

March 23, 2021

# Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way  
Viera, FL 32940*



## Minutes

**Tuesday, March 23, 2021**

**9:00 AM**

**Regular**

**Commission Chambers**

**A. CALL TO ORDER 9:00 am**

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

**C. PLEDGE OF ALLEGIANCE**

Chair Pritchett led the assembly in the Pledge of Allegiance.

**D. MINUTES FOR APPROVAL**

The Board approved the November 5, 2020 Workshop minutes.

**Result:** Approved

**Mover:** Curt Smith

**Second:** Kristine Zonka

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

**E.1. Resolution recognizing Harry Tyson and Harriette Vyda Simms Moore's Contributions to Brevard County, State of Florida and the Nation as Civil Rights Activists, Martyrs and Educators.**

Chair Pritchett read aloud, and the Board adopted Resolution No. 21-028, recognizing Harry Tyson and Harriette Vyda Simms Moore's contributions to Brevard County, State of Florida and the Nation as civil rights activists, martyrs and educators.

**Result:** Adopted

**Mover:** Rita Pritchett

**Second:** Curt Smith

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

**F.10. Approval, Re: Deeds Correcting the Legal Description for Lift Station T39 Parcel**

Peter Carnesale stated this is basically a deed correction that is long overdue; the lift station T-39 is built on mainly Brevard County land properly and it has a little tiny sliver of Viera East Community Development Site land; they have already approved this at their board meeting in which he is vice chair of; and his board obviously had no problems with it since they have already approved it.

The Board approved and accepted the Corrective Special Warranty Deed and two Quit Claim Deeds for Lift Station T39 Parcel.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.1. Acceptance, Re: Binding Development Plan with 2354 Talmadge Drive, LLC**

The Board executed Binding Development Plan with 2354 Talmadge Drive, LLC. Said Plan was recorded in BK/PG 9063/1956.

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

**F.2. Acceptance, Re: Binding Development Plan with Ag Ventures, LLC**

The Board executed Binding Development Plan with Ag Ventures, LLC. Said Plan was recorded in BK/PG 9064/496.

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

**F.3. Acceptance, Re: Binding Development Plan with Thomas R. and Rachel Darnell**

The Board executed Binding Development Plan with Thomas R. and Rachel Darnell. Said Plan was recorded in BK/PG 9064/533.

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

**F.4. Acceptance, Re: Binding Development Plan with Pioneer Pointe, LLC**

The Board executed Binding Development Plan with Pioneer Pointe, LLC. Said Plan was recorded in BK/PG 9064/619.

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

**F.5. Adopt Resolution and Release Performance Bond: Bromley Drive Extension  
Developer: The Viera Company**

The Board adopted Resolution No. 21-029, authorizing the Chair to sign the Resolution releasing the Contract and Surety Performance Bond dated December 22, 2020, for the Bromley Drive Extension – The Viera Company.

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

**F.6. Approval, Re: Donation of Sidewalk Easements from Lori A. Parker and  
Christopher Michael Gibson for the South Tropical Trail Pedway Project Nora  
Avenue to Windtamer**

The Board approved and accepted the two easements; and instructed staff to record the easements in the public records.

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

**F.7. Adopt Resolution and Release Performance Bond: Hickory Ridge, Phase 2 Subdivision - Developer: Granite Property Development**

The Board adopted Resolution No. 21-030, authorizing the Chair to sign the Resolution releasing the Contract and Surety Performance Bond dated February 9, 2021, for the Hickory Ridge, Phase 2 subdivision – Granite Property Development referenced project.

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

**F.9. Approval, Re: Right-of-Way Use Agreement for the South Indian River Isles, Third Edition, Subdivision**

The Board approved and executed the Right-of-Way Use Agreement with the South Indian River Isles Homeowner’s Association to permit improvements to be installed and maintained in South Indian River Isles, Third Edition, Subdivision.

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

**F.11. Approval, Re: Authorization to Issue Notice to Proceed for Work Order 2019-4259-A-011 to Atkins, Inc. for Wickham Road and Suntree Blvd Intersection Improvements**

The Board authorized staff to issue the Notice to Proceed for Work Order 2019-4259-A-011 in the amount of \$148,153 to Atkins, Inc. for Wickham Road and Suntree Boulevard Intersection Improvements; authorization includes Feasibility Study and Conceptual Planning as the initial phase of safety and operational improvement project; and approved any Budget Change Requests associated.

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

**F.12. Approval, Re: Reallocation of \$2.5 Million to Implement the Babcock Street (South County Line to Malabar Road) Resurfacing and Reconstruction Plan**

The Board approved the reallocation of \$2.5 million County match funds from the Babcock Street (Deer Run Road to Malabar Road) Widening project to the Public Work’s Babcock Street (South County Line to Malabar Road) Resurfacing and Reconstruction Plan; and approved any

Budge Change Requests associated.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.13. Approval, Re: Acceptance of Donations from the Estate of Ms. Marjorie D. Humphreys. Direct Assets be Deposited into a Specifically-Designated Account for the Cocoa Beach Public Library**

The Board designated and authorized the Chair to dispose of the property located at 128 Uncle Jimmy's Lane, Leesburg, GA as proposed by the attorney for Ms. Humphreys' Estate in the best interest of the County, and contingent upon the approval of the County Attorney's Office; designated and authorized the County Manager, or designee, to accept and dispose of any further disbursements of personal property received from Ms. Humphreys' Estate, contingent upon approval by Risk Management and the County Attorney's Office; authorized the Chair to execute any necessary documents, including but not limited to agreements, amendments, or modifications thereto, accepting, transferring or disclaiming real property associated with Ms. Humphreys' Estate; and authorized the County Manager to execute any necessary Budget Change Requests.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.14. Approval, Re: Assignment and Assumption of Memorandum of Agreement between James W. Jensen Living Trust and Brevard County to Satcom Direct, Inc.**

The Board approved and authorized the Chair to execute the Assignment and Assumption of Memorandum of Agreement between James W. Jensen Living Trust and Brevard County to Satcom Direct, Inc.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** Kristine Zonka

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

**F.15. Permission to Develop and Advertise a Request for Proposal for Consultant Services to Assist with Administration of Federal and State Funding in Response to Emergency Declarations**

The Board authorized the development and advertisement of an RFP for Administration of Federal and State Funding Sources in Response to Emergency Declarations Consultant Services; approved the appointment of the Selection and Negotiation Committees consisting of: Jill Hayes, Budget Director, Tom Mulligan, Solid Waste Assistant Department Director and Larry Wojciechowski, Parks and Recreation Support Services Manager; authorized the Chair to execute any and all resulting contracts and contract-related documents upon review and approval by the County Attorney's Office, Risk Management, and Purchasing Services;

authorized the County Manager to approve task orders issued against the contract(s); and approved any necessary Budget Change Request.

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

**F.16. Approval to Waive Venue and Agree to Dispute Resolution Procedures of Seminole County in Dedicated Network Connection Contract**

The Board approved the use of the Dispute Resolution Procedures of Seminole County's procedures; waived venue as stated in the draft contract for Dedicated Network Connection with Uniti Fiber; and approved giving County Manager authority to execute the contract and any amendments, extensions, and renewals relating to contract.

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

**F.17. Lazy River Investments, LLC - Findings of Fact, Rezoning**

The Board adopted Resolution No. 21-032, approving setting forth the Findings of Facts and conclusions of the denial of request for rezoning from Residential, RU-1-13 to Agricultural Low Intensity, AU(L) zoning on property owned by Lazy River Investments, LLC.

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

**F.18. Advertising of Delinquent Property Taxes 2021-2024**

The Board granted Lisa Cullen, Brevard County Tax Collector, permission to advertise in Florida TODAY the delinquent property taxes 2021-2024 for annual Tax Certificate Sale and Issuance of Warrants

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

**F.19. Subsequent Local Workforce Development Area (LWDB) Designation, Re: Brevard Workforce Development Board, Inc.**

The Board executed and approved the CareerSource Brevard (CSB) Application for Subsequent Local Workforce Development Area Designation being transmitted to the State of Florida, Department of Economic Opportunity.

**Result:** Approved

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

**F.20. Appointments to Brevard Workforce Development, Inc. Board of Directors dba Career Source Brevard.**

The Board appointed/reappointed Pamela Reed to Brevard Workforce Development Board d/b/a CareerSource Brevard, with said appointment to expire June 30, 2024.

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

**F.21. Resolution, Re: Florida Surveyors & Mappers Week in Brevard County**

The Board adopted Resolution No. 21-033, proclaiming the week of March 21 – 27, 2021, as Florida Surveyors and Mappers Week in Brevard County.

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

**F.22. Appointment(s) / Reappointment(s)**

The Board appointed/reappointed Marie Rogerson to the Charter Review Commission, with said appointment to expire June 20, 2022.

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

**F.23. Precinct Boundaries - Altered and Added (Chapter 101.001 (1) F.S.)**

The Board approved the revised precinct boundaries due to annexations by the City of Melbourne, City of West Melbourne, and the City of Cocoa.

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

**F.8. Approval, Re: Resolution and Maintenance Map for a Roadway Drainage Ditch and Associated Drainage Appurtenances Constructed by Brevard County as Part of the Adjacent Roadway of Barnes Boulevard**

Commissioner Lober stated he moves to approve this Item but directs staff not to record until April 7, 2021.

The Board adopted Resolution No. 21-031, authorizing the Chair to execute the Resolution and the Maintenance Map; and instructed staff to record the Resolution and Maintenance Map after April 7, 2021.

**Result:** Adopted

**Mover:** Bryan Lober

**Seconded:** Kristine Zonka

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

## G. PUBLIC COMMENTS

Robert Burns stated it has been repeatedly brought to his attention by both private citizens as well as current and former elected officials that Commissioner Lober has listed his contact information on his Florida Bar Attorney profile as that of the contact information of the County; out of concerns of past demonstrated retaliation by Commissioner Lober against private citizens and elected officials, he has been asked to raise these troubling issues on their behalf; since being elected, and as of this morning, Commissioner Lober on his Florida Bar profile has listed his only contact phone number and email as a taxpayer-funded phone number and email for the District County 2 office which is manned by his taxpayer-funded staff; Commissioner Lober often asserts that he is not taking on new clients since being elected, but has contradicted those very statements right here from the dais by admitting to taking no less than two private clients recently; and it is a statement of fact that Commissioner Lober is currently practicing as a private attorney and has been paid to do so. He continued by saying unlike his wife, who is an attorney for the government, Commissioner Lober is not, so there is no justifiable reason for Commissioner Lober to be utilizing taxpayer resources for his practice as a private attorney; despite the obvious potential ethical and legal concerns of attorney-client privileged information being subjected now to public records requests, it is also a concern using county resources for his private business; he has increased the charge of public records with public records requests due to his need to separate County work from his legal work; and he inquired how does the public know whether he is holding back public records while arguing that they are attorney-client privilege. He noted if just one person uses that contact information he has listed to contact him for legal matters unrelated to County business or to the benefit of the taxpayers, then he is essentially running his "closed practice" through the County Commission Office; Commissioner Lober enjoys operating a law firm at the expense of taxpayers; he pays no overhead, no employment tax, no staff wages, and no IT or server charges, but the taxpayers do; and it is important to note that he does not have to accept a client through his office, he can still profit and benefit for simply referring a client to another attorney which also comes with the implied endorsement of the County Commission. He mentioned his office already has an issue with one staff member using the County's resources for her work, a second job as a professor at a university, while on the clock; even on his annual report for his Llc, Winks Holdings he has his contact information to be mailed at the care of the County Commission Office; and because of this demonstrated pattern of misuse of government resources, he is asking that he immediately remove his contact information of the County from his Florida Bar profile and that the County request a forensic audit from the State and to his use of taxpayer funds for his own personal use and if there is no wrong doing he should welcome such an audit.

Commissioner Lober stated he just pulled up his Florida Bar website as of now and he has not changed it this morning, his mailing address is in Kissimmee, not 2725 North Courtenay; unsurprisingly from the speaker who is a convicted criminal and an abuser of women

objectively as found by a court based upon his domestic violence criminal conviction and also based upon an injunction for protection or similar order, out of state, being currently in place against him from the women who apparently convinced a judge that he had raped her, these allegations coming from an individual who grieved him to the bar unsuccessfully, where there was no probable cause found, an individual who grieved him to the State Attorney's Office where his complaint to them was dismissed and unfounded, and an individual who made a slew of allegations pertaining to campaign financing for his 2018 campaign where there was no probable cause found either; this is an individual who has an axe to grind, who has a history of lying, who has some government documents indicating he is a member of one race and conveniently changes later in life to be a member of another race, and who claims now that he had raised the rates for public records, which he believes was a Board action based on abuse of staff time, by individuals who were essentially gaming the system and costing the County money and by extension the taxpayers and millage payers; and this is an individual who clearly has no qualms not only violating the law but repeatedly violating the law. He went on to say he received a package recently from Brevard County Sheriff's Office (BCSO) that indicated he had a number of Face Book accounts and that he was making posts under other names; this is a guy who either is or was recently under investigation over the past few months by the Cocoa Beach Police Department, by BCSO, and by Melbourne Police Department so perhaps he has a convenient conspiracy that may explain all that; this is a gentleman who has done a number of horrible things in his life and a number of horrible things in recent times; frankly, he does not know if he is up there for attention or because he represented a victim who Mr. Burns raped; however, Mr. Burns certainly has an axe to grind, so he will just leave it at that.

**J.1. OMNI Healthcare's Revised Proposal for COVID-19 Vaccine Administration in Brevard County**

Steven Darling, Purchasing Services Director, stated this is a revised proposal by Omni Healthcare, for the COVID vaccine administration in Brevard County; staff is requesting that the Board provide direction on entering into an agreement or drafting an agreement accepting the proposal as written; and then authorizing the Chair, depending on Board direction. He continued on Wednesday, March 10, staff received the revised proposal changing the initial proposal that was received on March 5, from Omni Healthcare, to participate in administering the COVID vaccine in Brevard County; and they submitted the proposal stating they could establish up to three additional vaccine sites in the County with each site doing 3,000 vaccines per day for an additional 18,000 per week on top of the capacity that County's Florida Department of Health (FDOH) already have.

Commissioner Lober stated he has spent some time speaking with FDOH and also the staff on this Item; the short version is he does not have a problem with it, but he wants to explain why; FDOH, since Publix has been brought on board, at least FDOH in Brevard receives between 1,500 and 3,500 shots per week and they find out the Friday before what they are going to receive the following week; in short, they have a capacity to inoculate themselves up to 6,000 and they can surge it to 8,000 with just the weekend in order to get that prepared; and in seeing as how the County has not had more than 3,500 come, and can handle up to 8,000 a week internally, and there are other contracts in place, for instance with Caliburn, and to go beyond that, he does not know that the County is ever going to get to a point where there is going to be enough shots that the County is really in the tens of thousands range, where this would be something that comes into play; he does not know that this is going to impact much, certainly not in the near future; and he does not have a problem bringing on other providers that have the capability, whether it is Omni, Medfast, or another group, to ensure the County has the greatest possible capability to get people vaccinated, but the consideration is not the total number of vaccines that are making their way into Brevard County. He went on to say the shots that are coming in from the Federal government directly to the providers and the

practices, this would not impact that, or necessarily impact the shots that are being distributed directly from the State; certainly at this point the only shots that he is aware that this could impact are those over the 8,000 or a little higher than that once the contracts are activated, assuming that is the direction FDOH wants to get into; whether the Board passes this or does not pass this, he does not want to put the County in a position where it essentially pushing FDOH to select which particular provider is the winner or loser; he reiterated he does not mind having more available in the arsenal; and he will move to approve and wait until after public comment to see where it goes.

Jason Steele stated he represents Omni Healthcare and is the lobbyist for it; this has been going on for a long time and it is really about the health and safety of the people that are out there in the general public; they appreciate what all the hospitals have been doing and the things of that nature; he mentioned Omni was one of the first groups that started getting involved with vaccines here and was basically pushed off to the side later on; there is a false narrative going on that there is potential profit taking on a vaccine; and the last thing in the world that is happening with Omni Healthcare is they have spent thousands of hours for free passing out vaccines, doing COVID testing, and provide the health safety and welfare of being able to establish a place to get shots immediately. He mentioned he appreciates what Commissioner Lober is saying in regards to potentially there not being enough shots coming in; Marco Rubio's office says there is going to be tons of shots and the County is going to be flooded with vaccines; he appreciates the hospitals being involved, they obviously are not charging anything for that; however people have to take into consideration that the hospitals received many dollars upfront from CARES Act; he is not condemning them at all for doing what they are doing, he is just saying the County needs as many people as possible that can provide these shots to the general public; and he would appreciate the Board accepting Omni's proposal to be one of the County's providers for vaccines.

Dr. Craig Deligdish stated he thinks the history is well known, going back to March of last year, they began testing people at the same time, or in advance of the public health department; Omni's work has been published in newspapers, on television, and Mr. Steele has reviewed it so he will not go through that; he thinks everyone can agree that the rollout of vaccine in Florida and in the US has had its challenges; Florida is in the bottom third of states in the Country for the percentage of shots being administered; there are stories everyday about millions of doses of vaccines that cannot be found; and there were 14,000,000 of the Johnson and Johnson doses that were supposed to be distributed, and they were not. He continued to say about two weeks ago they were supposed to get 20,000 doses, based on the White House's statements and they did not; it is unclear where the vaccine is going; Governor DeSantis has distributed directly to the hospitals so Parrish has received thousands of doses; Health First and Holmes Regional have received thousands of doses just in the last several weeks; and the FDOH, in addition to the 1,500 to 3,500, received 4,500, he believes, of the Johnson and Johnson vaccine a couple of weeks ago. He went on to say after being given 2,000 doses of vaccine, which Omni administered in a little over two days about two months ago, have not received any based on Governor DeSantis's decisions as to how he wants to allocate the vaccines; he agrees with Commissioner Lober; what Omni is asking for may not ever happen, but it strikes him as odd that the County would pay somebody to distribute the vaccine when Omni is willing to do it at no cost to the County; and he thanked the Board for its support and the work it does.

Mark Bobango stated he is the Administrator at Omni Healthcare; he wants to go over the logistics of how Omni does things; they have multiple locations, they are a physician's facility, and when people come in they recognize that they know how to do this; they were able to put a thousand people through, in one day, and the congratulations they received from everybody was phenomenal; this cannot be done at Publix or CVS; they just need the opportunity to do it,

and the vaccines; and they would appreciate it if the Board would consider the proposal.

Commissioner Zonka mentioned she has a couple questions for one of the speakers; she understands with the original proposal Omni was going to charge the County \$20 per shot as an administration fee and that changed in five days from the previous proposal; and she was curious why that changed.

Mr. Bobango responded yes; and he mentioned they received some feedback that the County did not want to pay, and they wanted everything to be free, so they decided just to do it.

Commissioner Zonka advised it is not free because they are billing insurance companies.

Mr. Bobango responded it is free to the County.

Commissioner Zonka explained but it is not free to the people that have the insurance plans; and she just wants that to be clear.

Mr. Bobango stated it is free to the people who have insurance plans because the insurance is required to pay for that, there is no co-pay associated with any of this.

Commissioner Zonka explained insurance is not required to pay for it, but under what Omni is offering it would be.

Mr. Bobango responded affirmatively. He advised Omni will not bill any patient.

Commissioner Zonka inquired if Omni has pre-registered 20,000 people for the vaccine.

Mr. Bobango replied approximately.

Commissioner Zonka inquired if they know when they sign up that Omni may not get the vaccine; and she noted her fear is that they are waiting or that they are holding off signing up or pre-registering somewhere else because they think Omni may call and say that their vaccine is ready.

Mr. Bobango stated he has been told they are registering in multiple places; and they are aware that it is all contingent upon Omni receiving the vaccine, that Omni has basically saved a place in line for them.

Commissioner Zonka inquired if Omni has applied for money directly from the State for COVID funding.

Mr. Bobango responded they have not.

Commissioner Zonka explained she knows a lot of health systems are able to qualify for that and she is just curious; it is probably more of a business decision why Mr. Bobango does not want to answer publicly; however, she is curious because a lot of the health systems have lost money and were able to get State funding and she is not sure why Omni would not be doing that.

Mr. Bobango responded it may have to do with the fact they are a for-profit organization and some of the hospitals that are not-for-profit are able to get those, he does not know but Omni has not applied to the State.

Mr. Deligdish noted just to clarify, insurance companies are required by Federal law to pay for the vaccination and for testing, that is a fact; and the Board can look that up.

Commissioner Zonka but somebody getting a vaccine...

Mr. Deligdish noted he was not finished.

Chair Pritchett interjected she needs Commissioner Zonka to be able to respond.

Mr. Deligdish asked if he can finish.

Chair Pritchett advised he already had his time and in all fairness she has to give everyone exactly the same.

Mr. Deligdish replied he is sorry.

Commissioner Zonka stated it is not required that an insurance company bill to get a vaccine, ever because there have been a lot of people who received vaccines throughout the County where they received the vaccine at no charge to them or to their health insurance plan.

Chair Pritchett asked if Commissioner Zonka wants to have a dialogue.

Commissioner Zonka responded affirmatively.

Mr. Deligdish mentioned insurance companies do not bill, insurance companies pay.

Commissioner Zonka responded affirmatively.

Mr. Deligdish asked Commissioner Zonka to clarify what she is trying to say.

Commissioner Zonka responded she is saying people do not have to use health insurance to get the vaccine.

Mr. Deligdish replied that is correct, they could do everything for free.

Commissioner Zonka responded that is correct.

Mr. Deligdish stated Omni loses money every year and they have already invested millions of dollars on testing; they have the ability, as do the hospitals, so while the hospitals may have said they do not charge insurance companies, Parrish has charged for their testing; Parrish has received CARES Act money, so what people say and what they do are two different things; Omni has not billed the insurance companies for testing; and they have not applied for money because to his knowledge they are not able to. He noted Omni has received government support as most people have during the pandemic; if they could apply, they would; they are not saying they will not; however they have not.

Commissioner Zonka responded she thought the conversation was about vaccines, not testing; and she asked if the Chair wants her position on this.

Chair Pritchett responded Commissioner Zonka has the floor.

Commissioner Zonka stated she has no problem using outside agencies, if the County is blessed with having more than 8,000 vaccines; there does not need to be much research to

see that the County is not going to get that supply; the County has already vaccinated a large portion of the population so that is probably not going to happen; the only issue she has is fair competition; if the Board is going to allow a private for-profit entity to essentially sign up with the County or go into contract with the County, the Board should probably put this out to Request for Proposal (RFP) because they clearly have the capacity now to manage what it has, so there would be time enough to do that; and that is her thoughts on that.

Robert Burns stated he just wanted to echo some of the same concerns that Commissioner Zonka has brought up; when he was reading the Item from the Agenda packet he was taken aback by the tone of the emails between Mr. Denninghoff and Omni's office basically demanding to be paid by the County to administer these vaccinations and the same breath talking about Omni doing a community service; there are many organizations in this County doing a community service by providing this vaccine at no cost to the County or no cost to the patients and not asking for it to be paid that way; and some are not even being reimbursed through insurance. He went on to say Omni is asking, or did ask, for all of those things; what is more concerning to him is that they have pre-scheduled 20,000 patients for a vaccine that they do not have; his email says they are scheduled, but for what date, because if someone types in Omni vaccine or Omni testing in Face Book he or she will see dozens of posts of patient complaints of the elderly population being scheduled and rescheduled up to three times, by the Omni staff for vaccines that Omni does not have; and it is his understanding that they are the only organization that is scheduling patients for vaccines that they do not have. He went on to say Publix, CVS, Winn Dixie, and all those other places are not scheduling until they have the product at hand; that is a potential negative outcome for patients because the elderly population is having a hard time as it is to schedule vaccinations; now they are under the false premise that they have one scheduled for an organization that does not even have it in their hands and do not know when they will receive it, but continues to reschedule the most vulnerable population; and it is his opinion that this is not needed because the County has resources to facilitate the supply and demand, the County does not need to be in business with someone who is looking to profit.

Commissioner Lober stated he hates to focus on someone that has an issue with the truth but to say that Omni's proposal involved a cost to the County and a cost to patients, he has never heard anything involving a cost to patients from Omni; as for the cost to the County, there initial proposal did have a cost to the County; he does not know anyone in favor of approving that, at least as to their Merritt Island vaccination site; but the County's contract with Caliburn, that the Board had no problem putting in place, does cost the County money were it to be activated; therefore, it is not unique in any sense. He mentioned he agrees there should be parity in terms of what is paid and what is able to be charged; what is being talked about is a question that may never reach fruition; he remembers when the Board approved allocating \$2 million to increase capacity, what the Board was told at the time, by both FDOH and staff, was that the number of shots that the County would receive hinged on a couple of things; in particular, one was what the County does with the shots that it has already received, does the County get them out quickly; Hillsborough did not and Brevard ended up getting some of their vaccines; the other thing he was told was of very high importance as well, and that was, what is Brevard County's capacity if they were looking at potentially giving Brevard more, would it be able to use them, if not, they are not going to give more; and obviously Brevard has been doing a good job of getting the vaccines out to people. He noted he thinks Brevard is in a good spot as far as capacity, but it can be in a better spot as far as capacity is concerned; as far as Omni's initial proposal to charge \$20 at one of the three sites, namely the Merritt Island site, it is what it is, they made the proposal; he gave their lobbyist feedback that he was not thrilled with that and they turned around and removed it; he is not saying they did that on account of his feedback, he is sure it was on account of several individual's feedback; and all of this that is being talked about as far as the concern over them pre-registering, it does not go toward whether or not the

Board should support this. He commented to him it makes no difference whether or not the Board approves them insofar as being able to contract with the County; he has never heard that pre-registering obligates someone in any way from refraining from seeking a vaccine from another source; all the Board is hearing about is purely hypothetical; there is not even anecdotal evidence that a single person has forgone a vaccine because they have pre-registered with Omni; and the whole registration system nationally has been a fiasco. He stated there are people in the high-risk group, some of whom are not very computer-literate who are having to refresh constantly and basically live on a computer; he does not know that it is any better than pre-registering; if there is a way to save them a spot in line and it is that much easier for them, and they are still able to go out and play the lottery, so to speak, to see if they can get a shot elsewhere, then so be it; he does not care who it is, if it is a facility or a practice that is able to get those shots in arms; his thought is if there is not a reason to preclude them from doing it, why would the Board stand in their way; Medfast is fine, Omni is fine, any of them that have the capability to do it, that is great; on the other hand, if one guy was operating out of his garage that does not have the ability to give thousands of shots he would have a different opinion; all this is doing is saying to them, the County is going to contract with them such that when it makes its pitch to the State that Omni should get vaccines; in the event that ever happens that the County receives more than 8,000, there is a contract; therefore the box is checked and it may make it easier for Omni; and he thinks that is all the Board is doing is making it easier for them to make their pitch down the road.

Commissioner Tobia commented it has been said on a couple of occasions that there is no financial impact on the County; and he inquired if he could ask Mr. Darling some questions. He noted it is his understanding that the County is a self-insured employer; and he asked if that is fair to say.

Mr. Darling responded affirmatively.

Commissioner Tobia stated so in other words should Omni go forward with this and bill the insurer, that would be the County, thus the taxpayers; and he asked if that is fair.

Mr. Darling again responded affirmatively.

Commissioner Zonka advised that was exactly her point; people can keep saying no cost to the patients, but there is a cost to their plan; therefore, there is a cost to the employer, and a cost to the employers as a whole; and she thinks that is a false narrative to say that there is no cost to the patients. She noted she does not know if the Commission would be interested in putting this out, opening up for everyone; she knows the County has Caliburn; and she asked if the County needs another contract.

Maria Stahl stated nobody knows how it is going to change from day to day; currently, the State is primarily allocating the vaccine directly to the healthcare entities that are enrolled in Florida Shots; Omni is, Caliburn is, Medfast is, and there are many agencies including independent pharmacies that are; due to the fragility of the vaccine, they really do prefer to ship it directly to the individuals giving the vaccines; that is not to say that DOH cannot transfer; if it had an over-abundance of vaccines it could certainly transfer to anyone regardless if there is a contract with the County or not, because they can do that with Florida Shots; however, they do have to have State approval to do that; DOH is doing that right now with a few of the municipalities that are helping them out tremendously; if there is an over-abundance of vaccines that is beyond their capability, they definitely need to give it out to individuals to give; and they know Omni, Medfast, some private providers, urgent cares, and some of the independent pharmacies can all do it.

Commissioner Zonka stated the crux of it is they only have so much supply; assuming that the State of Florida got all this supply, in the United States at least right now, she does not foresee them even having close to not being able to manage the supply that comes in because there just is not the supply; and it is not that Florida is gifted with tens of thousands of vaccines, it is just not there.

Ms. Stahl responded that Commissioner Zonka is correct.

Commissioner Zonka inquired where they are at as far as percentage goes for vaccinations.

Ms. Stahl responded right now over 65 is at 61 percent which is actually pretty good; over 50 is 40 percent which is still fairly good; however Commissioner Zonka is correct, the vaccine is limited and the vaccine coming to FDOH is limited; the last couple of weeks she has received 3,500 doses; however the vaccine coming into the County is probably close to 10,000. Commissioner Zonka commented the State can directly get it to Omni.

Ms. Stahl stated the State is directing that, giving it to Health First, giving it to Steward, giving it to Parrish, giving it to the pharmacies; and the State gives to her location too.

Commissioner Zonka inquired if the State can choose to give to Omni.

Ms. Stahl responded that is correct and they did early on; Omni got 2,000 doses early on; and she noted they are a Florida Shots provider.

Commissioner Smith stated if Omni wants to give shots and people want to use Omni to get their shots, then Omni should do the shots; he is not going to begrudge them or anyone else because they want to charge \$20; he gets what is being said by Commissioner Zonka, but the fact is there is a pandemic and a lot of people feel comfortable going to Walmart versus Walgreens and CVS versus Omni, so people have a choice; and if the County adds one more vendor to the list, then good for the people.

Chair Pritchett noted she probably agrees with Commissioner Smith; she does not know if they will ever get an opportunity; as far as the fair market, if anybody puts in and they are qualified, she is going to vote in favor of them being able to distribute the shots, if there is an excess amount.

Commissioner Tobia stated he is okay with Omni providing the shots as Commissioner Smith mentioned, however, he thinks it should be done on parity; if they are willing to offer the same parameters that Parrish, Wuesthoff, and Health First, he would have absolutely no problem; and the fact that there could be a direct cost to the County and thus the taxpayers, he does not think he would feel comfortable providing them that opportunity and not providing the same opportunity for the healthcare systems that have already said they would not charge the County.

Chair Pritchett stated she is still in favor of it just because she knows all this is tax dollars anyway; if people do not think they are paying taxes on all these things regardless, they definitely are; she knows that is with health insurances; and if they had it available and it was close to her, she would go to them and do it, even do a copay.

The Board accepted the revised proposals as submitted by OMNI Healthcare; directed staff to draft a contract based on the proposal for COVID-19 vaccine administration in Brevard County; authorized the Chair to execute any resulting contract and contracted related documents upon review and approval by the County Attorney's Office, Risk Management, and Purchasing

Services.

**Result:** Approved

**Mover:** Bryan Lober

**Second:** Curt Smith

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

**Nay:** Tobia, and Zonka

Mr. Darling asked the Board to clarify from the Agenda Item what the motion is because there were three different options under the requested items.

Commissioner Lober stated the bottom line is to contract with Omni to enable them to say they are contracted with the County to provide shots; and to make sure everyone is on the same page, he asked that Mr. Darling go over the options with him and make sure those who voted in the affirmative are on the same page.

Mr. Darling advised the first option would be to direct staff to negotiate with Omni Healthcare a contract that is consistent with the contracts executed already with the local hospital systems and Caliburn; the second option was to accept the revised proposal as submitted by Omni Healthcare and direct staff to draft a contract based on that proposal; and the third option was to reject the Omni proposal as submitted.

Commissioner Lober stated the Board is definitely not in the third boat; in terms of the first two, he asked where the other Commissioners are at.

Chair Pritchett noted she thought Commissioner Lober was making number two.

Commissioner Lober mentioned he just wants to make sure and not speak for someone else; he is comfortable; the bottom line is, this is just setting up the structure; if FDOH wants to take a look and say okay, they have different factors than the County does, and if they have a less expensive alternative that can do the same, by all means; an RFP from his understanding, is when someone is looking for a single provider or a provider to take care of something; and this is a little different in that, he thinks the Board discussed both from a capacity standpoint and an accessibility standpoint, the Board wants as many people as possible that are able to provide the shot, providing the shots. He announced he is okay with that.

Chair Pritchett commented she thought that was his motion.

Commissioner Lober inquired if Commissioner Smith is okay with that.

Commissioner Zonka stated she has a question; in says Omni may seek administrative assistance in submitting applications from these federal sources; and she asked if they are expecting County assistance with that.

Mr. Darling responded they did not clarify that.

Commissioner Zonka noted she thinks the Board is going to need clarity before providing County resources, if it is going to vote in favor of Omni's proposal.

Commissioner Lober stated he took that to mean that they may seek it on their own; he did not presume that to mean the County; and that is where he would be more comfortable.

Chair Pritchett advised she did not read that into either.

Commissioner Lober advised he heard an answer in the affirmative from Mr. Steele.

Chair Pritchett advised when the Board voted on that, it did not include that the County do any administrative work on this.

**H.1. Petition to Vacate, Re: Public Utility and Drainage Easement - "Twin Lakes at Suntree, First Addition" Plat Book 28, Page 48 - 447 Pauma Valley Way - Melbourne - Jerry J. Morian**

Marc Bernath, Public Works Director, stated this is a public utility and drainage easement for Twin Lakes at Suntree; the property owner is Mr. Morian in District 4; they are requesting the vacating of a four-foot portion of the easement for the construction of a pool; staff has no issues from a drainage perspective; and staff has received no comments.

There being no further comments or objections, the Board adopted Resolution No. 21-034, vacating a portion of a public utility easement in Twin Lakes at Suntree, First Addition, Subdivision located in Melbourne, lying in Section 14, Township 26 South, Range 36 East, as petitioned by Jerry Morian.

**Result:** Adopted

**Mover:** Curt Smith

**Secunder:** Bryan Lober

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

**H.2. 5971 Cedar Lake Drive Revocable Land Trust and U.S. Highway No. 1 Commercial Land Trust (Kim Rezanka) Requests a Change of Classification from RU-1-11, TR-2, and BU-1, with a BDP, to TR-1 with a BDP Limited to 150 Units. (20Z00036) (Tax Accounts 2310971, 2310861, and 2316173)**

Commissioner Lober advised he has some disclosures that have already been provided in print to the Clerk; on March 16 he had a discussion by phone with Ms. Rezanka who represents the applicant; on March 19 his office emailed received an email containing some attachments that were signed petitions from the residents opposing the proposal because the individual who sent them to him, or at least the name on the account was Julie U; he does not know what the U stands for; and then on March 22, he received another email, this one from Ms. Rezanka regarding changes to the BDP.

Chair Pritchett mentioned she submitted all of hers in written form.

Commissioner Tobia stated he had a phone call from Ms. Rezanka concerning H.2. yesterday.

Commissioner Smith commented he spoke to Ms. Rezanka on Thursday, March 19 and his office has already forwarded the information regarding the emails.

Commissioner Zonka stated hers would be March 17 with Ms. Kim Rezanka.

Chair Pritchett advised she had numerous meetings and submitted them all in paperwork for public record.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.2. is 5971 Cedar Lake Drive Revocable Land Trust and U.S. Highway 1 Commercial Land Trust and request a change of classification from RU1-11, TR-2, and BU-1 with a Binding Development Plan (BDP) to TR-1 with a BDP limited to 150 units; the application number is 20Z00036; and it is located in District

1. He went on to say just so the Board understands, the applicant has provided a revised BDP as of yesterday afternoon with the addition of a fence on the property adjacent to any residentially zoned property; the developer/owner will provide a 15-foot perimeter buffer tract along all property boundaries which shall be platted as a common tract separate from individual lots; and developer/owner shall limit access to Cedar Lake Drive to an emergency access for the benefit of Brevard County with a locked gate, if required by Brevard County, or due to any existing easement encumbering the property.

Kim Rezanka, Lacey, Lyons, and Rezanka, stated she is there on behalf of the two trust property owners and the developer, contract purchaser home and project administration represented by Nick Dottore; and she has with her, Jon Shepherd with Atlantic Environmental, who will talk right after her regarding the environmental issues that have been raised by the neighbors and the studies he has done and that are ongoing. She mentioned this is in Port St. John and is an infill development and is intended for affordable housing; it is in a Federal Opportunity Zone, Tract 621.07, which provides some incentives for affordable housing; she thanked the Board for reviewing this, she knows it has received numerous emails, meetings, and the Board Members have all taken the time to speak with her; she stated there is a good deal of opposition to this and it is believed that people just do not want change; this has been approved for development since 1990 and then also in 2006 that was repeated; there were BDPs in 1990 and 2006 that limited 51 acres to 154 lots of 7,500 square feet each; and there is also seven acres of BU-1 that she is also asking to be changed to TR-1 that has been there for a long time, behind Winn Dixie. She continued by saying this project has never been developed and it actually went into foreclosure; if the Board remembers, in 2006 developers would put almost anything in a BDP because people were buying anything and the costs were so high; that was a detriment to the developer in 2006; Mr. Dottore has heard the concerns of the residents and has made numerous changes to the BDP as Mr. Ball has described; she just provided the Board with the BDP and she knows it was sent to the Board Members late yesterday; many changes have been made since this was first put forth, beginning with what they thought was 200 units that could go into this 58 acres; after hiring MBV Engineering and doing a concept plan, they learned that was not possible; and hopefully, to reduce some concerns with the neighbors, they reduced it to 150 units. She noted at Planning and Zoning on March 8, the issue came up of sewer and septic and they agreed to put into the BDP that this would not be developed if this was not on sewer; there was a problem with sewer and capacity in the County, so the developer is going to bring sewer from the City from Camp Road at his own cost; then yesterday, three more changes were made that there will be the 15-foot perimeter buffer tract along all property boundaries, which will be platted as a common tract separate from individual lots that the developers shall limit access to Cedar Lake Drive to an emergency access with a locked gate, if required by Brevard County; the developer does not want to use Cedar Lake Drive if it does not need to, but because of the concerns of so many easements on this property and whether Brevard County might want this because of the gas lines and transmission lines on this property; therefore, if they do not need an emergency access there will not be one, but if one is required it will have a locked gate for emergency use only, therefore, traffic will not impact Cedar Lake Drive. She went on to say the other will be a six-foot high opaque fence that used to be a buffer, now it will be a fence on the property adjacent to any residentially zoned property; the RU-1-9 to the north, the TR-2 to the south, and the TR-1 to the east will all have a six-foot high opaque fence that will be on the other side of the 15-foot perimeter buffer tract; those changes were made; and all other issues that were raised by the residents, are site plan issues as the Board is familiar with. She stated the remaining differences between the 1990 and 2006 BDP and the current plan development are still several, most of them good; first this is a much less dense development, it is 150 units on 58 acres whereas before it was 154 units on 51 acres; this is 2.6 units to the acre which is less dense than the properties to the north, the Port St. John unit one plat; the new BDP did not include roadway improvements to Clearview Drive, mostly because she does not know what

engineering is going to require regarding grade that was done a long time ago; engineering will review it as to whether improvements are needed on Clearview Drive; also there are turn lanes that already exist and she has provided a map to the clerk and to the Chairman; the other condition was landscaping in the right-of-way on Clearview Drive and that would need a right-of-way permit and irrigation in the road, regardless of that right-of-way; and this was something, if the developer wanted it, so it was not put in the new BDP because they do not know if it is wanted or needed. She mentioned the other difference is there is a considerable amount of reduction of potential traffic to this area; 154 standard single-family homes at 9.55 trips per day is 14,071 a day; when adding the seven acre shopping center at approximately 56,000 square feet based upon what Winn Dixie is, there is 42.95 trips per 1,000 square foot, and that is 24.05 per day; that 58 acres could indeed put 3,876 trips per day onto U.S. 1 in that area, whereas now they are taking that 58 acres putting 150 manufactured homes at 4.67 trips per day or 700 a day, so it is a reduction of 3,100 trips per day; and this is based on the 2016, Institute of Transportation Engineers (ITE) traffic manual because that is all she could find on the internet; she knows it has been updated but they do not change that much; and also the difference is the buffer fence for all residential neighbors. She continued by saying as to the similarities of this development with the surrounding neighborhoods, first the size of the lots to the north and to the east, are the same at 7,500 square feet; the setbacks for the rear are the same at 20 feet; they are all single-family homes, the use is single-family homes, and although the neighbors have complained about how they look different, they are still single-family homes; these are going to be two bedroom, two bath and three bedroom, two bath and the retail value of these brand new homes going in will range from \$90,000 to \$ 120,000; she has provided what these are going to look like; they look like traditional homes, they will be on concrete pads, and anchored to the ground; and they are going to have car ports. She stated other considerations are that there are many engineers and experts that have been hired to assist with this project; there is a reputable environmental consultant, Jon Shepherd with Atlantic Environmental, and he will speak next about his studies and the mitigation that could be required and are site plan issues; there is going to be sewer brought to this development, so there will be no more septic tanks; most of the residents concerns are site plan and engineering concerns; and the developer has hired MBV Engineering and also Susan Hall, the landscape architect, to make sure that the landscaping is done properly and the trees are mitigated. She announced this has been built to withstand 100 mile per hour storm; the homes are going to likely be Palm Harbor Homes; the flyer has been provided to the Commissioners and she will also submit it to the Clerk; it details how these Palm Harbor homes withstood Hurricane Andrew, Hurricane Charlie, the earthquake in Washington, Hurricanes Ike, Ivy, Irma, and Michael; it is very impressive the way these are built; and if the Board has questions, Mr. Dottore can answer them in detail of how they are built because he has actually toured the site where they have been built. She mentioned this project is an improvement over what could have been built in 2006 or 1990; there is no evidence this will cause a material reduction and value of abutting lands, in fact the value of these new homes are greater than what is to the south and to the east; it is a residential use just like those around it and no levels of service will be compromised; and she requested the Board approve the zoning to TR-1, remove of the old BDP, and approve the conditions in the new BDP.

Jon Shepherd stated his company has worked on this project since 2006, not for Mr. Dottore but for the past owners as well; since that time it has been determined what environmental issues are out there and there are really two major issues; as far as he knows and has seen there have been no bald eagles on this property; the nearest known mapped bald eagle's nest is about a mile and a half away; the second issue is tortoises and that is a real concern; they have completed a 15 percent tortoise survey and estimated that there are about 106 potentially occupied tortoise boroughs out there on the site which equates to approximately 53 individual tortoises out there; and the applicant will obtain a permit to relocate these tortoises prior to development so no harm will be done to the tortoises. He added the last and final issue are

Scrub Jays; back in 2007 his company actually permitted Scrub Jay impacts on this site and they received a habitat conservation plan from U.S. Fish and Wildlife, at that time; as part of that Habitat Conservation Plan, the owner at that time was supposed to have paid a large fee to allow the impact of the Scrub Jays; the fee was never made, therefore the permit was expired; and this is where they are today. He mentioned they have completed three of five required survey dates out there on the property and thus far have found no Scrub Jays on the property; they have two additional days to go and once they complete that fifth day, they can go to U.S. Fish and Wildlife and provide the results; they will come verify the results if Scrub Jays are there or not, which they do not appear to be there; and if there are none there at that time, then no additional permitting will be required.

Julielynn Ulrich stated that Ms. Rezanka continued to say that the residents do not like change and that they are so used to their comfort zone, the problem is she does not mind change; she wants block homes there; she has seen the hurricanes and what happens; she just wants block homes, she will buy one; the other thing is how they come up with the number of trips with a block home versus a single-wide mobile home; she has gone through the mobile home areas and each one has two to three cars; and block homes have two to three cars. She commented at the meeting they had with the community, people cannot buy these mobile homes, they are only for renters; people cannot buy the land or the trailer and she has an issue with that; and she advised she owns her home and those in the surrounding area own their homes.

Thomas Amstadt stated one of his concerns was the access to Cedar Lake Drive which the new BDP proposed would seem to take care of the old BDP that had a stipulation that the property would be divided in half, down the middle of the access, and each given to the property owners on the east and the west; he does not know if that is in the new one; that would guarantee someone would not come along later and put a road in there; and his main objection was all the traffic. He added people more than 500 feet away were not notified that they were potentially going to have a ton of extra traffic; also the point of changing the RU-1-11 to TR-1 was brought up 30 years ago when they proposed making TR-1 and the residents proposed making it TR-2 which is where he lives, because of reduced density; the Board at that time approved the RU-1-11 because they did not want mobile homes in that area because of the significant damage done by hurricanes; and the fact that the closer they are together, if a piece peels off one mobile home it swishes through the air and smacks into the next and starts tearing it up. He noted he has seen pictures where the entire area was destroyed; what happens is one starts falling apart and as the pieces blow off it, it destroys the one next to it; the further apart the mobile homes are or in this case the manufactured homes are, the less likely they are to be damaged by hurricanes; that is why they originally wanted the RU-1-11 to prevent the mobile homes; and although this developer may have perfect intentions, if for some reason he fails to develop it, if the designation is changed to TR-1, there would be another developer who would come along behind him, who does not need to ask for permission.

Thomas MacFarlane stated he lives Port St. John and they had their home built at 1099 Vineland Street in 1976; his contractor told him that the property behind theirs was set aside for block homes; that was true at the time and he based his decision to build there because of the County's rules at the time; yes, the landowner has the right to develop their land, but they should do so in the County's guidelines and its current BDP; it should not be changed to accommodate the land owner; this request for rezoning will have serious negative impacts on the homes along Vineland Street in Port St. John; and this was a primary concern of his when he contracted a local builder to place their new home on Vineland Street. He noted he was assured that only similar homes could be built on the adjoining property; the developers of this project seem to make comparisons to homes in Clearview and not Port St. John which are clearly not the same thing; they seem to make claims that the homeowners living on Vineland Street are biased against the people that may live there, and that is not a concern, their

concern is based strictly on the structures that would be there; and it was stated there were many emails sent to the Commission and that many of these people lived miles from where this was going to be and he noted his son does not live there now, but he will eventually be living there on that property. He commented his concern now is that any of the homes along that street that adjoined the property, anyone who may have considered buying someone's home may walk away from it after this is built; the homeowner of the property absolutely has the right to develop his land; he believes that the BDP was put in place for a reason and should stay as it is now; and he respectfully asked that the request for rezoning be denied and that current zoning remain in effect.

Jose Cadiz stated he is there to ask the Board to keep the original BDP because it is pretty specific on what needs to be done with the property and it should stay the way it is; seeing what is in the old BDP and what is not in the new BDP, he does not know what to say; he did read the old one and it is detailed on what needs to be happen with the property, all the way from the Cedar Lake entrance to the Clearview entrance; and he reiterated he would suggest the Board stay with the old one.

Zac Brigante stated this is the third of these; he did not come with a pre-written speech on this one; the homes on Vineland Street would be affected by this because they are single-family block homes, some reaching up to \$400,000 in appraisal; he has heard that it could positively affect or impact the houses to the south or the houses to the east; the ones to the north, which is his backyard, that is where he will be looking out and now seeing single-family mobile homes; and he could talk about all kinds of things such as the hurricanes, there are just so many reasons, biased or not, but that is his home and he had an appraisal done in January at \$368,000, so to have a \$90,000 mobile home that close to his backyard really concerns him. He continued by saying he brought stats to the Planning and Zoning meeting about according to the Property Appraisers Office, how the number of single-family block homes were affected by hurricane Irma in 2017 as opposed to the mobile homes; there were 22 times as many single-family block homes in Brevard County yet nine times as many mobile homes had destruction from that hurricane than single-family homes; and he is just asking if this ends up going through, for a larger buffer to the north to maybe eliminate that northern section of this community. He mentioned he has seen the Scrub Jays in his backyard; he is not a bird expert; the Gopher turtles yes, but the exact number he cannot say; without the MAI survey to prove that this would decrease the value of his home, it is all speculation, however, if any Board member were to look at his house or look at another and the backyard view was single-family mobile homes, it might not decrease the value but the person may go for the other option; and he does not have concerns about many other things aside from really just the property value along Vineland Street. He noted he did his best to rally the community together because only those within 500 feet of the residence were noticed; he asked the Board to take into consideration the outreach from the community, do what is right by keeping the old BDP, and if not consider a larger buffer to the backyards of the homes on Vineland Street.

Maureen Rupe stated she must protest what is being said to the different boards; she is on the Port St. John Special District Board and when they had their meeting, according to Ms. Rezanka, the applicant had two environmental assessments of the property but neither had been given to the County or the recommending boards; Ms. Rezanka stated that there were no Scrub Jays on site, but neighbors testified to seeing them daily; she also stated there was gopher tortoises on site that would be relocated except the ones that are diseased and they would be buried; and she challenged this because she knew it was illegal to bury a gopher tortoise and it takes up to six months for the creature to die. She went on to say at the County Planning and Zoning Board, she retracted this statement about entombing, but there were two different statements made to two different boards; where did this information come from since she stated there were two environmental assessments and she knows both sources are

reputable; and she would like to know where Ms. Rezanka's false information was from. She continued by saying there was also people in the adjoining properties that are concerned about their homes values; the attorney's answer was that it was purely speculative and there was no proof that adjoining mobile homes would depreciate a person's property; and she asked the Commissioners for common sense of any realtor; and this mobile home park is to be on the Atlantic bridge, .4 miles at the closest point to the Indian River Lagoon (IRL). She mentioned at the Port St. John board it was stated if sewer is not available the homes would be on septic tanks; based on the distance from the IRL, it must be stated in the BDP that if sewer is not available the homes will be on advanced septic systems; the people are already paying a self-imposed tax to clean the IRL; and lastly, these things were told at a public meeting of the residents that these 150 homes will be rental properties, and the County already has a contentious problem over rentals on the beaches and the waterways. She advised she does not think this is a good idea; she noted the people were not told about the changes; people do not know these changes were made by the attorney and the owner of the property; and to tell different things to three different boards, there is something wrong.

Ms. Rezanka stated she was expecting more speakers; she wants to start with Ms. Rupe, who at the Port St. John Special District meeting actually polled the audience and asked people if they were opposed to this and that is why they were there; she and Ms. Rupe had a little disagreement on whether that was proper and everyone knows it is not. She went on to say Ms. Rupe says the stories are different, and as the Board knows, things change over time; they have heard the concerns of the residents and County staff, so now all homes are on sewer; that has been in the public record quite a long time if Ms. Rupe had looked at Legistar and at the public record; the stories are not different, rental or not rental does not matter, they are still single-family use; and as to the gopher turtles and tombing that was a mistake. He noted it used to be the Policy until 2008 and then in 2010 it completely changed and could not be done; she did say they would follow whatever the rules were from the Florida Wildlife Commission and that is what will be done; and Jon Shepherd will make sure that is what is being done. She went on to say as to Ms. Ulrich, Ms. Ulrich lives at 5965 Cedar Lake Drive to the south of the property; she lives in a manufactured home built in 1987, square footage of about 1,300 square feet; she is surprised Ms. Ulrich does not want new manufactured homes nearby; she received Ms. Ulrich's information from George Mascellino in a public records request, and she will submit that to the Clerk; the trips are from the ITE manual; this will all be done through the site plan; and these are commonly used trip manual generation trips. She mentioned these are rent to own homes and that is true, but they will be able to be purchased most likely after five years; Mr. Amstadt has hurricane concerns but this is going to be all new construction and they are built to HUD standards to withstand 100 mph winds; this RU-1-11 was done 30 years ago in 1990 and conditions have changed since that time; and the fact this property has not been developed shows an issue that zoning needs to be changed and there is case law to support that. She noted the sewer regulations have changed, environmental conditions have changed, environmental regulations have changed, and the property went into foreclosure; Mr. MacFarlane built his house 45 years ago; the zoning was changed in 1990; she has actually never seen a BDP that requires block homes, they could be wood or other kinds of homes; regarding emails from far away, she believes that could be attributed to Ms. Lisa McCarthy, as she sent an email to anyone she knew asking that they contact Chair Rita Pritchett; and if the Board has noticed, the emails in the packet, there are probably 30 emails that say email campaign which is what Lisa McCarthy titled hers and the language was exactly the same. She added some of these are north of Kings Highway and some of them are three miles to the west; they are not competent substantial evidence they are speculations and saying they do not want change; Mr. Cadiz says he does not know what the new BDP says but it has been stated to the Board by Mr. Ball and by herself; things change over time to make things better; this is a much better BDP than the Board had before; it protects Cedar Lake Drive individuals and it protects the environment through sewer; all other environmental concerns will be addressed;

she asked that the Board approve the rezoning to TR-1, approve the BDP in concept with the conditions as so stated, recognizing that all of the road issues will be addressed through engineering and site plan; and construction drawings, at the time of improvements will likely have to be made to Cedar Lake Drive because of sidewalks and other things of that nature; and the developer will do whatever the County tells him to do.

Chair Pritchett explained when the Board is making these decisions, she tries to balance, protecting the existing residents and then allowing the property owner his right to use his property; she has to make a little analysis here as far as the manufactured homes going in, it really does not concern her; she lives in a nice neighborhood and they put manufactured houses behind her house and they are actually are pretty nice; and they have been there about 17 years and have stood up pretty nicely. She stated she had watched all the meetings, Port. St. John and the Planning and Zoning, so she has paid a lot of attention to this; she thinks the change has actually been for the better; she likes the way this has improved the situation for the residents and the fact that it is less dense; the sewer is a good thing; and her main thing was if the Board was going to change the zoning of this, the zoning that was on there was a 15 foot tract and then a 20 foot setback; and if the Board would have changed this, it would not have had it, but that has now been added into the new BDP. She continued by saying Ms. Rezanka has worked with the Board before so she kind of knew what to be asking for; she actually set out the new BDP here; she likes that it does not use the Cedar Lakes exit; she was going to ask for that not to happen because the Clearview one has already been set up for the exit out of this area; and as far as the BDP before, there is already a left and right turn lane coming out of there, and they will have to address a lot of things with the County, and a lot of hoops to jump through. She mentioned she was going to request that a six foot fence be put up with that tract buffer around all the existing residentials and they put it in the BDP as well; what this does is it pulls the development away from the existing development, added a larger setback with the buffer, there is a natural buffer as well as a fence that cannot be seen through; and she thinks this has a lot of very positive changes and they have come to a place that is protecting the existing homeowners. She mentioned this has now become a good project for this area; there is a lot of vagrant travel in this area right now and she thinks this will help cut that back; she agrees if the Board put other options in there, the traffic would have been a little bit more severe; and this is kind of encompassed in the middle of this and she is hoping by the time it is done with this people will not even know there is development back there.

Commissioner Lober stated this is like the majority of zoning issues that comes up; if this was something in his District, his answer would be one way or another, but when it comes to someone else's District, it takes almost an act of God for him not to go the same way as the Commissioner in that District; in the little over two years that he has been on the Board, he has probably done that less than once a year and those were very extenuating; and he thinks the Commissioner essentially said to not worry about how he is voting, but to vote however the other Commissioner's felt was appropriate. He noted he took that to mean it was a license to put aside his normal practice of supporting or rejecting, in accordance with whatever the District's Commissioner believes; the fact is, he lives in District 2, works in District 2, and he will never know another District as well as he knows his own; and he is confident that the Chair is well aware of what meets the needs and, as a result, he is going to support her decision.

Commissioner Smith interjected the fact that this developer is his kind of developer, who is spending money out of his own pocket to bring in sewer, and any developer who brings in sewers has a leg up, as far as he is concerned because, for him, it is about the environment; and there is no excuse not to have sewer in this day and age.

Eden Bentley, County Attorney, inquired if with the Binding Development Plan.

Chair Pritchett responded affirmatively; and she stated with the Binding Development Plan.

There being no further comments or objections, the Board conducted the public hearing and approved changing the zoning classification from RU-1-11, TR-2, and BU-1 (General Retail Commercial) with a Binding Development Plan, to TR-1 (Single-Family Mobile Home) limited to 150 units, and with a revised Binding Development Plan.

**Result:** Approved

**Mover:** Curt Smith

**Second:** Bryan Lober

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

**\*The Board Recessed at 10:31 a.m. and reconvened at 10:42 a.m.**

**J.6. Resolution Revoking the Delegation of Certain Community Redevelopment Agency Powers to the City of Melbourne and the Olde Eau Gallie Community Redevelopment District**

Commissioner Tobia stated there has been a development and he asked the Chair if the Mayor of the City of Melbourne could open on this.

Mayor Paul Alfrey stated he appreciates being able to speak on this Item; he thanked the Board for partnering with the City of Melbourne on many projects including the recent reconstruction of Babcock Street, the repaving of Stewart, and many stormwater quality projects that they have completed together to save the Indian River Lagoon (IRL); infrastructure is important to him, one of his first jobs right out of high school was the Brevard County Road and Bridge; he got to work there for three years before going into the service and he was able to see how important infrastructure is; and as a matter of fact, they were building this building at the time and he wondered why they were placing this building out in the middle of nowhere. He noted it was by itself and to look at Viera now and what has been done, the development is amazing; it is all about pre-planning and infrastructure; he has a City council meeting tonight and would like to go back to his City council and give a direction with the Commission, because he believes the City needs that partnership; and that is where he stands.

Shannon Lewis stated City council had an opportunity to speak about this project, the Eau Gallie Community Redevelopment Agency (CRA), at a recent City council meeting; she mentioned she would like to give the Board an overview of what the city council's request is; City staff has been working with the County staff over the past year to create an interlocal agreement; that began with a conversation about a public parking garage in the downtown Eau Gallie CRA for approximately 250 to 300 public parking spaces; there was a discussion on the record that those would be made free for the public; and she mentioned there is no issue with because she knows that was important to the County staff. She went on to say subsequent to that, and the reason it has taken a little bit longer for them to finalize that interlocal, is because they were approached by a private developer to construct a \$30 million hotel in the downtown Eau Gallie area and also to construct the parking garage so that it would be a private/public partnership between the hotel developer and the CRA to construct, additionally, the 250 to 300 spaces that the City would need for public parking along with the required parking that the hotel would need to satisfy its requirements; what they had originally anticipated, to construct the public parking garage, they estimated it between \$6 and \$7 million and require an additional 13 years to complete the debt service payments, is that if the City were to look at a hotel development in conjunction with the public parking garage for a site-specific incentive from that location only, would bring the total number of years needed with the Eau Gallie CRA to 20; she knows that sounds like a lot and one of the ideas they had, and as the mayor indicated, they

need to go back to the City council this evening with the County Commission's direction and what the Board would like to see; and she thinks there is some creative opportunities by which, she can talk to the city council about, is reducing the size, for example, of the boundaries of the total CRA after that 13 years, so that the CRA would really remain only in effect for the hotel development project; and any incentive that would be made for that particular development would strictly come from that parcel and that would return the County TIF and the City TIF back to the corresponding jurisdictions, after the 13th year, which is really what they believe they need to complete the debt service. She mentioned the City council has also indicated a willingness to be able to find alternatives to either bring the cost down or find ways through grants or other opportunities to reduce cost and thereby ending the CRA earlier; and they would certainly be willing to add that into any interlocal agreement. She advised she and the Mayor are there to answer any questions.

Commissioner Tobia stated he was a lot more comfortable with the Mayor's explanation than Ms. Lewis'; he understands that both of them are independent and cannot speak to the Board; he did not want to have to go over this background but every other CRA, including two that are made up of the exact same board as this one, have already entered into an interlocal agreement; with the County Attorney's Office, a draft interlocal agreement was drafted and handed over; it included such things as the only project of that CRA, would be that parking garage, a certain number, he believes 90 percent, of those spaces must be free to the public, that there is low administrative costs, that if this truly is a priority, that the current projects be stopped and those resources go to this parking structure; therefore, if this CRA is extended it is extended to the shortest period of time. He added the County has acted in good faith and yet they have received little in return; he did not want to get into this, but there is an Auditor General's Report in which there are some pretty substantive findings in there that makes this troublesome if this interlocal agreement is not entered into per the specifications made; he has never spoken on behalf of the Board, but he would be more than willing to pull his resolution and give the City of Melbourne one more opportunity to come back with an interlocal agreement; and to be very clear he would certainly hope it is word for word, the one that was handed both to various elected officials as well as the City Manager, more than a month ago; he would certainly be more than willing to furnish the Commissioner's offices, but with the provisions that he laid out were very clear; and he reiterated that all resources are to go to that parking garage, that the bulk of those spaces remain free, and that is the only project. He mentioned he is looking for Board support; he imagines it means a lot for the Mayor when he goes back to the City council, that the Board is on the same page; and if this does continue it is a single issue and he did not want to get into the funding. He added there are art projects, there are hundreds of thousands of dollars of lighting, there are façade grants; believe it or not a roof is considered a façade; this CRA is so old it was created to alleviate chickens in the District; and that should give an idea of how old this CRA is.

Commissioner Smith joked Commissioner Tobia was in diapers when it began.

Commissioner Tobia responded by the time it ends he will be diapers as well. He noted his point is this gives the Mayor added incentive to go back to his board; and he noted if the Board is in agreement, he will pull his Item and ask that the City stick to those parameters in an interlocal agreement to be returned to the Board in short order.

Commissioner Lober stated he does not know what other people's timeline is, but he would really like to see something get back to the Board having been negotiated with staff, having been vetted by staff, and ready for the Board to approve, with everyone acting in good faith, in the next six or seven weeks; he thinks that is enough with where things have been left off, that hopefully they can do that; and he would appreciate the City getting something back timely. He added he wants to make sure everyone is on the same page; it does not want to see any sort

of gamesmanship with respect to the CRA obligating itself between now and the time this comes back; he really does not expect it, but his blood will run a lot colder if that occurs; and what has been a very collegial relationship would be negatively affected by that; and the only other thing to point out is that no one is negotiating in a vacuum, what happens in respect to this, has the potential and a decent likelihood of causing ripples or waves in other joint endeavors and ventures that they both have. He noted he is certainly willing to be reasonable, but this is a straggler that he wants to be corralled and done with; and his goal is hopefully the same as everyone else's goal in negotiating this, just to have something reasonable in place to put the city in parity with the rest of the CRAs in the County.

Commissioner Smith stated he does not really have a problem with CRAs, he has a problem with the fact that they never seem to go away; and he would like to propose something, let this CRA end and create a new CRA just for this project.

Chair Pritchett commented for a certain number of years.

Commissioner Smith responded yes, because then the Board can construct the CRA and the City will have the clear path to complete their project and it will have a definite end as well.

Commissioner Zonka noted she had not really thought of that; it would have to be very narrow, focusing on one project, kind of like the Cocoa Beach Garage; and she mentioned she would like to hear from Mayor Alfrey.

Mayor Alfrey stated Commissioner Tobia is correct with the audit, he did call for that audit and he advised Ms. Lewis was not the City Manager at that time; they did receive the findings back and Ms. Lewis and staff has done an amazing job to correct those; the City is an open book; and he noted he did go to Tallahassee, he requested that audit which has been completed, and all those findings will be corrected on his watch. He noted his only concern about making a second CRA is they still have four years that he honestly thinks they can take the funding and move it and shorten this; he thinks, and he is only one of seven on the board, that if they wait to open a new CRA, then these four years they could be using to go towards this project would go wayside because he is only one person on that board; he wants to assure the Commission that it has his word he will come back and let them know exactly where the City is; and he noted they cannot do this without the Board. He went on to say he wants a partnership for this infrastructure project; and if there are any questions he would be happy to answer them.

Commissioner Zonka commented she appreciates Mayor Alfrey's leadership. She advised that he go back to his board and tell them where this Board is at; she thinks he is right on the creation of a new CRA, that was a good point; if he can make it work where all parties are satisfied, kudos to him; and she asked Commissioner Tobia how long he wanted.

Commissioner Tobia stated he is comfortable with a month; he thinks probably the direction will come later tonight; hearing his response to that was perfect; those four years, if this truly is a priority, money is put where priority is; with CRAs, people are not only entrusted with money of the taxpayers of Melbourne but with County tax dollars as well; to put that in perspective, the TIF payment is roughly \$188,000; over the course of the next four years that is in the neighborhood of \$750,000 of just County TIF; and they are now just under 40 percent of that so to more than double that at \$1.5 million plus would be wasted on façade grants, art projects, and there were two or three other things listed here that made him very disappointed. He noted if the Mayor could prioritize that into the garage, he thinks that would probably be the best use of the dollars, not only for the County but for the developer as well because there is no certainty that this Board, in four years, would make that same decision, as soon as this one ends, to move forward with that; he imagines that would put the developer in limbo that he or she would

probably not be in favor of; however, if the City could continue with Mayor Alfrey's answer, then dedicate the next four years to cut off the tail of the 13; and he will be happy to see the work product that the City returns to the Board.

Mayor Alfrey stated he will assure that with other parking garages in the County, he wants free parking, he expects free parking; he voted in a way with the façade grant the he feels should be the business; he is a businessman, not in a CRA, and he fixes his own business, and his own commercial property for the County he pay taxes to; he understands where the Board is coming from; and he thinks they are all in agreement and will come back to the Board. He added he greatly appreciates the Board's time and efforts in this.

Commissioner Tobia stated he appreciates the good faith; he knows it is not fortuitous timing, but the Cocoa Beach CRA built a parking garage with extension, and not that anyone goes through this, but it tells him when they deliver it in glossy full color that they probably have more money than they know what to do with; the one in Cocoa Beach, according to their numbers, they have revenue per annum of \$154,000 on the parking garage; he feels really bad for the taxpayers, not only of Cocoa Beach but of Brevard County that paid into this parking structure and then are paying to park there; and it gets worse, they are actually citing people for illegally parking there so there is revenue on top of that as well. He noted the City of Melbourne has made the pledge not to do that to the County taxpayers as Cocoa Beach is so excited to do on a daily basis to the tune of \$154,896, to be exact.

Commissioner Smith stated when the Mayor is speaking about this tonight at his City council meeting, he would like to see that there are finite times set for getting these projects completed because, as Commissioner Tobia mentioned, if they are talking four or six years, the current Board members are not going to be there, and he does not want to see the opportunity in five or six years for another extension; whoever is sitting in City Hall may just say they want an extension for another project; and this Board will not have the opportunity to put its foot down at that point.

Mayor Alfrey stated they have an opportunity now to hopefully get this project done and end the CRA where they all come out as winners; down the road, if they want to be responsible for opening another CRA, hopefully with the correct infrastructure in place, they will not need that, and Viera is a perfect example of that; he does not see a CRA coming to Viera and it is a beautiful place where it is not needed; and hopefully they will not need it there.

Chair Pritchett stated this is just a thought since everybody brought out the information, maybe it is possible to close this CRA out now and then start just a parking lot; she thinks that might make Commissioner Smith a little more comfortable; then the parameters are all there and the Board knows this is just for parking; and instead of those four years going for other things, it would dissolve and start the parking garage.

Mayor Alfrey stated he will have his staff work with County staff and see what the bet options are; he will come back to the Board so everyone is on the same page; and whatever is the quickest or fastest way to get it done.

Commissioner Tobia stated he thinks there is still some debt on the books and unfortunately that would not be; it is much less than other ones but there is still some debt in the books; and it sounds good but he still does not know if that is possible.

Chair Pritchett mentioned unless they maybe did some contractual thing that one closes other than paying debt, but she does not know, they will have to get with legal.

Mayor Alfrey commented he definitely has direction for City council and he will get back with the Board.

**J.2. Resolution to consider an Ad Valorem Tax Abatement - Dark Storm Industries, LLC**

Katherine Wall, Assistant to the County Manager, stated this Item is a request from the Economic Development Commission (EDC) from Florida's Space Coast to approve a resolution; and there is a representative from the EDC in attendance, if the Board has any questions.

Edgar Campa-Palafox, Director of the EDC, stated he is there to answer any questions regarding the application by Dark Storms Industries, to be considered for tax abatement exception program; the Board probably saw the application, the company is considering moving a firearm facility to Brevard County, Titusville, in Spaceport Commerce Park; it is expecting to bring 50 jobs to the Space Coast; the company is currently based in Long Island, New York; and it has outgrown its facility. He continued by saying the company is a firearms manufacturer and the building they are considering to build on the Space Coast is 25,000 square feet, with plans for the future to expand to 45,000 square feet; the company is expected to create 50 new jobs over four years, with the average wage of \$50,000; and it is an approximate investment of \$3.2 million between the building, machinery, and equipment in order to discharge their activities here in Brevard. He mentioned the Space Coast is in an extremely competitive position with other communities in Florida, specifically the panhandle was being considered as the other location for this business development deal; one of the things to highlight is the industry that they are actually operating will bring jobs outside of aerospace, to the community, helping to diversify the economy; and it will also be a nice addition to a cluster of firearms that are already happening here in the Space Coast.

Commissioner Lober stated he sent out a memo yesterday and copied the press on it as well so that there was no thought that anything was being hidden by anyone; and basically there are three types of grants that have been lumped into this project.

Chair Pritchett advised Commissioner Lober his memo is for Item J.5.

Commissioner Tobia thanked Mr. Campa-Palafox for the economic analysis; he stated Mr. Campa-Palafox said there were 50 direct jobs; and he inquired if that is correct.

Mr. Campa-Palafox responded in the affirmative.

Commissioner Tobia inquired where he received that estimate.

Mr. Campa-Palafox responded it was in the application submitted by the company.

Commissioner Zonka advised she is going to support this because there is always the clawback feature; and if they do not do the jobs then the County can pull that exemption.

The Board adopted Resolution No. 21-035, qualifying Dark Storm Industries, LLC as an eligible business under the County's Tax Abatement Program; and authorized for the advertisement of a public hearing to consider adopting an Ad Valorem Tax Exemption ordinance on April 6, 2021.

**Result:** Adopted

**Mover:** Curt Smith

**Secunder:** Bryan Lober

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

**Nay:** Tobia

**J.3. Legislative Intent & Permission to Advertise an Ordinance Amending Brevard County Code of Ordinances, Chapter 98, Article IV, Port St. John Dependent Special District, Section 98-105**

Eden Bentley, County Attorney, stated this Item is for legislative intent to amend the Brevard County Code, Chapter 98, Article IV, Port St. John Dependent Special District; what they have in Port St. John is an extra Advisory Board, there is the Port St. John Dependent Special District and in some cases right now, those Items for rezoning and Comprehensive Plan amendments go to Port St. John and then they go to the Board, some go to the Port St. John Board then the Planning and Zoning Board and then the Board of County Commissioners; this amendment, as proposed, would allow the Port St. John items for zoning and Comprehensive Plan to go to the Port St. John Board, Planning and Zoning, and the Board of County Commissioners on all items; and the difference would also be if there is not a quorum for the Port St. John Dependent Special District where they cannot come up with a recommendation, the Item could proceed forward to the Planning and Zoning Board for recommendation to the Board of County Commissioners.

Chair Pritchett noted this was her request so it would make the process move along quicker for people who are trying to build projects.

The Board approved legislative intent and granted permission to advertise an ordinance amending Brevard County Code of Ordinances, Chapter 98, Article IV, Port St. John Dependent Special District, Section 98-105.

**Result:** Approved

**Mover:** Curt Smith

**Second:** Bryan Lober

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

**J.4. Legislative Intent and Permission to Advertise an Ordinance Deregulating Hours of Sale of Alcohol in Unincorporated Brevard County**

Commissioner Tobia stated Section 63 of County Code limits alcohol sales between the hours of 2:00 a.m. and 7:00 a.m. except on New Year's which is 4:00 a.m. and 7:00 a.m.; this would deregulate alcohol sales and allow them within those hours of 2:00 a.m. to 7:00 a.m.; this does not have any impact on municipalities and after speaking with the Sheriff, it sounds as though he is not in opposition; deregulating the hours of sales of alcohol increases freedom for residents and visitors in unincorporated Brevard County; and he noted people are three times more likely to die from obesity and yet McDonald's and Taco Bell are open 24 hours. He mentioned after the discussion he will make a motion for legislative intent and permission to advertise the ordinance as listed in the Agenda Report.

Chair Pritchett advised she is going to support this because she has talked to the Sheriff and he said it was good.

Commissioner Lober advised he would ask for one change before supporting it; at the beginning of the text on the bottom of the first agenda sheet to start it with "unless otherwise prohibited,"; he does not want someone to have some sort of argument that this overrides private business' ability to negotiate leases that would have different requirements or more

onerous requirements; and with that change he will support it.

Commissioner Smith stated it makes a lot of sense from a standpoint that if bars are open longer, people will leave when they want to leave so that they are not all leaving at the same time; it will have spread out the people who may have drank too much; and they will not all be on the road at the same time; and he thinks it is a great ordinance.

Chair Pritchett asked if this motion includes Commissioner Lober's change.

Commissioner Tobia inquired with the County Attorney.

Eden Bentley, County Attorney, advised that can be inserted with no problem.

Commissioner Tobia agreed to the change.

The Board approved legislative intent and granted permission to advertise an ordinance stating, unless otherwise prohibited, deregulating hours of sale of alcohol in unincorporated Brevard County.

**Result:** Approved

**Mover:** John Tobia

**Secunder:** Curt Smith

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

**J.5. Approval of Resolution and Real Estate Contract for Sale of Property in County Owned Commerce Park in Titusville and Approval of Economic Incentive Package from North Brevard Economic Development Zone for Dark Storm Industries, LLC**

Commissioner Lober stated with respect to this the memo he sent out yesterday outlined a couple different options; staff within Brevard County prefers to go with the second of the two options because they think it is a cleaner and easier approach; in fact the second option was the one that was brought up by the company in response to the other option; what he proposed was that the Board approve it contingent on the County being given priority as a lien holder not first or second priority because they have their small business loan, they are going to get a business loan, and then they are going to have a charter development corporation that is going to provide them with additional funding; and that would be the first and second priority lien holder, respectively. He noted the County would be third priority lien holder over the subject property for an amount equal to value to the amount listed for the land acquisition grant of \$362,600; the lien would be subordinate to the bank loan first and the CDC loan as second priority; at the beginning of year six, if the company has been and is still in compliance with their agreement with North Brevard Economic Development Zone (NBEDZ) then the County would go ahead and record a satisfaction of Lien to go ahead and extinguish that lien; and the other option which was actually suggested by the company, he is fine with it and he thinks the County Attorney's Office prefers this one to the first, but he would like to give the applicant either once they have had a chance to go over it with legal counsel, they suggested that the land acquisition grant not be dispersed until the beginning of year six, at which time it would be provided to the company if they have been or remain in compliance with their agreements with the County or NBEDZ. He mentioned he is fine with either but he would like to move to approve it with the grantee choosing either of those two options.

Troy Post, Executive Director of North Brevard Economic Development Zone, stated this is a project that is another Agenda Item related to the prospect he calls Project Freedom, and

known as Dark Storm Industries, a group out of New York State; at a recent meeting of the Board of Directors for the Economic Development Zone, they approved a package and a recommendation to come before the Board; today the Board has two actions before it that are being requested; the first is to approve entering into a real estate contract with the company to sell approximately 10 acres of property in Spaceport Commerce Park in Titusville; and this would be \$37,000 per acre and one of the higher price points they have had in that Park. He continued by saying the is rectangular in shape and has some site issues; the company would have to mitigate for some wetlands to make it a usable site; the second part of what is being asked for is to grant concurrence to an economic incentive package that was approved by Zone's Board of Directors; per an Ordinance that was passed the same year the Zone was created, any kind of outlay and incentive that goes above \$500,000 has to come before the County Commission for concurrence; in that economic incentive package there are three separate grants; the first one is what is called a Site Preparation Reimbursement Grant which would reimburse them for eligible site development costs to prepare the pad; and as mentioned there are some wetlands they would have to mitigate for but they would have to go in and clear grade the site, build the building pad, do any type of storm water retention issues, and those would be the kinds of eligible expenses they would be looking at, up to \$250,000. He went on to say it is worth noting that what NBEDZ does is what they call Performance Grants; they do not provide any money upfront; the company has to have the wherewithal to acquire the property from them to build the building, to get in it, and to make sure it meets all the building code standards for the local jurisdiction, which in this case is the City of Titusville; and then they would have to occupy it for a period of time before they would get the first dollar from them. He stated the second grant is what they call a Capital Investment Grant, a reimbursement grant, and it looks at the overall capital injection that they anticipate putting into the property over the course of the first couple years of the project; they would anticipate initially a building cost of approximately \$1.6 million; he thinks they will also have equipment that they will place in service there that will be approximately \$1.2 million; they think some additional outlays on equipment may be made in the second year, and of course they are counting the land value

which gets it up to approximately \$3.2 million overall; the third grant is what is called a Site Acquisition Reimbursement Grant and this one is to help them zero out the cost of the land acquisition over a period of several years; and this has been a highly competitive project where they have been in competition from what is believed to be several different communities across the southeast United States. He noted having spent time in Alabama and Georgia doing economic development, he knows they have some abilities to do some things that cannot be done in Florida; Florida cannot just provide the land to them; when they do the land sale in the commerce park, that money has to go into a special restricted account that can only be used for improvements in the park; the only way they could try to be competitive, and he says competitive because the other issue they are dealing with is in recent years, the State has not had the tools that they have had in the past, they no longer have the Qualified Targeted Industry (QTI) program which is a tax credit program and they no longer have the closing fund program for the State, and that puts a little more pressure on the local jurisdiction to really come up with an incentive package that really is going to be attractive to the company, hence the reason for the Zone grants that he is talking about, and the tax abatement on the property; and each one of the grants that he has mentioned has a couple of different qualifying requirements before they would get it, but all have to reach a certain benchmark before they would get the reimbursement. He stated on the Site Acquisition Reimbursement Grant they would actually have to stay on the property, they would provide a grant to them in installments under a four year plan, that is the current agreement that has been proposed; as far as the Site Preparation Grant and that Capital Investment Grant, the key qualifying criteria for that would be they would have to build the building, complete it, and then occupy it for a period of at least six months; in addition to that, the agreement spells out some other additional things they

would have to do; they would have to provide documentation to NBEDZ so they could actually see what the cost of the building is and things of that sort; the application that they submitted to NBEDZ called for the creation of 50 jobs and that is what is fully expected of them; when they do these agreements they look at what they think the minimum attainable job creation should be before they can make a legal claim to recapture some of this money; and these are the clawbacks that the Board has heard him talk about. He thanked the County Attorney's Office for their support; he noted they helped craft the language for what he thinks are very strong clawbacks; in this particular case they are trying to get the company up to 25 full-time jobs by 2026 in order to avoid the clawback of the grants that would be approved and given to them; and he knows that is a lot of information, but he will try to answer the Board's questions as best he can.

Commissioner Tobia stated the EDC has informed staff that Dark Storm Incorporated indicated that they would have 50 direct jobs; and he asked Mr. Post is that is a fair statement.

Mr. Post noted that is a job goal that the company has put in the NBEDZ application.

Commissioner Tobia asked if Mr. Post could explain section 3.2.2. of this agreement, they will be eligible for reimbursement of the purchase price of the property in the amount of 360 something thousand dollars and yet only create 30 percent of those jobs, or 15; and he asked if that is correct.

Mr. Post explained for the Site Acquisition Grant they do have two tables inside the economic incentive agreement for that third grant, the one being referenced for reimbursement of the site acquisition costs; by the time they get to the end of 2023, they would have to have at least five jobs there to be able to get to the first of the reimbursement installments, which is \$90,650; by the end of year 2024, they would have to have a minimum of 10 full-time jobs to get the next installment of the \$90,650; and if they did not have 10, they would not receive the installment for that particular year.

Commissioner Tobia stated for the remaining \$500,000 he would guess they would need 25 jobs and he asked if that was fair.

Mr. Post explained this is a process that is ramping up; and they have worked with the company along with the County Attorney's staff to kind of craft something that would then get the approval of the Zone board.

Commissioner Tobia stated all he needs is a yes or no.

Mr. Post went on to explain it is a harder question to answer because there is a ramping up to get to that 25 full-time jobs; they expect that by the year 2026; they recognize it may take them awhile to get their operation underway, to get them sufficient staff, but these are minimum job totals; and the Zone Board hopes they will exceed those.

Commissioner Tobia stated they offered 50; and he asked the average wage of these jobs promised.

Mr. Post stated they anticipate it being \$50,000 and he thinks that is in the agreement.

Commissioner Tobia asked if one of these jobs is likely to be the business owner or one of the two business owners.

Mr. Post responded it could.

Commissioner Tobia advised he looked at Chief Executive Magazine, of a survey done in 2018/2019 of similar revenue size companies and they said the average CEO made \$417,560; now adjusting for Consumer Price Index (CPI), that puts it in today's dollars at \$470,000; if that individual makes \$470,000 and they create 14 other jobs at a \$10 minimum wage, that would have an average minimum wage of \$50,000, so in other words they would have created 14 minimum wage jobs and yet have an average of \$50,000; and he asked if they would still be eligible for these incentives after creating 14 minimum wage jobs.

Mr. Post responded they will be tracking salary and wage information for sure; he does not know what the CEO would be paid, but they will be tracking it.

Commissioner Tobia stated he thinks NBEDZ does a darn good job tracking, but that was not his question; when someone does not like a question, it is probably because he or she does not like the question; and the question, if the CEO makes \$470,000 and he or she creates 14 jobs at minimum wage, they get over that \$50,000 threshold of \$750, which is 50,000 times 15, he or she is paid the average, according to Chief Executive Magazine, would they then be entitled to receive the incentive for creating 14 minimum wage jobs, and the 15th being the CEO, who makes just the average salary, according to Chief Executive Magazine 2018-2019.

Mr. Post responded he appreciates the question; he would have to confer with the County Attorney's Office to see the calculations, but it is conceivable that would probably do the trick; and of course they hope that, because it is a very competitive market, paying minimum wage would not attract the workers.

Commissioner Tobia commented he hopes to win the lottery each and every week, yet it just does not happen. He went on to say to put lipstick on a pig, he has a whole line of questions on good faith, but clearly there is not any good faith here; the company has promised 50 jobs, yet there are markers far less than 50 jobs; this incentive package is almost \$1 million and yet there could be as few as 15 jobs; and the Board has just been informed it could be as little as 10. He noted guns are cool, but does the Board really want to hand over this money and think about the other areas, municipalities, or other government entities; the Board just authorized the EDC to look at tax abatement; Commissioner Zonka has talked about handouts; and this is nothing more than a handout. He added they paid for the land and then the County reimburses them; he would love to buy a Ferrari, he could buy a Ferrari right now if he knew Brevard County was going to pay him back in four annual installments; this is nothing more than a government handout; and he could go into the good faith but there is really no point, he thinks this puts the Board in a really tough position. He reiterated they promised 50 jobs and the agreement is a small fraction of that; he stated he appreciates Mr. Post presenting this, and if he wants to contradict anything that he just stated he can feel free to do so, but he took it out of the contract that was put forth; had this all had 50 jobs, he does not know if he would support it then either; and since it is as few as 15 and as much as \$1 million, he just does not think it is probably the best direction for the County taxpayers.

Chair Pritchett inquired if these are \$50,000 per year jobs.

Mr. Post concluded that would be the average annual wage that the Zone board would track over the jobs created period.

Chair Pritchett advised that is \$24 per hour, so it is not bad; what she likes about this is they are going to relocate from New York; she knows the County is still competing because the panhandle is actually very aggressive with this; sitting in meetings with Mr. Post, she knows Georgia, Alabama, and the Carolinas have also been trying to make plays for this company as

well; and she just loves that it came out that Brevard County is number two in the nation as far as economic growth. She mentioned she thinks it is because a lot of the things that the Board has done over the time period of maybe helping stimulate some of the economy with incentives; she likes that this does not have clawbacks in it; she thinks the Board has made some pretty good decisions and that the State of Florida is actually doing very good compared to the rest of the states; Brevard County is rocking it out; and this is branching out more into the guns. She added she thinks this is a great opportunity; she feels pretty comfortable with the economic incentives that are being offered; she thinks they are fair; she believes this company is going to do better than is written down, with some parameters; she thinks it is a good solid company coming in; and if the CEO's are making \$470,000 they are going to buy a really nice house in District 1, so that is another good thing.

Commissioner Smith stated he gets Commissioner Tobia's point about jobs and Ferraris but that is like comparing apples and oranges; people are not going to get someone to just pay for a Ferrari and let them drive around without having to pay for something; this company is going to pay all these loans and expenses, and they are not going to pay it on the backs of \$10 per hour employees; they are not going to have that kind of income; it is obvious that they are going to have the income to pay these kinds of bills because they are already doing it; and they would not be coming here and obligating themselves if they did not. He mentioned with clawbacks, they are not going to get to the point where they are handing over any money until they have already performed; he is in favor of this; and he makes a motion to approve it.

Commissioner Zonka stated she thinks she has made her position pretty clear over the last several years of being on the Commission, on how she feels about cash incentives because the County is essentially financing their business risk; regardless of whether they borrow this money from the bank or whoever, the County is essentially paying them back for their investment; she is never going to be okay with that; tax abatement is a different bargain because that is what voters voted for; and she believes that is an open arm saying welcome to the County, it is going to try to help them starting out. She commented to pay somebody back for land that they are purchasing to build their business on and to pay them back for their equipment, she wants this deal; anybody interested in opening a business; she is sure if this criteria went out to bid to come build a business in Brevard County and it will give you back almost \$1 million after a few years of 50 or less jobs, it is a pretty sweet deal; and she announced she will not be supporting this.

Commissioner Lober stated he wants to go back and forth on this a little because he thinks he can get this to work; and he asked Commissioner Smith to withdraw his prior motion because if he keeps it he is not going to have enough votes.

Commissioner Smith commented he would be happy to hear what Commissioner Lober has to say.

Commissioner Lober advised what he would propose if Commissioner Smith withdraws his motion, and if he does not he will not support it, is two things, the first is giving the applicant a choice, which does not sound like they were opposed to between either having the County serve as third priority lien holder for an amount equal to the value of the land acquisition grant, \$362,600; he already discussed lien priority and the conditions for that; give them that choice or simply wait for year six to disperse the funds then they do not have to mess with liens at all, whichever their preference is; and he would still insist that they choose one or the other of those, noting he thinks their initial preference was for the second, and County staff's initial preference was for the second. He went on to say the other thing based on what Commissioner Tobia had mentioned, he thinks there is a way to address that without killing the whole package; the CEO, the president, or the equivalent administrator, that their salary not be

factored into wage calculations for purposes of determining compliance; but he does think it should be allowed to be factored into the jobs created and counting as one of the required jobs created; he agrees when it comes to the Capital Investment Reimbursement and some of the other grant portions; the clawbacks definitely appear to be reasonable; however whenever it comes to the Land Acquisition Grant, all they have to do is buy the land and they are entitled to it without having employed anyone or the site prep, all they have to do is prep the site and they are entitled to it. He continued by saying he thinks having these two conditions, one, having them choose either a or b from what was discussed earlier with the conditions that were laid out, as far as either going a lien route with third priority or alternatively just waiting until year six, and secondarily, whoever their CEO or equivalent is, not be factored into the wages; if they are obligated to create 10 jobs and an average wage of \$50,000 per job, they would say the CEO is one of those jobs and they only need nine more jobs and the salary would be factored by what those other nine employees are paid; it would at least, in part, address Commissioner Tobia's concerns, it addresses his own concerns; and if Commissioner Smith would withdraw his motion, that will be his immediate motion following.

Commissioner Smith agreed to withdraw his motion and go with Commissioner Lober's motion.

Chair Pritchett thanked Commissioner Lober for sending out the memo; she stated it gave her time to read through it and figure it out; and she appreciates that very much.

Sandra Sullivan stated aside from the subsidy part when this is a County with a very high growth, she does not understand why the Board even needs to do that; her biggest concern is hearing the comments about the wetlands; she attended the meeting on sustainability to do with sea level rise and a higher incident of category four and five hurricanes; she would encourage the County to look into wetland scientific literature that talks about this as a way to mitigate sea level rise and the impact from the rain events from a higher statistical number of hurricanes; just as the Board saw in Merritt Island where properties that are never flooded, that were developed, where wetlands are being filled in, now the residents there are having a lot more flooding issues. She mentioned that she comes from south Florida and in south Florida they build out way past; she never thought they would build past Sawgrass Mills Mall and they ended building 40 miles more; in East Fort Lauderdale when it rains their Florida room and their garage floods; the issue here was seen after Hurricane Irma; the wetlands were all under on the St. John's flood plains; they are under three and four feet of water; and those wetlands are the water quality, and the insurance policy for the entire County for a place for that water to go. She stated South Florida made mistakes on their development, but this County has an opportunity, this is property that the County owns and it is going to fill in wetlands; the more wetlands are filled in, the more flooding issues in the future; and she would urge the Board to look into researching flooding and wetlands and how important they are to the water quality, the Lagoon, and as the insurance policy for the entire County, so it does not run into the problems that South Florida is running into.

The Board adopted Resolution No. 21-036, authorizing conveyance of real property interest in a parcel within the SPC to Dark Storm Industries, LLC; approved the Real Estate Option Contract permitting an option to purchase approximately 9.8 acres of land in the County-owned Spaceport Commerce Park in Titusville for \$362,600 to Dark Storm Industries, LLC; approved the North Brevard Economic Development District to offer Dark Storm Industries, LLC the Economic Incentive Agreement providing grants not to exceed \$862,600; and authorized the Chair to execute all documents in connection thereof, contingent upon the following amendments to the Economic Incentive Agreement:

(1) Grantee consents to a grant provision that the CEO, President, or the equivalent position, may be counted as one of the jobs required to be created under the Agreement, but the wage

of that position may not be counted towards the average project wage of the jobs.

(2) The Grantee consents to one of the following two provisions being added to the Agreement:

(a) The County be given third priority as a lienholder over the subject property for an amount equal in value to the Land Acquisition Grant which amounts to \$362,600; i) County lien priority would be subordinate to the bank loan as first and the Charter Development Corporation ("CDC") loan in second priority; ii) At the beginning of year six, if the company is and has been in compliance with their agreement(s) with the County and NBEDZ, County would then record a satisfaction of lien; or

(b) The \$362,600 Land Acquisition Grant is not disbursed until the beginning of year six at which time it would be provided if the company is and has been in compliance with the agreement(s) with the County and NBEDZ.

**Result:** Adopted

**Mover:** Bryan Lober

**Secunder:** Curt Smith

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

**Nay:** Tobia, and Zonka

**J.7. Legislative Intent & Permission to Advertise an Ordinance Amending Brevard County Code of Ordinances, Chapter 98, Article V, North Merritt Island Dependent Special District, Section 98-145**

Commissioner Tobia stated this is an exact reflection of the Port St. John Advisory Board so it is exactly what the County Attorney said; the Board just approved the one for Port St. John Dependent Special District; he thought it was a step in the right direction; however, he believes these boards probably need to be dissolved; and it is not just him, there was a sunset provision on this so when people created this, they also believed it. He mentioned those issues set aside, looking at the County Ordinance, it is clear that Port St. John and North Merritt Dependent Special Districts were created in parallel, so this proposed amendment would keep these boards having the same authority and close the loophole of holding a development by not having a quorum.

Commissioner Lober stated he supported the earlier Item because it is in Chair Pritchett's District and she was supportive of it; if she would have gone the other way on it, he would have gone the other way as well; this is in his District and it is totally different; his inclination to dissolve the North Merritt Island Special District is non-existent; regardless of how this particular Item goes, he is not willing to do that; he sees a lot of reasons to keep it and it is a great way for him to get the input of people that are most directly affected by the decisions that the Board makes; and with that said, he does not think that this Item, as it is drafted, would do anything to further that. He mentioned he does not have a problem tentatively supporting this Item with the understanding he is supporting it solely for the purpose of it going out for advertisement; he would not today adopt it, but he does not have an issue with it being advertised; he is fine supporting it today with the understanding he is not going to be doing anything to dissolve North Merritt Island Special District; he does not support that now nor does he intend to support it in the future; however, he does agree there was an interesting Item brought up, if there is a continual issue where there is a project and no quorum, it is not fair to keep people held hostage indefinitely. He noted it is an interesting idea and he wants to get some input from those who live in North Merritt Island as to whether they want to see this go; and he will support it for today's purposes for advertising only.

Commissioner Zonka asked Commissioner Tobia when he brings the Item she would like to

see the attendance, the number of meetings that were cancelled, and all that information if it is possible; and the list of board members because she believes there are many that are on both boards.

Commissioner Tobia advised he will get her that information but a cursory look showed that North Merritt Island does a much better job showing up than the Port St. John one; the issue is much larger at Port St. John, hence the reason why Ms. Rezanka was here instead of a regular zoning meeting; and he added he will absolutely bring that information.

The Board approved legislative intent and granted permission to advertise an ordinance amending Brevard County Code of Ordinances, Chapter 98, Article V, North Merritt Island Special District, Section 98-145.

**Result:** Approved

**Mover:** John Tobia

**Seconded:** Bryan Lober

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

#### K. PUBLIC COMMENTS

Art Hitch stated he lives across from what once was one of the most beautiful pieces of property in Brevard County, Lori Wilson Park; it is now a disgrace, an embarrassment; he wonders when the last time any of the Board Members had visually looked at Lori Wilson Park; since the four unwanted hurricanes in 2004, the maintenance to that park has been bare bones; if anyone would go, specifically on a weekend, to see what is going on in that park right now, there are literally 100 or more cars parked illegally on the grass everywhere; what has really brought him to the meeting is to get to the access from the south end of the park, it is closed now and blocked off, people cannot go to the south end of the park and get to the beach, they have to walk through the Hammock and that boardwalk is in bad shape; and he has contacted Parks and Recreation, Economic Development, and Commissioner Lober's office with very few responses. He noted the only response he has gotten so far on this park has been from Terry Lane who explained to him that there is supposedly a plan that they just did three entrances on the north side and they are beautiful, but they left the south side alone; to him it just does not make sense; he also explained that economic development has some type of plan; he attended a meeting like five years ago when they presented this big grandiose plan which a lot of it he liked, some he did not; but now, they said to do the entrance and the walkways to the south side of the park cannot be done until November at the earliest because of the turtle season; and he just thinks it is a disgrace especially with a couple major events coming up, the air show, and a surfing event, and the access points are unbelievable. He asked the Board to please go look at that park and get something done; it has been since 2004 and it keeps going steadily down hill; and he noted one of the reasons he and his wife bought their house was because of Lori Wilson Park.

Commissioner Lober stated the County's funding does not control law enforcement's response to car parked illegally; there could be \$10 million into the park today and if people still want to park illegally there is nothing the Board can do about it; if there are people parked illegally in the city he would suggest to call the City's Police Department and if it is in the County he would suggest calling Brevard County Sheriff's Office; as to some of the walkway to the beach access being closed, it is probably because the County is in the process of repairing or replacing at least one of the walkways; he thinks it was like six months ago the Board allocated seven digits to replace the walkways in that park to better it; and it may well be the reason there is not an accessibility at present, is because they would be doing work specifically to improve it. He advised when that came up he tried to ensure that there was adequate funding going to the

park to ensure, not only that they did the bare bones minimum, but that they put in a synthetic instead of a natural wood product so that it would last quite a bit longer, and in all likelihood be a little safer; it may have been since 2004 that there have been other substantial investments into it, but he knows of two times in short succession that there were seven digits allocated to that park in the past year or so; and he also thinks there was some money allocated to that park to replace one of the pavilions, maybe on the east side, and he may be mis-recollecting that; however, he can say there has been money allocated to it recently, millions of dollars. He added sometimes it just takes a while to get through the government process of finding a contractor to do the work; it is bigger than what can be done in house; and he does not know if Jim Liesenfelt, Assistant County Manager, has a better idea in terms of the repairs; and he apologized for putting Mr. Liesenfelt on the spot, but he knows it was something the Board had already approved.

Mr. Liesenfelt explained the north crosswalks have been replaced with the composites, and they were completed; he spoke to Tourism, the ones funding the park, and they are working on a south crosswalk trying to replace the boards and get that one opened up; with the cross overs, is turtle season, so after February 28, people have to be very careful what construction is done; and he also knows there is some work going on in the dog park. He noted he does not have all the details but he can provide some kind of update.

Commissioner Lober stated he is going by memory so if he has said anything that is inaccurate he would like to be corrected.

Mr. Liesenfelt responded not that he recalls; and he believes the number being \$1.375 million or something.

Commissioner Lober mentioned there was another one that had come up and that they were in short succession, back to back, where there were two separate projects; it was not the same meeting but one was a solid allocation; and the other was a seven digit allocation which he thinks it was over \$2 million in a handful of months.

Mr. Liesenfelt commented that sounds about right.

Ralph Livingston stated was not expecting to speak today but the Lord works in mysterious ways; he wants to speak about the administrative order that is in place that decides volunteer coaches; he is not saying that the administrative order is wrong, it is great; the people he has spoken with all think it is great, they just think it needs to be tweaked somewhat; he spoke with Alex Goins and Anthony Blunt and Michael Blake and they are trying to get on the Agenda; he came to the meeting today to try to find out how to get on the agenda and he was told he had to ask in person to do so; and that is what he is there to do. He stated he was there nearly a year ago and he spoke about the type of person he is and he is still that type of person; he is currently still raising five grandchildren, ages seven to 12; they are all at Viera Charter Academy right now; the oldest one he just assisted with the basketball team; now he is assisting with the track team for his oldest grandson; and there are two coaches for that track team, Mr. Curtis and himself, and 45 kids; all he is saying is volunteering is a task and it is a lot of children who need volunteers; and he reiterated his main goal coming to the meeting today was to find out how to get on the agenda, because there are a lot of people who want to come and just talk about how to adjust the Administrative Order, not make any changes, because they do not want people who are abusive to children or who are drug dealers, or a problem to society who have not worked to better themselves to be around these kids, but to somehow help those who have changed their lives to help the children, so he is asking if he can get on the Agenda sometime next month for the evening hour, which fits a lot of those peoples time frame; and he mentioned he hopes he is doing this the right way.

Commissioner Lober stated he wanted to give a recap to some folks that may be a little fuzzy; this is the gentleman that wanted to coach one of the teams; Mr. Liesenfelt, Assistant County Manager Maryellen Donner, Parks and Recreation Director and himself spoke about it in some length and he made a pitch to try to amend the Administrative Order probably about a year ago; he had some fine individuals vouch for him and say that he had turned his life around, good guy, productive citizen, and he does not doubt that; he was happy at looking to tweak the AO then; the only reason he has not brought it back was because he thinks it was essentially four to one and he was shot down; and if the Board is willing to hear it again he will add it on as a District 2 Item, he just did not want to bring back the same thing without the situation having changed, or new information having come to light. He went on to say he would still support making the changes he proposed prior, but if the Board is in the same spot he is not going to add it.

Chair Pritchett noted she is probably in the same place; she thinks there is a lot of unforeseen consequences because the Board cannot do for one and not for all of them; she thinks that would greatly raise the liability with the County as well; but if he can come up with a creative way that it would not do either of those two things, she would be willing to hear it, but she has been racking her brain; she has other people who would love to do this same type of thing and it just pokes in her mind every time she tries to think through it; and she just does not know that she can so that yet. She mentioned she even tried to go back a certain amount of time, but nobody qualified.

Commissioner Lober stated there is another way, but he does not know if this is maybe a little further of a stretch than what she is thinking; the other way that is perhaps a bit extreme but it is doable and it is worth at least perhaps considering; instead of the County doing the vetting, it says to the organizations that put on events at County facilities to do the vetting so the County has no hand in it whatsoever, and if the Board thinks there is something that needs to be disclosed to participants, it can mandate that once the vetting is done, they find certain things that check a box that the Board says in advance needs to be disclosed, it can do that; however, if the Board is doing the vetting, it is going to be responsible for everything that falls through.

Chair Pritchett stated she thinks that if someone has a felony, that is where she is struggling right now; she knows there are different ones, but what it is protecting District 1 with right now is the greater good; she tried going back a period of time with a few and she could not even get the time period clear; as of right now she probably is not in that place; and if Commissioner Lober wants to send out a memo with some great idea, but just for the unforeseen consequences and the liability. She noted she thinks Mr. Livingston is a wonderful person, but this is what she is struggling with, and she really tried.

Commissioner Zonka advised she would like to talk to staff on what the legal parameters are but she is definitely open to the idea because she thinks everybody is redeemable; now where she usually has issues is with crimes involving children; there are certain crimes that she does not know that anybody could be not, not forgiven; everybody deserves forgiveness; but she does not know, she has read too many science and psychology articles to be comfortable with crimes involving children; but she is definitely open to the idea of looking at it. She noted she will talk to staff herself.

Commissioner Lober commented if Commissioner Zonka sees something where there is some willingness if she wants to add it as her Item he is still where he is at and happy to support anything that is reasonable that would put people who really have rehabilitated themselves in a position where they can contribute to the community; and he understands where the rest of the Board is coming from. He commented pretend there is someone who has a building and they

are required to leave the door unlocked during certain hours and they did not do that, there is a fire, and someone dies, they get charged with something and it is a felony; and he asked does that therefore mean they are danger to children in coaching softball. He noted he does not really see the link but how to draw it up and where to draw the line, he does not know what a perfect way to do that would be; if the Board were to change it, it would have to change with the best of intentions; and it would have to be written as clearly as possible but he could not promise perfection on it.

Chair Pritchett stated he would have to work with her on that; through the years there has been this one gentleman, about 10 years ago, and his looked like a felony on X, Y, and Z because it was really involving children, but as long as he got those charges, they did not do the other charges; had she not known the circumstances she would not have known that a 13 and 14 year old girl was involved and the parents just did not want to drag it through; this was not Mr. Livingston; the Board is going to have to figure that out because she has learned early on the way the legal system works and how people plead less and other things never come up; and she does not know how to frame that, but if there is a way to do it she would be fine with it, but that is her hesitation because she will always err on the side of children, every time. She went on to say sometimes it disqualifies people for the things they do, but she will always err on the side of children.

**L.1. Frank Abbate, County Manager, Re: Board Report**

Frank Abbate, County Manager, stated there was a Board Workshop scheduled for April 15, and at this time there is nothing to do on the 15th for that workshop since the Board gave direction at the prior Budget Workshop; and he noted that Workshop can be cancelled if the Board is good with it.

**K. PUBLIC COMMENT CONTINUED**

Sandra Sullivan stated there is a manatee mortality event and a sea turtle mortality event that concerns many of the Brevard County residents; the concerns she has, she has watched the Save Our Indian River Lagoon (SOIRL) meeting and she had fully expected that they would address this; she wants to read what was approved with the referendum for SOIRL, "to restore the Indian River Lagoon through financing, planning, constructing, maintaining, and operating capital improvements and capital maintenance projects and programs designed to improve water quality, fish, wildlife, and marine habitat, remove muck, and reduce pollution"; there has been some testing done on the manatees and they find that for the number of years they have higher levels of herbicides, the roundup chemical; she expected that the SOIRL meeting would discuss something when there are organisms of the Lagoon being impacted, obviously there is an issue there; people would want to explore what it is and inquire if someone has talked to Fish and Wildlife Commission; and it was very disappointing. She continued by saying she thinks there needs to be some pollution testing that is not in the SOIRL which brings her to the point that she requested from Virginia Barker, Natural Resources Management Director, a copy of the Ordinance, which she sent to her, and in there it seems the process is the County drives what the SOIRL Program is doing and the Oversight Committee kind of monitors the spending essentially, to put it in a very generalized succinct sentence; she would ask if the County's input is growth management; Dr. Windsor said in a video that the number one thing that is impacting the Lagoon is growth management, so that needs to be looked at with some pollution testing; Marine Resource Council (MRC) at their luncheon, the state of the Lagoon, indicated that even in areas where the nutrient level was above what the State recommended, they were till seeing the sea grass decline, which means it is something other than the nutrient loading; and that cannot be the what is used as the measure of success. She went on to say there was a drought last season, a drought at the beginning of this season, and then heavy rain, two inches

above the normal; that is going to wash not just nutrients but herbicides into the Lagoon; that may be what is causing the mortality events, not just of the manatees but of the sea turtles because the green sea turtle, what it is primarily affecting, is a coastal turtle that lives in the Lagoon, that is its habitat; they both feed on sea grass; and she would ask the County to look at it.

Maureen Rupe stated she just wanted to give the Board a little history lesson on the Port St. John Special District Board; it was either the late 1990's or early 2000's when people came to the County to ask them for a special Planning and Zoning Board just to look at Port St. John rezonings, et cetera; the County affirmed that could be done; their reasoning for it was they kept coming to the County Planning and Zoning Board and they were not listening to the people, they were denying things that they did not think was right; and it is only in the last couple of months, that she knows of, that they have not met, and one was because of COVID, too many people came into the room and County staff did not like it, neither did the board. She noted the contention was between the two boards, the County Planning and Zoning and the Port St. John board; Port St. John wanted a board of its own so they could visit the sites, they knew the problems in Port St. John; and a prime example just happened on the rezoning for Ms. Rezanka and her applicant's rezoning request, the Port St. John Special District Board unanimously denied the request and the County Planning and Zoning Board unanimously approved it.

Chair Pritchett stated what she like about that board is it is taxation without representation; they talk things out and she thinks the Commissioners of this District always listen; she thinks that greatly influenced Ms. Rezanka as far as bringing through another Binding Development Plan (BDP), by the time it got there; and she thinks it is a great way to listen to the community.

**L.1. Frank Abbate, County Manager, Re: Board Report (Continued)**

The Board cancelled the Workshop scheduled for April 15, 2021.

**Result:** Approved

**Mover:** John Tobia

**Second:** Bryan Lober

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

**L.2. Eden Bentley, County Attorney, Re: Board Report**

Eden Bentley, County Attorney, stated she has a report on Ellis versus Brevard County, the Charter Cap case; As the Board knows the Clerk's attorney has offered to settle the law suit by the Clerk against the County; the County won at the trial court level and the Clerk appealed that decision to the Fifth District Court of Appeal; the County is now working on briefs; the attorney for the Clerk has offered to dismiss the case if the County agrees to vacate or eliminate the trial court order in the County's favor; and the Board has several options at this point. She continued by saying the County can take no action in which case they will continue to defend the appeal, it can reject the offer and continue to defend the appeal, it can request an Executive Session to discuss the offer, or it can accept the settlement proposal.

Commissioner Lober stated he is going to be diplomatic about this; when he first saw this he wondered if he should take his wife to a neurologist; there is no way on God's green earth that he would do anything but option one or two; in fact he thinks it is so ridiculous that it does not even warrant a response; he would suggest the County go with option one; it is ridiculous and the Board would have to be almost certifiable; and if the Board goes with another option, he will get straight jackets for everyone so they can be worn at a zoning meeting.

Chair Pritchett stated she likes option one too, but she thinks Commissioner Lober will need marital counseling after that last comment.

The Board approved option one, to take no action as to the settlement offer; and authorized for the County to continue defending the appeal.

**Result:** Approved

**Mover:** Kristine Zonka

**Second:** Bryan Lober

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

**L.5. John Tobia, Commissioner District 3, Re: Board Report**

Commissioner Tobia commented the 13th is not that big of a day but neither is Friday, but when they align that is a big deal; there is an alignment that is taking place today that he wanted to make mention of; it is Taco Tuesday and National Chip and Dip day, not to be confused with chips and salsa because there is also that day; and he celebrated that on February 24; and he just wanted to point out Happy National Chip and Dip Day.

Chair Pritchett added and National Green Tie day.

Commissioner Tobia mentioned, and Taco Tuesday.

Commissioner Lober asked Commissioner Tobia if he was getting tacos today.

Commissioner Tobia responded immediately upon adjournment.

**L.6. Curt Smith, Commissioner District 4, Re: Board Report**

Commissioner Smith stated he received a phone call by a man named John Holiday, he goes by Doc Holiday; he is affiliated with Friends of Army Aviation (FAA) and he said his group would like to fly in a Vietnam era helicopter to Wickham Park during the Vietnam War memorial, this April, but he approached the County and the County said he could not do that unless he received approval from the Board; and he asked for particulars. He noted the big deal with the County was the insurance; he has \$3 million worth of insurance which the County said would suffice; he can provide some broad information; they wanted to bring in a Vietnam era helicopter to Wickham Park, they want to land, display, and fly for a fee, anyone who would like to experience what a ride would be like in a chopper from Vietnam; he personally remembers when the men and women vets came back from Vietnam, where they were sent by their country, and he remembers them being disparaged to the point where they were spit on in airports, on the streets, and it had a real detrimental effect on the veterans back then, many of whom would not wear their uniforms in public; and this would give those vets the opportunity to fly in one of those choppers. He advised he had spoken with the Sheriff about it and he agreed that he had seen similar effects, it has a real cathartic effect on people that served during that time; the FAA would provide the \$3 million of insurance, they would land, it would be a static display that people could tour; people that were rescued and guys that owe their lives to when they wounded on the battlefield, the helicopters flew in and took them to safety, and they will fly if anybody wants to fly and pay the price.

Chair Pritchett noted she will support it.

Commissioner Lober advised he would support it with a slight amendment; he would ask that

they name the County as an additional insured on the policy; and that they maintain the policy.

Commissioner Smith advised that is already part of it.

Commissioner Lober stated if the County is an additional insured, maintain at least the existing limits which were stated to be \$3 million, and if they want to raise them it is up to them, and then provide a copy to either to the County Attorney's Office or Risk Management he will support it.

Commissioner Tobia inquired why there was an initial negative by the County; and he asked if there is an ordinance or Policy that does not allow this.

Commissioner Smith advised there is some wording that would prevent it and the other issue was the liability.

Commissioner Tobia inquired if it is an Administrative Order (AO) or an Ordinance.

Frank Abbate, County Manager, commented Parks and Recreation had a Policy and in this case it related to the fact that they were going to be flying the helicopter in and out during the actual presentation which is something Parks and Recreation has not allowed in any situation, where the public is there and during the times of it going up and down; and that was the reason Parks and Recreation was remaining consistent in how it applied it across the board.

Commissioner Tobia stated if the Board is going to make this change, this organization may want to come back next year or the following year, and he asked Commissioner Smith to bring forward a change to that Policy that gets this in alignment so they can plan ahead and do not have to come through the Board next time.

Commissioner Smith agreed; he stated that was a good point to the point of them flying; they do this all over the country; and they provide a landing area and rope it off.

Commissioner Tobia commented if Commissioner Smith would put all of those safety and liability parameters they would not have to wait to come to the Board in order to do this.

Commissioner Smith noted that was a good point.

Commissioner Tobia advised he will support this as long as they meet the minimum standards, he just does not want another local-yokel to come down and want to start landing helicopters but not take those same precautions.

Commissioner Smith stated he thinks it is important, and he will work with the County Attorney.

Commissioner Tobia joked if he was already passing it on to the County Attorney.

Commissioner Smith advised one thing he has learned in his 40 years in business is to delegate.

The Board approved to allow FAA to bring a helicopter to the All Veterans Reunion and Vietnam Traveling Memorial Wall at Wickham Park during the week of April 11-18, 2021; and authorized for a copy of the Contract and Insurance to be provided to the County Attorney.

**Result:** Approved

**Mover:** Curt Smith

**Secunder:** Bryan Lober

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

**L.3. Rita Pritchett, Commissioner District 1, Chair, Re: Board Report**

Chair Pritchett advised this has been the coldest meeting she has sat through in her life.

Upon the consensus of the Board, the meeting adjourned at 12:16 p.m.

ATTEST:

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RACHEL M. SADOFF, CLERK

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