.2. Offers of Settlement Submitted by Obloys

Eden Bentley, County Attorney, stated this is the Item in Merritt Island that is an agritourism site, where there has been multiple code enforcement issues; the site is for sale; there is a closing pending in June; they submitted an offer to the County to release the code enforcement liens and dismiss a Statutory Way of Necessity Case that involves a parcel to the west that is owned partly by the County and another entity; they proposed an exchange of property with 17 acres to the south; and she concluded by saying her Department does not recommend approval of this offer, but it is the Board's decision.

Commissioner Lober remarked that if the County Attorney's Office does not recommend approval, and, on behalf of his District, neither does he; and he inquired if the County Attorney needed a motion or if it was simply an advisory.

County Attorney informed the Board it is advisory.

J.3. On Street Media, Inc.

Eden Bentley, County Attorney, read aloud, Item, J.3., On Street Media, Inc.; she informed the Board that these are the traffic control boxes where there has been media installed, pursuant to a contract between the County and On Street Media; there have been objections to the installations in District Four and District One; the County was pursuing an amendment to the Contract to address those concerns and remove the objectionable locations; however, a conclusion was not reached; her Department was directed to have the Board consider whether or not to terminate the Contract for convenience; and it has a one-year notice period, if the Board chooses to go that route.

Commissioner Tobia thanked the County Attorney's Office for all of its effort in working with the two Commission Districts that are not in favor of the continued signage; he proposed a suggestion for an amendment; he believes it will solve everything; and he advised that the one presented by Attorney Bentley is pretty close. He went on to say that the amendment will do three things; it will remove the signs from the affected areas in Districts One and Four by June 15; it will set a new base from the \$44,000 down to \$23,050, because of the loss of those locations; and it will prohibit rent collection from the signage through December 31, 2021. He added the reason is because there will not be as many signs; there is a cost to the installation and the removal of the signs, which is approximately \$20,000; they have been up for half a year, and that is his rationale for that; and his understanding is the amendment before the Board does not include the prohibition of the rent collection, but it has the removal of the signs. He advised it is in the best interest of the Districts, specifically the Viera area, to go with this because of the one-year period that On Street Media would have to leave those signs up; the company is willing to take them down within the next couple weeks; he feels if the Board terminates the contract for convenience, the company may leave those signs up until the last day; and he suggested the Board go forward with the Contract and the three provisions he has outlined. He explained this would get the signs out of the affected areas in the Districts, and it will provide a middle ground, for the lack of signage, that the County initially offered, but is now not providing.

Chair Pritchett inquired if Commissioner Tobia would like to bring the base down, too.

Commissioner Tobia replied from the \$44,500 to the \$23,050; he explained that his understanding is that number was agreed upon by the County Attorney's Office and On Street Media based on the number of signs that were being removed and the value of those signs, based on traffic.

Commissioner Lober expressed at the outset of when this was considered, he did not want the signs in District Two; and he stressed that as long as it does not result in signs being placed in District Two, he will support whatever the Board wants to do.

Commissioner Zonka pointed out that she does not have an issue with a reduction in the change of the Contract; her concern is that the signs have not really been installed in Districts Three and Five; she wondered what will happen when those Districts start getting phone calls from people complaining about having those big, bright lights on the corners of their neighborhood streets; that is what she has a reservation with; and if the County terminates the Contract, and if the company chooses to take a year to remove the signs, that will be on the reputation of the company. She continued to say that if the company exercises its right to wait a year to remove the signs, it would probably feel the wrath of most of the Board members; she is certain that a compromise can be made based on reasonable complaints in the Districts; but she does not want to agree to a new contract without at least protecting her own District.

Commissioner Smith remarked that he was not aware that Commissioner Zonka's District does not have any signs yet.

Commissioner Zonka replied that she did not know if there are any in her District; and she mentioned there could be some, but she does not think On Street Media has even started to install signs in her District yet.

Commissioner Smith inquired how does the Board resolve those issues.

Attorney Bentley explained that her Department proposed a condition to On Street Media that would require On Street Media to remove installations, upon request of the County Manager, if there were complaints from the public from that area.

Commissioner Zonka interjected by saying On Street Media did not agree to that.

Attorney Bentley confirmed Commissioner Zonka's statement; she informed the Board that On Street Media objected to that and deleted that language; and she explained her Department moved forward to try to address the immediate problem, but this is the Board's decision at this point.

Commissioner Smith expressed that is a concern of his, because the Board did not know that residents would have issues in Districts One and Four.

Commissioner Zonka stressed that the Board did not know that it would have that kind of impact.

Commissioner Smith concurred and remarked that On Street Media did not know either; and he said that it is new to them and the Board.

Commissioner Zonka agreed and indicated that she will not agree to anything that does not address hers and Commissioner Smith's Districts.

Commissioner Smith commented that the Board will need to be flexible.

Chair Pritchett noted that Mr. Miller has been really nice to work with; her office had to have a conversation with him; the problem was that the signs were installed in residential areas, and she had three times more calls on this than she did on the fluoride issue; that is just how upset the community was about it; and Mr. Miller was wonderful about removing them. She pointed out that now the Board has to figure out how to protect District Five; and she did not know that Commissioner Zonka's residents were not happy with what they had.

Commissioner Zonka replied that it is not that; she stated it is because On Street Media indicated it will not agree to remove the signs if there are complaints, because it removed the language from the proposal.

Commissioner Tobia asserted that from a business perspective, there are some issues with the complaint aspect; he explained that it is labor intensive to install the signs and garnish advertisers for them; he noted that there is also a cost to the company if it has to remove the signs; if there is one person who did not like it, it could be very problematic; and he is not certain if there is a middle ground. He pointed out that the County Attorney's proposal does not work for that very reason; one person could literally look up the 19 locations and call the number to say the sign bothers him or her; it would make no sense for that company or any other one to move forward; and he motioned to bring this back for discussion at the next meeting in July. He suggested that maybe the Board can find some common ground instead of just having one complaint and a removal by the County Manager; he explained from the businesses' perspective it would be terrible if one person could make the call; and a business could not financially do that.

Commissioner Smith stated he agreed with Commissioner Zonka, because she does not want her constituents to be unhappy; and he stressed the Board will have to find what that middle ground is that the Board members can live with.

Commissioner Zonka concurred.

Commissioner Tobia added that he did not think the Board could come up with a solution today.

Commissioner Lober revealed that he may have a solution.

Commissioner Tobia pointed out that the Board knows what the parameters are.

Commissioner Lober suggested the Board make a two-part motion; one is to authorize staff to approve the action that was suggested and simply give On Street Media notice, or in the alternative, authorize staff to implement a change to the policy whereby individual Commissioners can request that particular signs in their District be removed; and he gave an example that if 30 people called Chair Pritchett's Office, she can use her own personal judgement to determine if that is an appropriate amount of complaints. He went on to say that if one person is hyper-sensitive, a Commissioner would not need to make a call; and he stressed that it is not the complaint itself that would trigger a removal, but the District Commissioner would make a call based on the credibility of the complaints and the number of them. He also suggested the Board make a motion to direct staff to attempt to do that, and only in the event that On Street Media is unwilling to sign on a provision or modification along those lines, then it would be directed to provide notice to terminate.

Ben Wilson, Associate Corporate Counsel for The Viera Company, informed the Board that The Viera Company is the master developer in Viera; he reported that he did voice his objections to the contract, because the agreements are in violation with the company's Planned

Unit Development (PUD) agreements and do not meet the design guidelines of The Viera Company; he indicated that he is not even certain the signs satisfy the zoning codes for the County; he is in full support of the County's position to try to relocate the signs outside of Viera; and he understands that the Board would have to determine what will happen in the other Districts, but he requests that the signs be relocated from Viera sooner, rather than later.

Commissioner Tobia inquired why Mr. Wilson did not voice his objection prior this meeting.

Mr. Wilson replied he did not have an opportunity to view the agreement until it was already signed.

Commissioner Tobia remarked he did not understand, because it was on the Agenda more than once.

Mr. Wilson responded that he was not aware of the issue until it was signed.

Commissioner Tobia declared it was publicly noticed; it was discussed at more than one meeting; he wants to know why is Mr. Wilson is objecting after the fact; and he believes The Viera Company would be extremely disappointed...

Mr. Wilson interjected by saying he and his client did not see the agreement; and when the issue came to his attention, he voiced his objection.

Commissioner Tobia questioned if Mr. Wilson means to say at time the signs actually went up is when he became aware.

Mr. Wilson replied yes, in Viera.

Commissioner Tobia explained he is just trying to figure out if Mr. Wilson was on the ball with this one or if it got past the goal.

Mr. Wilson responded that it was never brought up with The Viera Company, so when the agreement was signed, it came to his attention; and he explained that he brought up the issue to County staff, and he has had communication with On Street Media, as well.

Commissioner Tobia asserted that it would be helpful for Commissioner Smith and himself if, in the future, Mr. Wilson comes to the Board prior to the vote, if he is representing a client that will be affected by it; he stressed that if Mr. Wilson comes after the vote, he is doing his client a great disservice; he informed Mr. Wilson this would have been something he would have taken into consideration; and he believes the business owner would have liked to have known this as well, and Mr. Wilson would not even have to be here today. He went on to say that if Mr. Wilson comes after the fact, it is a very difficult situation, especially to say he wants the signs removed as quickly as possible; he informed him that he has the ability to not even have these put up in the first place; and Commissioner Tobia communicated to Mr. Wilson that his objection has fallen on deaf ears, at least from his perspective.

Mr. Wilson articulated that he understands and appreciates Commissioner Tobia's position, but he was not aware.

Commissioner Tobia questioned if Mr. Wilson is cognizant of the fact that the Agenda is publicly noticed and available online prior to a meeting; he asked if Mr. Wilson is aware of how the Board does business; and he verified with Mr. Wilson that he is a licensed attorney.

Mr. Wilson responded by saying he is a licensed attorney, but the agreement was not available; and he reiterated that he found out about it after the fact.

Commissioner Tobia inquired from Attorney Bentley if the agreements are subject to public record.

Attorney Bentley replied they are.

Commissioner Tobia questioned if Mr. Wilson is familiar with public record.

Mr. Wilson responded by saying he is.

Commissioner Zonka pointed out that Commissioner Lober had a thoughtful idea, but she does not know if On Street Media will be comfortable with it.

Commissioner Smith stated the Board should ask On Street Media.

Commissioner Lober stressed that what he wants to say has to do as much with being a member of the Florida Bar as it does with being a Commissioner; he expressed to Mr. Wilson, that as a fellow member of the Bar, he thought Commissioner Tobia's comments were unfair and apologized to him for it; he revealed that he normally does not do anything like this and cannot recall doing it in the past; he went on to say the same Board has overwhelmingly made comments that would suggest that the technical requirements of public notice are ineffective in informing the public that anything is coming up; and it is unfair to say that because something is publicly noticed, Mr. Wilson should know about it. He advised that each one of the Board members have said in the past that public notice, in the form prescribed by State Statute, is largely meaningless and ineffective; he does not subscribe to the idea that it is now magically effective when it is convenient to say so; he expressed to Mr. Wilson that if he is being told that he is guilty for missing a concern, then four out of five Commissioners are also guilty, because they also did not know there was going to be a concern; and he does not begrudge Mr. Wilson or them for it. He continued to say that Board members thought it was a good idea, and he does not blame them for it; he had a different opinion though; he indicated that perhaps it did not occur to Mr. Wilson that it was an issue at the time, and even if he had been aware of it, it still may not have occurred to him; and he asserted that he did not think Mr. Wilson made any sort of failing on behalf of his client.

Brian Miller, from On Street Media, stated his company worked with the County for approximately a year before a contract was signed; he also met with most of the Board members; he did his best to walk in step with every single one; he reminded them he brought in the unit and talked about the process; and from that point forward his company has worked with staff, attorneys, and the Transportation Department. He mentioned that his company has done its best to be honorable, accurate, and communicative with the County every step of the way; he does not believe he has done anything to be considered improper at any time; his staff immediately responded to any issue that came up; and he reminded Chair Pritchett that he responded to her immediately when there were issues in her neighborhood. He went on to say that there are two issues that seem to be at play; one is Viera, which he is aware is a large player in Brevard County; the other issue is the residential area; he indicated that he cannot speak for Commissioner Zonka's District, because he does not know it off the top of his head; he has a list from the County; and it is imperative to his company that there are no controversial areas. He noted that residential areas are a controversial area, but it was addressed immediately; his company removed them within 72 hours; he spoke with all the neighbors in that surrounding area and went door to door on a Sunday evening; he also called them and emailed them afterwards to make sure his company addressed their issues and to also see if

they would be acceptable to the idea; but his company decided on its own accord that it was not worth having a problem in a residential area. He reiterated that his company has done everything it can to try to deal with the concerns; he referenced Commissioner Lober's term, "digital warriors", but he did not get push back when he met with people door to door; and he met with a lot of pleasant residents in the neighborhoods that were happy to speak with him and understand that he was listening to their concerns. He indicated that he has an amendment that has one section added than the one Attorney Bentley proposed; it is basically what Commissioner Tobia mentioned; he requested assistance from the Board in recuperating some of the lost costs involved with installation, removal, and attorney fees incurred over the past few weeks; he does not believe that anything was of his own causing; but he understands the issue that some of the Board has with the residents in the communities. He declared that he is doing his very best to make sure there is not any pushback; his company only wants to be in commercial areas; he only wants to be in areas where the signs will not look out of place; his company went to every location, just for the sake of it, and turned down lights; and he does not know if his signs were any brighter than what was in the area, but his company wanted them turned down just because. He reiterated that his company is doing everything it can to make the County happy; he will continue to work with the County, if the Board determines to continue with a contract and this amendment; and he requested for the Board to not jump to any conclusions at the moment, but to allow him to work with the County to resolve this. He referenced the suggestion that allows for the removal of signs based on the complaint of one individual; he asserted that he does not consider that a contract or give any protection for his company; he stressed there are costs involved along the way when operating a business; his company wants to be a good partner to Brevard County; and he feels he is responsive to any one of the Commissioners to any issues he or she may have. He pointed out that from day one of when he heard there was an issue in Viera, he responded; he received an email, and he called to try to set up a meeting with the individuals in Viera immediately; he received a lot of silence; he has consistently done his best to be communicative by reaching out to discuss and find a middle ground, if there was one available; he is there to do whatever he can to stay a partner in Brevard County; and he hopes the Board will allow his company to continue to do that.

Commissioner Smith inquired if Mr. Miller can pick up another sixteen locations somewhere else in the County to make up for the 16 locations he is losing in Viera.

Mr. Miller replied no; he stated if a location is not suitable, it is not suitable; if he cannot go into an additional District, it is not going to work; he asserted that is fine; it is fine that they lose the units; it is what it is; those are ideal; he cannot relate to the Board how popular those are; and there is a lot of demand amongst the citizens of Brevard County, particularly in Viera for those locations, such as small businesses. He mentioned that he is aware that Chair Pritchett heard some complaints along the way, but he assures the Board that it does not hear the favoritism towards it from people who are in demand for this; he reiterated that his answer to Commissioner Smith is no; it is what it is; he will go where he can go; and he hopes it will be a mutual win for him, the citizens, and the County.

Attorney Bentley suggested while the Board is considering all of its options, she would like to point out that if an amendment is approved tonight, the Board would not lose its termination for convenience clause; if an amendment is passed tonight, a subsequent amendment could come back to address the residential concerns; and if that did not work out, the Board would still have the same options that it has tonight with the termination.

Mr. Miller noted that he brought two signed, copies of the amendment, with the additional line five item, if Attorney Bentley would like it.

Attorney Bentley questioned if that is the amendment with the reduced base rental, reduced boxes, and a waiver of the 2021 fees.

Mr. Miller replied that was correct.

Commissioner Tobia suggested that this should go to Commissioner Zonka; he stated he is okay with the language, but he understands Commissioner Zonka's position is a little bit different; he hopes she can work with the County Attorney's Office, as well as On Street Media, to come up with something that is amenable to the constituents of her District, as well as On Street Media, and bring it back to the Board on July 6; he asserted that he is okay with the amendment now, but he is not certain the votes are there; he feels that a middle ground has to be reached; he does not know what that is; and it will be up to Commissioner Zonka.

Commissioner Lober commented that he does not disagree with Mr. Miller that one complaint could cost him a tremendous amount; he declared he will never challenge that, because it is a legitimate concern; he inquired what Mr. Miller thought about his earlier proposal of only removing the signs at the request of the individual District's Commissioner; he gave the example of Chair Pritchett vetting the complaints to make sure they are valid versus one individual having the ability to cost him in that way; and he considers that to be reasonable. He went on to say that Mr. Miller may not have any requests to remove signs; if Mr. Miller can agree to something, it will give the County Attorney and staff the flexibility to proceed in good faith to try to negotiate with him and get the exact verbiage down; but if it does not happen then the Contract will be terminated. He opined that if Mr. Miller cannot figure out something between now and whenever this is decided, whether it is today or whenever the Board comes back from break, that is the worst case fallback for him; he made no secret that he was not supportive of this on the front end; and seeing where it is, he is trying to resolve this so it works out in a way that hopefully, most of the Board is happy.

Mr. Miller replied that he does not disagree with Commissioner Lober on the thought that everything is in the language; when he heard it through the grapevine there were issues, he visited a Commissioner's office; he spoke with her and preemptively realized that it is a bad idea to have the signs in certain spots; he is all for working with individual Commissioners to make sure there are no issues; he knows while it is legal, it is a political thing; and he does not want push back on the Board, because then there is push back on him. He explained that he is doing his best to make sure everybody is happy; and he is certainly open to that.

Commissioner Lober proclaimed that this is one of those issues where there is no political fallout for him; he stated he is in a unique position because it is not going to help or hurt him; he advised he is just sitting up here at this point; and he deferred to Commissioner Zonka. He suggested that if she wants to make the motion that he proposed earlier where she would basically authorize County staff to negotiate with On Street Media with the modification that an individual Commissioner can request that signage be removed at locations within their Districts, and in the event that an agreement is not reached within a reasonable amount of time, to authorize staff to terminate the contract; and he reiterated it is whatever she wants to do. He stressed that this will impact her more than some of the others; and he requested she tell the Board what she wants, and he will support it any which way.

Commissioner Smith commented that he liked the idea for any Commissioner to have the option, because one Commissioner's threshold may be different than another's; and he cautioned the Board that, as seen with the Central Florida Expressway issue tonight, emotions get involved.

Commissioner Zonka revealed that if anyone knows anything about her, the Board has served with her long enough to know that she does not ever react irrationally.

Commissioner Smith remarked that 30 or 40 people may get riled up out there.

Commissioner Zonka noted that it is usually the same form email, such as with the fluoride issue; she mentioned that she respects all the dentists' opinions, but there is the same paragraph in each email; she asserted that obviously if she receives any complaints, she will investigate it for herself; her office is not political nor does it act rashly; although the Board is politically elected, she has managed to upset both sides of the aisle; and she is very proud of that, because she tries to do the right thing no matter what the issue is. She revealed that she gets nervous; she addressed Mr. Miller and explained that unless he tells her that there will be a shorter termination clause in the contract, she will say fine he does not have to include Districts Five or Three on removing signage so there will be a little more flexibility on removing them; she reiterated that she would want a shorter termination agreement then; she stressed that if signs popped up in her neighborhoods, which she does not believe he would put up a big, illuminated sign that will upset a small neighborhood, she also does not want to have to wait a year to have them removed; she advised she does not think that he would do that either; she does not think he would hurt his reputation; and she really does not believe that.

Mr. Miller remarked that there would be fallout for him otherwise.

Commissioner Zonka stated she is not saying that she would come after him; she pointed out that five Board members would be upset instead of just the one; she indicated that she does not know what that answer is as far as what he is willing to do; she proposed that she could just give him her word that her office does not act irrationally; if that happened, he can inform the other four Commissioners that she is trying to have him remove everything from her District; and she asserted that is not her goal. She declared that she was a big fan of this program, because she thought it was a great subtle way to advertise; she saw the safety and public service announcements he put up; she thinks those are awesome; she wants to be able to say to her residents that she looked at this issue and tell them that it is a minor issue or a big one; and she commented that she wants to have at least some ability to do that and not be stuck with it for months.

Mr. Miller proposed that he can look through her District and map out the locations so she will know what is on the list; however, he does not know it at the moment, but he would be happy to do that; he informed the Board that he is an attorney and the saying goes around, "Never ask an open ended question you do not know the answer to."; and he inquired if Chair Pritchett had any issues outside the residential areas.

Chair Pritchett replied no.

Mr. Miller reported there are four in residential and three along Grissom, which are commercial and residential, but still very much residential; he noted that those signs were gone the week they went up; he explained that he could partly see that it was coming, but also he does not want to create a problem; and he reiterated that he is there to do whatever it takes to try to keep the partnership going with Brevard County.

Commissioner Zonka indicated that she does not have any problem approving it with the three items; and she declared that he needs to be forewarned that if he does not work with her office when she has a legitimate complaint, then she will be the first one to ask for a termination.

Mr. Miller assented.

Commissioner Zonka stated she is not saying that to sound tough; and she informed him that she does not believe he would do that.

Mr. Miller commented that he understood.

Commissioner Zonka reiterated that she is okay with the amendment, because the Board did not anticipate any of this; she is certain that he did not either; and she informed the Board that she is fine with it, because she will bring it back for termination.

Commissioner Smith asserted that Mr. Miller has demonstrated over and over that he is a good businessman, and he will make decisions that will please both Commissioner Zonka and himself; he proposed that he would make a motion to whatever makes Attorney Bentley happy; he motioned that since Commissioner Lober has excluded District Two, that District Two be excluded from any future monies that come through until District Two becomes part of it; and he explained that it is pointless to give that District money, even though it is a small amount anyways; and he advised Commissioner Lober to not take offense, but since he does not want signs in his District, then he should not derive any benefit from it either.

Commissioner Lober asserted that if Commissioner Smith sets the precedent then it may come back to bite him.

Commissioner Smith commented that was fine; and he went on to say that if he wants to exempt his community from anything, then that will be his decision.

Chair Pritchett stressed that she understood that if she has a reduction in signs in her District, then that will cut down on the amount of money her District will receive as well; she is fine with that; and she reiterated that she is fine with the proportion change, if she reduced the amount of signs.

Commissioner Smith remarked that he did not feel Chair Pritchett needed to do that; and he suggested that if District Two decides to put some signs up at some point then it will get its fair share too.

The Board approved to exclude District 2 from On Street Media payments to the County, unless the District 2 Commissioner agrees to approve Media Frames in District 2; approved the First Amendment to the Agreement to Install Media Frames on Traffic Signal Control Cabinets for On Street Media, to reduce the minimum fee from \$44,000 to \$23,050, waive payments due to the County during the 2021 calendar year, and authorize On Street Media to remove a selection of Media Frames in Districts 1 and 4 by June 15, 2021; and requested On Street Media, Inc. to work with individual Districts to solve conflicts with future sign placements.

Result: APPROVED

Mover: Curt Smith

Second: John Tobia

Ayes: Pritchett, Tobia, Smith, and Zonka

Nay: Lober

L.4. Bryan Lober, Commissioner District 2

Commissioner Lober discussed the proposition, that came up a couple of weeks ago, in regards to considering using the American Rescue Plan Act (ARPA) funding, to help make the Tourist Development Tax (TDT) whole or at least to get them closer to being whole; he noted that he is not dead set at zeroing it out and making them entirely whole, but he advised it would be a good idea to make sure that there is an appropriate reserve in there; he proposed that if the County has one named storm event that comes through, although it does not even have to make landfall if it gets close enough to stir things up, the County will go from having a decent amount of money to having nothing; and he suggested that the County may end up with a bill that exceeds what it has in assets that is earmarked for that particular type of expense. He went on to say that at the most recent Tourist Development Council (TDC) meeting, there was a consensus when the discussion was brought up by the Chair of the TDC; he noted that if there is a willingness to do that, he also has a willingness to allocate a significant amount of money that would make a difference; and he inquired if someone was inclined to comment on where he or she falls on that issue. He explained that if he has the votes, he will put together something on the Agenda for when the Board meets again; and he mentioned that if no one wants any part of it, that he will leave it be.

Chair Pritchett expressed that she was open to the idea; she suggested having some discussions regarding the funds when the Board comes back; she proposed putting it on the Agenda so the Board could have a few discussions; she advised that the Federal Government is starting to solidify how the money can be spent, and she suggested that maybe another stimulus may come soon; and she commented that she is not opposed to those things. She went on to say it is probably time to start having some conversations; she indicated that she would like to work on small businesses in her community that have lower income; she noted that she is trying to figure out how to help them; and she reported that she is working with the Chamber of Commerce to get some ideas. She reiterated that she agrees with Commissioner Lober, and it is time to start having those conversations.

Commissioner Lober asserted it is really not an either or situation; there is enough money so that Board does not have to exclude one in support of another; he indicated that he bounced around some numbers in his office with respect to the ARPA funds; and the amount that he is comfortable with allocating from the forthcoming money is \$10 million out of the first bucket to go towards small businesses. He reported that he is fine with narrowing it down to specific categories of small businesses; he expressed that he does not want to give anyone the impression that the TDT is the only thing he is concerned about; he commented that he brings it up specifically, because he is the only one to serve on both Boards; and he revealed that the TDT leans on him to relate its concerns to the Commission.

L.6. Curt Smith, Commissioner District 4

Commissioner Smith stated he wants to add to what Commissioner Lober said; he advised it behooves the Board to find out how the money can be spent and how to go forward with it; he mentioned that he liked the idea of helping the Tourist Development Council (TDC); he suggested there is so much that can be done with that money, because the parameters, from what he has read about it, is very wide; and there are so many things, such as infrastructure, that the money could be spent on. He asserted he would like staff to give the Board guidelines on how much it can spend; then the Board could go from there; and he requested staff do that for the Board.

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

Commissioner Zonka thanked the County Manager's Office for supporting her fundraising efforts for the event, Dancing for the Space Coast; she expressed that she still cannot believe that she is doing it, and the thought of it makes her want to pass out; she exclaimed that she was amazed to hear the County Manager's Office is supporting her and some of the Directors are coming to see her; she continued to say that if there are any Departments that want to help, money is being raised for great causes; and she revealed that she hates to plug it here. She informed the assembly that it is all about helping the community, such as Habitat for Humanity, Family Promise of Brevard, and there are others she could list; she indicated that if anyone wants to donate, it is easy to find, or she can go ahead and send the information to anyone interested; she noted that it is on June 5 if anyone would like to come; and it will be at the old Steinmart. She explained that it was going to be held at Florida Institute for Technology (FIT), but it was decided not to because of COVID-19 restrictions; she stated there have been a few people to criticize the old Steinmart location, but the location had to be big since the event is always sold out every year; she went on to say that it could have been held in FIT's gym, where people sweat and stink it up; and she noted that it is a beautiful gym. She reiterated that is going to be a great event; she expressed that she is really excited about it, even though she may need a glass of wine beforehand; either way she asserted she will get through it; and she will sign up a few people that are smiling and laughing that she is doing it this year.

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

Chair Pritchett informed Commissioners Lober, Tobia, and Zonka that she and Commissioner Smith took a little pressure off of them this time; she asserted that she and Commissioner Smith have been getting the hits; she went on to say that the Commissioners are regular people; they live in the community and do their best to study situations and make good decisions; and in light of that, she has a couple things to say about fluoridation. She revealed that she probably could have done better and had more communication with her community first; she is going to hold a meeting; she reported that she has only heard from two people in Mims over the whole situation; she really wants the residents to have input; she has had a lot of input from people who do not live in the area and are not on that water system; and stated that is fine, because a lot of them have good knowledge. She informed the Board that there is science on both sides of it; she advised for others to look at it and make a decision; she mentioned that she has the reverse osmosis at her house, because she has watched a needle move over the years; and she does believe fluoride is good for teeth, but there are a lot of things that are starting to be established with the possibilities of it affecting one's body. She noted that there is a lot of information out there, such as affecting collagen or the thyroid; she asserted that everyone should make their own decision; she opined that putting it in a water supply takes away other's opinions or votes; she declared that if someone wants it in his or her community, she is certainly not going to stop it; and she is looking forward to meeting with her community, because she loves it. She also apologized to the Board, because of the things she has read about the Board; she believes that the Commissioners are some of the smartest people in her life, without excluding her husband; she noted that she serves with a lawyer, a doctor, a successful businessman, and a college professor; she declared that this is not a dumb Board; and she mentioned that it is a Board that does its homework. She went on to say that she has never been able to shoot something stupid past them; she said if any Commissioner comes up with a dumb idea, the Board avoids it by voting no; she advised that

the opportunity for a discussion is a good vote; she hopes that everyone gets to have an input at the community meeting; and she advised that she does not have to be right, but she just wants to do the right thing for her community. She stressed that if it was error on the side of her trying to protect her community, she does not apologize for that; she stated that she hopes to come to a good ending with this with a lot of good information coming in; she expressed that she appreciates the hit the rest of the Board took; she thinks the Board is wonderful and smart, and it has her respect; she looks forward to seeing what data she comes back with, and she will inform the Board what her community wants to do; and then the issue can be revisited at that time.

Upon consensus of the Board, the meeting was adjourned at 6:51 p.m.

ATTEST:



RACHEL M. SADOFF, CLERK



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

As approved by the Board on 07/20/2021

Cheryl Duisberg

From: Cheryl Duisberg
Sent: Tuesday, July 6, 2021 10:19 AM
To: Commissioner Isnardi; Commissioner Lober; Commissioner Pritchett; Commissioner Smith (D4.Commissioner@brevardFL.gov); Commissioner Tobia (D3.Commissioner@brevardFL.gov); Eden Bentley; Sally Lewis
Cc: Clerk to the Board
Subject: Minutes for approval
Attachments: 05-27-2021 Zoning DRAFT RTF - Cheryl.rtf

Sally,

Please add the attached, May 27, 2021 DRAFT Zoning meeting minutes, to the **July 20, 2021** Regular meeting Agenda.

Thank you,

Cheryl L. Duisberg
Deputy Clerk to the Board of Brevard County Commissioners
and the Value Adjustment Board

400 South Street, 2nd Floor
Titusville, FL 32780
(321) 637-2001
cheryl.duisberg@brevardclerk.us



Connect with the Clerk!