

MINUTES OF THE MEETING OF THE BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

5:00 PM

The Board of County Commissioners of Brevard County, Florida, met in regular session on May 2, 2019 at 5:00 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Rita Pritchett	Commissioner District 1	Present	
Bryan Lober	Vice Chair Commissioner District 2	Present	
John Tobia	Commissioner District 3	Present	
Curt Smith	Commissioner District 4	Present	
Kristine Isnardi	Chair Commissioner District 5	Present	

ZONING STATEMENT

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

MOMENT OF SILENCE

Chair Isnardi called for a moment of silence.

PLEDGE OF ALLEGIANCE

Commissioner Lober led the assembly in the Pledge of Allegiance.

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ITEM E.1., RESOLUTION, RE: CORRECTIONS OFFICER APPRECIATION WEEK

Commissioner Lober read aloud, and the Board adopted Resolution No. 19-073, proclaiming the week of May 5 through May 11, 2019, as Corrections Officer Appreciation Week.

Sheriff Wayne Ivey, Brevard County Sheriff's Office (BCSO), thanked the Board for the Resolution and all of the support it gives his agency. He went on to say all these men and women are some of the most courageous individuals anyone will ever meet; working in the field of corrections is challenging each and every day; they are in an atmosphere where they are surrounded by those who cannot follow rules and break laws; his team comes in each and every day and make sure to put forth every effort to take care of those they are responsible for, to protect the community, and to do it with absolute professionalism; and he could not be more proud of any unit. He added the case that unfolded yesterday, those standing here today are the ones who were responsible for all the processing, transporting, booking, and everything else that had to do with those individuals; and he noted he is honored to get to wear the same uniform as they do.

A representative of BCSO stated it really is a team approach; being in corrections for 28 years, it is amazing; the jail complex is a city like no other, housing some of the worst offenders to keep the community safe; and he thanked the Board for its support and for the Resolution.

Commissioner Lober inquired how they made it through initial appearance yesterday with that number coming in, he just cannot image how that was done.

The representative of BCSO stated it truly is the organization; when looking at the magnitude of that investigation and the level of organization it took for that six-month investigation, that same level of organization has to take place in processing, housing, and everything else; they had to make sure they had the right staff in place to make sure it was completed efficiently and still did not affect regular jail operations; and they all made it work.

Chair Isnardi stated she spoke with the Sheriff and the Board is going to make sure it recognizes all of them; she knows it will be hard to thank individuals who all had a roll in this massive effort; and she inquired if BCSO could share some of the highlights of how many were arrested for the benefit of the people who did not see the press conference.

Sheriff Ivey advised yesterday his office culminated a six-month investigation that is without question the largest narcotics investigation in the history of Brevard County; a lot of times they will do sweeps where they have a bunch of people from different organizations and different types of crimes, but yesterday was the result of one investigation with all the different tentacles reaching throughout the County; and so far 70 of the 104 suspects have been arrested. He continued when looking at what went into that case, it was a six-month investigation by the Special Investigative Unit, Game Over Task Force, and the Fugitive Unit; the result was almost three pounds of Fentanyl; three pounds of Fentanyl was enough for a single dosage to kill everyone in Brevard County; that is frightening and it is frightening that, that type of drug could not only exist in this community but in any community throughout the country; there was also a kilo of Heroin and pounds of Meth; and the effort that went into this, there is no single component that is supporting this agency, everyone is vital to the mission. He went on to say if people would have seen them work yesterday, behind the scenes, it was a fury that was going on with people being brought in, people being processed, people being transported, searched, and booked, and being readied for first appearances, it was amazing to watch the team; without question, yesterday's efforts saved hundreds of people's lives, when looking at the overdose rate in Brevard County of people who are dying because of the opioid epidemic; and he noted yesterday was a huge investigation for this agency.

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Commissioner Smith stated it had to be a huge amount of pride for the Sheriff and his agency who did all that work and watched it culminate with the efficiency of which it all went down for everybody; and he noted it was amazing to him.

Sheriff Ivey stated it was; he knows he has said it before, but he is surrounded by an amazing team and he is smart enough to stay out of their way; what happened yesterday was absolutely amazing; he was proud of every single member; the caliber of people who were being arrested and that caliber of drug dealers that are now in jail and no one got hurt; and the job was well done. He mentioned there are no words to say how proud he is of this agency.

Commissioner Lober stated with all of that now being taken off the streets, law enforcement, municipal officers, and fire rescue can now deal with other calls rather than dealing with the ramifications of having all those drugs on the street, including pounds of Heroin.

Sheriff Ivey stated it was 2.2 pounds of Heroin; the number of responses from his team and Fire Rescue is taking its toll; throughout last year there were almost 2,000 people who came into jail that had an opioid addiction; when looking at that level, it is time consuming and taxing on the resources; and the teams efforts yesterday will certainly have an impact.

Commissioner Pritchett stated she had an awakening seeing how that amount of a drug could almost wipe out an entire County; she thanked BCSO for handling this properly because to her this is a whole new level; she really appreciates them; and she noted she prays for them daily to be protected.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.1., PUBLIC HEARING, RE: ANTHONY RAY AND JOY J. GROVE REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM RRMH-2.5 TO AGR (19PZ00010)

Chair Isnardi called for public hearing on a request by Anthony Ray and Joy J. Grove for a change of Zoning Classification from Rural Residential Mobile Home 2.5 (RRMH-2.5) to Agricultural (AGR) on 15 acres located on the south side of Hammock Road, approximately .25 mile south of Irwin Avenue.

Erin Sterk, Planning and Zoning Manager, stated this Item is a proposal by Anthony Ray and Joy L. Grove requesting a Zoning Classification change from RRMH-2.5 to AGR; the property is 15 acres located on the south side of Hammock Road, approximately .25 miles south of Irwin Avenue; and it is in the Mims area of District 1.

Tony Grove stated they are trying to rezone from RRMH-2.5 to AGR; the 15 acres they live on in the 1950's was orange groves and ever since the freeze it has been a cattle pasture; they thought it was agriculture because they had agriculture exemption, but found out it was not; and now they are trying to make it right. He noted everything around them is AGR and that it has been AGR in the past, but it was rezoned in 2005 to the RRMH-2.5.

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Commissioner Pritchett stated she thinks this is a good fit and it is what is going on in the area already.

There being no additional comments or objections, the Board approved the request by Anthony Ray and Joy J. Grove for a change of Zoning Classification from RRMH-2.5 to AGR on 15 acres located on the south side of Hammock Road, approximately .25 mile south of Irwin Avenue in Mims.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.2., PUBLIC HEARING, RE: JAMES R. DILLINGHAM REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM AU TO AU(L) (10PZ00014)

Chair Isnardi called for public hearing on a request by James R. Dillingham for a change in Zoning Classification from General Use (GU) to Agricultural Residential - Low Intensity (AU(L)) on 1.01 acres, located on the south side of Bryce Street, approximately 200 feet west of Alan Shepard Avenue.

Erin Sterk, Planning and Zoning Manager, stated this Item is a proposal by James R. Dillingham requesting a change in Zoning Classification from GU to AU(L) on a property 1.01 acres in size; it is located on the south side of Bryce Street, approximately 200 feet west of Alan Shepard Avenue; and it is in the Cocoa area of District 1.

James R. Dillingham stated he is just here for questions.

Commissioner Pritchett stated she thinks this is a good fit and she likes what Mr. Dillingham is doing.

There being no further comments or objections, the Board approved a request by James R. Dillingham for a change in Zoning Classification from GU to AU(L) on 1.01 acres, located on the south side of Bryce Street, approximately 200 feet west of Alan Shepard Avenue.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.3., PUBLIC HEARING, RE: CHRISTOPHER CHANNELL (BRUCE MOIA) REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM RR-1 TO AU (19PZ00019)

Chair Isnardi called for public hearing on a request by Christopher Channell for a change of Zoning Classification from Rural Residential (RR-1) to Agricultural Residential (AU) on 9.15 acres located on the south side of Junedale Drive, approximately 0.15 mile west of Dalehurst Drive.

Erin Sterk, Planning and Zoning Managing, stated this is a proposal by Christopher Channell, represented by Bruce Moia, requesting a change of Zoning Classification from RR-1 to AU on a property 9.15 acres in size, located on the south side of Junedale Drive; and this is just west of Dalehurst Drive and in the Cocoa area of District 1.

There being no comments or objections, the Board approved the request by Christopher Channell, represented by Bruce Moia, for a change of Zoning Classification from RR-1 to AU on 9.15 acres located on the south side of Junedale Drive, approximately 0.15 mile west of Dalehurst Drive.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.4., PUBLIC HEARING, RE: ST. PATRICK'S ANGLICAN CATHOLIC CHURCH, INC. REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM IN(L) TO RU-1-11 (19PZ00012)

Chair Isnardi called for public hearing on a request by St. Patrick's Anglican Catholic Church, Inc. for a change in Zoning Classification from Institutional Use - Low intensity, (IN(L)) to Single-Family Residential (RU-1-11) on 1.03 acres, located on the north side of Fresno Street, lying between Curtis Boulevard and Hartford Road.

Erin Sterk, Planning and Zoning Manager, stated this is a proposal by St. Patrick's Anglican Catholic Church, Inc. requesting a change in Zoning Classification from IN(L) to RU-1-11 on a property 1.03 acres in size; and it is located on the north side of Fresno Street, between Curtis and Hartford Road in Port St. John.

Reverend John Vaughan stated he is president of the corporation; on Wednesday April 10, 2019, it was a unanimous decision to approve this; he mentioned basically the property was originally fourteen different residential lots; it was changed into one big lot to build the church; and basically what he is trying to do is separate it back out to four lots for residential. He mentioned it is a residential area and will not affect anybody negatively; in fact, it may do a lot of good because they are also going to build a privacy fence, because they have had some vandalism coming in to the church property; the fence will divide the new homes from the church and hopefully cut down on the vandalism; and he thinks it will be an addition to the area, and will by no means detract from the appearance of the neighborhood. He commented he believes it will add to the value of people's homes there.

Commissioner Pritchett stated this is a good fit and very easy.

There being no further comments or objections, the Board approved the request by St. Patrick's Anglican Catholic Church, Inc. for a change in Zoning Classification from IN(L) to RU-1-11 on 1.03 acres, located on the north side of Fresno Street, lying between Curtis Boulevard and Hartford Road.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.5., PUBLIC HEARING, RE: JOSEPH AND RUTH S. KAPLET (EDWARD SPRINGER, IV) REQUESTS A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT TO CHANGE THE FUTURE LAND USE DESIGNATION FROM NC TO CC (19PZ00016)

Chair Isnardi called for public hearing on a request by Joseph and Ruth S. Kaplet for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from neighborhood Commercial (NC) to Community Commercial (CC) on 1.13 acres, located on the east side of North Courtenay Parkway, approximately 0.21 mile south of East Crisafulli Road.

Erin Sterk, Planning and Zoning Manager, stated Items H.5 and H.6 are related so she will read them both into the record. He went on to say Joseph and Ruth Kaplet are proposing a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC to CC on property 1.13 acres in size, located on the east side of North Courtenay Parkway; this is just south of Crisafulli Road; and they are requesting a companion rezoning from Agricultural Residential (AU) to General Retail Commercial (BU-1) at the same location.

Commissioner Lober stated he wants to disclose that he knows the prior owners and they were helpful during his campaigning several months back.

Edward Springer stated this is a two-fold plan; they are the contracted purchasers for the property; it is currently zoned AG; what they would like to purchase the property for is they would like it to be rezoned to BU-1; in order for that to happen it needed a Small Scale Comprehensive Plan to go from NC to CC; and going to BU-1 he believes it is a good fit. He continued it is functionally already served as a business; under Agricultural Rules it served as retail as well as a packaging house for a very long standing family business; and that was done under a provision in Agricultural. He stated he believes the parking lots access to State Road 3 supports the BU-1; the adjacent properties in the Comprehensive Plan are identified to the west and north for BU-1; the property to the north has already for years acted as BU-1; and this is a small expansion, just over an acre of property, where neighboring property is already, per the Comprehensive Plan, in line with what he is trying to do.

Commissioner Lober stated with respect to this, he is familiar with the area; in the Agenda Packet on this Item he did notice that North Merritt Island HOA does not object to this; he does not see anything bad about what they are planning on doing here; and on that basis he would move to approve it.

Chair Isnardi pointed out this is another one of those Comprehensive Plan issues where it was from a 1988 amendment so it is understandable how the County needs to be up with the times and make sure all these areas are zoned properly because a lot has changed since 1988; and this is actually probably a better fit for what the applicants want to do.

There being no further comments or objections, the Board adopted Ordinance 19-08, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the sixth Small Scale Plan Amendment of 2019, 19S.06, to the Future Land Use map of the Comprehensive Plan; amending

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Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI(E), entitled the Future Land Use map appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.6., PUBLIC HEARING, RE: JOSEPH AND RUTH S. KAPLET (EDWARD SPRINGER, IV) REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM AU TO BU-1 (19PZ00018)

Chair Isnardi called for public hearing on a request by Joseph and Ruth S. Kaplet for a change in Zoning Classification from Agricultural Residential (AU) to General Retail Commercial (BU-1) on 1.13 acres, located on the east side of North Courtenay Parkway, approximately 0.21 mile south of East Crisafulli Road.

There being no further comments or objections, the Board approved the request by Joseph and Ruth S. Kaplet for a change in Zoning Classification from AU to BU-1 on 1.13 acres, located on the east side of North Courtenay Parkway, approximately 0.21 mile south of East Crisafulli Road.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.7., PUBLIC HEARING, RE: M&R UNITED, INC. (CARMINE FERRARO) REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM BU-1 TO BU-2 (18PZ00156)

Chair Isnardi called for public hearing on a request by M&R United Inc. for a change of Zoning Classification from BU-1 to BU-2.

Erin Sterk, Planning and Zoning Manager, stated this is a proposal by M&R United, Inc., represented by Carmine Ferraro; the applicants have request to table this Item seven days in advance; and she is just seeking the Board's approval for that.

Eden Bentley, County Attorney inquired if there is a time certain date.

Ms. Sterk responded it would be August 1, 2019.

There being no comments or objections, the Board continued the request by M&R United Inc. for a change of Zoning Classification from BU-1 to BU-2, to the August 1, 2019, meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM I.1., BOARD DIRECTION, RE: SCOTTSMOOR COMMUNITY PLANNING ANALYSIS

Tad Calkins, Planning and Development Director, stated at the last Zoning meeting the Board asked staff to look at the cost of doing a Small Area Study for the Scottsmoor area; what he has for the Board's consideration is two different options; Option 1 would be a Community Planning Analysis where what they would look at is focusing on the issues that were brought up on the public hearing at the last meeting, and having several community meetings in that area; then doing basically a gap analysis in the Comprehensive Plan to see what Policies are in place for those concerns and see how to address them; if they do not address them, then staff would be bringing back to the Board a recommendation to adopt some new Policies in that, specifically for those concerns. He went on to say Option 2 is more of a full blown Small Area Study, which is a Comprehensive Plan exercise where they look at each element of the Comprehensive Plan and they look at the gap analysis and come back with a full blown study for the Board; there are two different costs associated with those that were provided to the Board; and he is just seeking direction in how the Board wants staff to proceed.

Commissioner Lober inquired if it is correct to state, with respect to the first option listed on the Agenda Report, that the Board can build on that, or if the Board were to determine that was not sufficient after it is completed, to move on to Option 2.

Mr. Calkins stated yes; what could happen is Option 1 would be the first level of analysis; then if staff found that there were significant gaps beyond the areas raised or the community had additional concerns that were not addressed in the Community Planning Analysis, then that could be rolled into the Small Area Study; and it would not be an effort that would be lost.

David Laney stated many of the comments that were prepared were in anticipation of not knowing in which direction the Board might be going this evening; he certainly appreciates the efforts by staff and he would fully support Option 1 as is presented in the Agenda Packet; and he thanked Commissioner Lober for asking the question about if this were to evolve necessarily into something larger, that it has the potential of doing so.

Jerrad Atkins stated he agrees with Mr. Laney; this has been discussed as a community; the Scottsmoor community greatly appreciates all of the efforts by staff and the Board for hearing them out on this; they are perfectly fine with Option 1; he knows there are some concerns related to costs brought up by Commissioner Tobia, presumably that it would rather be spent on costume and wardrobe; but they prefer Option 1; and they will help however they can.

Ron Bartcher stated the Board heard some valid reasons for this study; he tried to get the Board's attention some time ago and it appears to have worked; what he just handed out was a copy of the original subdivision plat for Scottsmoor Little Farms; this was platted in April 1924 and covers almost 1,200 acres; and in the center of the plat, highlighted in yellow, there is a small plat called Scottsmoor with 504 residential lots in that little piece. He continued on to say this is a detailed plat of all those lots in that original Scottsmoor plat; he has highlighted in yellow to indicate the residential RU-1-7 zoning; then he highlighted with an outline in red, the yellow

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areas that have a RES-1 Land Use; Section 62-1255 has a table that defines Land Use and Zoning that are inconsistent; and according to that table RU-1-7 is inconsistent with a Future Land Use of RES-1. He went on to say currently there are 308 lots that are RU-1-7 and of those, 261 have a RES-1 and are therefore, inconsistent; 271 lots are shown and of those, 55 are currently vacant; most of the residents in this area have built on more than one lot; and there are only 13 residences built on a single lot. He stated there are a total of 77 residences scattered amongst these 206 lots; the important part of this is the inconsistency of zoning and Future Land Use creates a Non-conforming Use as defined in Section 62-1181; this Non-conforming Use can severely restrict what residents can do with their property; and for example, they cannot add a room on to the existing house, or erect another structure, and if the house is severely damaged from a fire or hurricane, the owner can only rebuild to the extent of the square footage they currently have. He added these are severe restrictions. He stated the Board did take into account by having six Sections of 62-1190, which proved a mitigation to a non-conforming by applying for a Condition Use permit (CUP); there is also 62-1839.7 which residents can use to get a Pre-existing Use, but both require an application by the resident and cost the owner money; it is just better Policy to avoid these problems by having a Small Area Study; and he mentioned there are not just 77 Non-conforming Uses in Scottsmoor, this is a very small plat and he chose it because of the very precise numbers. He added the total number of non-conforming lots is probably closer to 300 so solving this major problem of Non-conforming Use is a major reason why he believes there should be a Small Area Study and he believes Option 1 will accomplish that.

Commissioner Lober inquired given that everyone is apparently on board with Option 1, and given that the Board heard from staff that it can build on that in going toward Option 2 if necessary, would Commissioner Pritchett be opposed of him moving to approve Option 1 as a stepping stone just in determining where things are at, assuming that passes; and he stated once that is complete the Board can reevaluate it if necessary and go towards Option 2.

Commissioner Pritchett responded probably not, but she thinks there is one more card.

Bill Goff stated the only reason he wanted to take the microphone tonight was to request the Small Area Study be proceeded with all reasonable haste; he thinks the area is at a tipping point regarding the water supply, and it cannot get any better; he does not know what will happen when the Miami track starts being developed in the very near future because that also lies directly west of them; and it cannot help them. He continued all the water that is pumped is west of Scottsmoor; that is where their water comes from; there are going to be a lot of people between them; and the issue is evidenced by the sheer numbers of neighbors who at great expense have had to put in reverse osmosis systems because of the saltwater and iron contamination. He continued he thinks it is important that the County do a study because he is very optimistic that the study is going to offer some protections that Scottsmoor requires; and he hopes this can move forward without delay.

Commissioner Lober inquired if Mr. Goff is amenable to Option 1 as was discussed.

Mr. Goff responded he is.

Commissioner Pritchett stated she thinks this is a good plan that staff has put together; she thanks the Board for listening; she thinks the cost is amazing after what costs they have pulled together; she believes Mr. Bartcher saved the Board a couple hours tonight; she noted this is such a smart community and she thinks he will enjoy the community meeting with them; and she also wants to thank the community for all the involvement it has in the community because it makes her life so much easier.

Chair Isnardi stated she is really thrilled about this because she thinks there are certain

protections those residents need out there; responsible smart growth is the way to do it; and she thinks these residents have a lifestyle they want to maintain and moved there for that lifestyle with the expectation that it would be protected. She added the County does not want to deprive the community of the resources either.

Laurilee Thompson stated she supports this.

The Board approved Option 1, to direct staff to proceed with the Community Planning Analysis - staff estimates \$4,550 (90-100 hours) to conduct a planning analysis which examines the issues raised by the citizens. This approach anticipates up to three community meetings with County Departments (Planning and Development, Public Works, and Natural Resources Management) and State Agency (Environmental Health), specifically relating to the concerns voiced at the public hearing. Once the issues are refined, staff will research the Goals, Objectives and Policies of the County's Comprehensive Plan to see what Policies exist to help guide growth and if new policies need to be developed that relate specifically to the Scottsmeer area.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM J.1., MOTION WAVING POTENTIAL CONFLICT, RE: DISTRICT 2 TOURIST DEVELOPMENT COUNCIL (TDC) NOMINEE ANNA PALERMO

Commissioner Lober stated he is not going to go through and read what is on the Agenda that has been distributed; he was copied on a letter from Bob Baugher which appears to have been sent and copied to all Commissioners as well as to the County Attorney, Eden Bentley; the letter which was addressed to the Office of the Tourism Development obtained some factual inaccuracies as well as some statements that were so lacking in context as to essentially render them false; while he would love to be able to click reply all, State Statute prohibits him from doing that; Sunshine Law is a reality and he does his best to comply with that so he refrained from replying to anyone; however, he feels it is necessary at this point to address at least those items that are relevant to the Agenda Item that is now under consideration. He added he is not going to go through each and every portion of the letter that he draws issue with, only those items that are relevant to the Item up for consideration. He continued during discussion of this Item he would invite the County Attorney to jump in and correct anything she believes requires correction or that she believes would benefit from additional context; this letter references a presentation made by Assistant County Attorney, Christine Schverak, at the most recent Tourist Development Council (TDC) meeting; the letter states, "I've sat through two or three similar presentations from the Assistant County Attorney, in the various TDC meetings"; from his first hand personal knowledge and observations having been at every TDC meeting since his appointment to the TDC, he has this observation, what Ms. Schverak did unambiguously state at the last TDC meeting was that Statute 112.313 imposes certain standards of conduct upon public officers and importantly also that TDC appointees themselves are for purposes of this Statute considered public officers; and he inquired with the County Attorney if that is fairly accurate.

Attorney Bentley replied in the affirmative.

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Commissioner Lober continued the Assistant County Attorney further stated during that meeting and advised that in situations in which the TDC would be doing business with a TDC appointee's employer, pursuant to Subsection 3 of the referenced Statute, a mere disclosure of one's employer coupled with refraining from voting on the matter is statutorily insufficient to cure the conflict; and he inquired if that is a fair statement.

Attorney Bentley noted it is because it is a business relationship, not merely a voting conflict.

Commissioner Lober continued so an attorney licensed to practice law in the State of Florida indicated that, and as an attorney licensed to practice law in the State himself he cannot ethically bury his head in the sand as to known statutory conflicts; others may be inclined to varying degrees to do so, but he cannot do that; his livelihood after he is done with the Commission is much more important to him than closing his eyes and pretending an issue is not there; and that is why this particular Item is on the Agenda. He noted he previously met with and requested the internal auditor to delve into the TDC and as a result of that, thankfully, they are now in the process of auditing the TDC; his goal with that and his goal with this Item is to clean up the TDC and more specifically to ensure that it continues operating and anything that is not operating within the confines of State Statute, that it get resolved as quickly as reasonable possible; and whether the Board and or the TDC have in the past for any period of time failed to take appropriate steps, to ensure that TDC appointee conflicts are lawfully resolved, does not resolve the ongoing issue of numerous appointees having potential and in fact very likely statutory conflicts, which is an objective matter of law requiring waivers to resolve. He went on to say Subsection 12 of the Statute explicitly contemplates waivers and allows for them; and he inquired if that is accurate.

Attorney Bentley stated it is for Advisory Boards.

Commissioner Lober inquired, so with respect to public officers in the sense of the TDC appointees, is that accurate.

Attorney Bentley responded it is.

Commissioner Lober stated it is indicated in the text of this Item, "conflicts are likely to occur in a County of this size" and the governing law requires, among other things, representation on the TDC by hoteliers and individuals who are involved in the tourism industry; those with the greatest experience and expertise are, by extension, the most likely to have a conflict; and he inquired if that is an accurate statement.

Attorney Bentley responded that sounds likely.

Commissioner Lober stated at the most recent TDC meeting he brought forth a substantially similar motion to the one the Board has before it today for the TDC to vote on; apart from changing the date, there were only two differences which he will indicate; the very last sentence proceeding the signature line, was stricken; and the following text was added to it, "Ms. Palermo shall not participate in negotiations, on behalf of her employer, with the TDC and or the Brevard County Office of Tourism"; he does not know if that is a verbatim identically how it is phrased but that is what he has for the Tourism Office in terms of the only modification apart from the two that he mentioned; the other two being the date and the striking of the one sentence; otherwise, it is absolutely identical as to what is being presented here tonight. He noted if anyone has any questions or would like a perfectly verbatim copy he would suggest they reach out to the Tourism Office, as he believes *Florida TODAY* has already requested the main one; the reason he is presenting the waiver here tonight is he explicitly stated at the most recent TDC meeting that the TDC only has the authority to waiver conflict insofar as service on a subcommittee of the TDC is concerned, insofar as someone's service on the TDC at all, or as a

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general matter forgetting subcommittees; the TDC itself does not have the ability to waive that conflict; and even though the TDC has approved that waiver with respect to Ms. Palermo service on the subcommittee, it does not have any authority to do that with respect to her service on the TDC. He advised that is why he has this before the County Commission; and he asked if that is fairly accurate.

Attorney Bentley stated this Board must waive for the TDC appointment.

Commissioner Lober went on to say one of the Items Mr. Baugher did correctly understand and accurately relay was that he indicated at the last TDC meeting that he anticipates additional waiver requests being forthcoming; it is good that Ms. Palermo and Laurilee Thompson are in attendance; it was brought to his attention that the Office of Tourism and or the County Attorney's Office were made aware or became aware in the very recent past of conflicts or potential conflicts that involve Ms. Palermo, Laurilee Thompson, Deborah Green, Bob Baugher, and quite possibly others; he does not have a list but there were several individuals where there was at least concerns that conflicts may exist; and he understands that these folks are essentially in the same boat as Ms. Palermo with respect to there being a concern with this particular Statute requiring waivers to address those potential conflicts. He mentioned the TDC benefits from industry expertise; there is nothing unethical about that and there is nothing illegal about that, not about approving waivers where appropriate and that is why the actual Statute being discussed has an explicitly contemplated section dealing with waivers; and that is why that option exists for them to make use of it. He noted if the Board does not approve reasonable waivers for folks, it will be setting a bad precedent in that waivers may potentially be weaponized for political purposes; it would cause him a lot of concern in terms of the other folks who have or may have conflicts including Laurilee Thompson, who he would like to see remain on the TDC along with other folks who he has already mentioned; and he hopes and believes everyone there is trying to do everything right within their power to ensure that folks are not put in a position with State Statute. He continued he does not want to do anything and he wants to avoid anything that essentially renders someone's continuing service illegal; the reason he did not compose waivers for anyone but Ms. Palermo is that the actual request for the waiver has to have a full disclosure of the conflict; he does not know enough about everyone who has a potential conflict to put those waiver requests together with the appropriate full context in those disclosures; he would certainly, after this matter is resolved, encourage folks to look at their TDC appointees and determine if there is any potential issue, whether the County Attorney believes it would be appropriate to request a waiver, and if there is any ambiguity; all his advice would be is if there is any ambiguity or any question that the individual just put together the request for a waiver; and he noted it is better to have it and not need it than to need it and not have it and potentially have the TDC appointees face issues that could be totally avoidable. He inquired if there is anything else that Attorney Bentley thinks he failed to mention.

Attorney Bentley stated she thinks he covered it.

Commissioner Pritchett stated she read this in the newspaper and it made her request the audio transcript; she had a class with the County Attorney's Office on what is conflict of interest and she really wanted to commend Ms. Palermo for realizing this could be a conflict of interest; she feels really good about that and about Ms. Palermo being on the board; she is going to approve the waiver but she wants to make a couple comments beforehand; she thinks the law on this is really written poorly; and she gave the County Attorney a really hard time about this. She asked if someone worked at McDonald's in Rockledge and the TDC is giving the McDonald's in Palm Bay something, that person who works at the Rockledge McDonald's has to quit the TDC because of an ethics violation, and she said he or she would because of being an employee; she thinks it needs some work; it is the same if someone is over a nonprofit board where they do not make any kind of financial gain on it and the TDC supports it, then that person would be disqualified by the way this is written, unless the Board does a waiver; she does not know what

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needs to be done to change that; and she mentioned there is also something in there that states the Commission appointee is supposed to serve as chair of the TDC, and the place right before says the TDC will elect the chair person. She noted there are some things the Board may have to work through and change; she hates to put out this term but she does not want the community to ever think this Board does not have a problem with someone with a conflict of interest, of course it does; this law is just terribly written with a lot of flaws; and she thinks this is appropriate but she is not so sure. She noted if there is ever a time when the TDC is directly writing a check that is going to go into an international bank account of somebody on the board, then that is probably a waiver she will not be comfortable granting; she thinks that is just going to have to be something in people's minds; she thinks that is a position where the community may have a little discomfort; and she noted the TDC board is allowed to do this, but there are a lot of related family members. She added it is hard to vote against a family member because they go home together, so there could be a lack of communication and conversation. She advised she is going to approve this waiver because she put a lot of time into it; but only on a stipulation that the waivers are really going to have to be within the constraints of making sure that nobody is getting a direct personal gain; and she mentioned everyone should get a personal gain from the TDC, it is tourist development, but that there is no personal financial impact.

Commissioner Lober added there are certainly some areas that are black and white, but there are also areas of gray; where that starts is a very tough question without digging through case law, which he does not have the time, nor the interest in digging through right now; people can say something innocuous like talking about beach restoration and placing sand in front of a hotel that a TDC appointee owns is benefiting them, but he questions if that is what is contemplated by the Statute; he does not know the answer to that question; certainly direct and indirect have meanings and where the line is, it may not be perfectly clear; and he would suggest if there is any question, and in an abundance of caution, to explore the waivers, because that puts the Board on good footing. He went on to say if someone is looking to get on the TDC and miraculously starts receiving checks from the TDC, then that would be concerning especially if they were not previously engaging in business with the County; his thought on why he had the modifier 'reasonable' in front of waivers is because there are some waivers that could at least in theory be proposed that are not reasonable; his plan, with respect to any reasonable waiver, is to support it; if someone is essentially wrongly benefiting from their position on the TDC, in a way that the Board's constituents would not be happy, those are the waivers he is not inclined to grant; however, he does not see any of those being on the table at this point.

Chair Isnardi stated she agrees with this too; State law is antiquated; she just had this conversation with someone today; she thinks the Board has to be careful with blanket waivers for people; for example, the City of Palm Bay, when she was a council member there, the Health First health plans were chosen by the Insurance Board Selection Committee, and she was not even allowed to abstain from voting because technically it was not a financial benefit to her; and she had to vote on it, even though she was going to abstain because she was working for Health First at the time. She noted it was the City Attorney who advised her that by abstaining, that would be a dereliction of duty as a required member to vote on an item. She explained she was an employee of Health First Corporation and it was Health First health plan.

Eden Bentley, County Attorney, advised they are separate entities.

Chair Isnardi commented they are separate but not; that is exactly what she wants to be careful of because she does not want to give anybody a buyout either if they just do not want to vote on something; she has seen it with elected officials before, who do not want to vote on something because they do not want to be on the record; and she hates to task the County Attorney's Office with this, but maybe they could have every member evaluated when they come on, have

their circumstances looked at, because they will ask the right questions of the members. She added the ones that could possibly require a waiver, the Board would use an abundance of caution and get them.

Attorney Bentley stated the County Attorney's Office would be happy to look at anyone's disclosures, business relationships, and contacts to work through the issues with them; and they will let the members know if they think there is an issue that needs to be addressed.

Chair Isnardi noted maybe there could be a questionnaire devised with questions that the County Attorney felt would be triggers for the waivers; the law is horrible if the TDC board requires hoteliers to sit on the board, and they clearly, directly benefit, she does not know how they can sit on the board, based on that State Statute; that is the tricky part, it is State Statute and that is why they require the waiver, otherwise, the Board would change the laws or modify Policy, ordinance, or resolution; and she advised she is okay with this waiver because Ms. Palermo sat on the board for 13 or 15 years before. She continued she is not going to get into the politics of the drama of the new TDC board, but there were clear conflicts of interest in the past and no one batted an eye; it directly benefited those individuals who obviously saw a direct benefit of those conflicts; she is glad this Board is making sure it is legally sound and that it is doing the right thing; she believes this is a good board and she believes everyone's intentions are pure; and abstaining from the vote clearly does not give them a benefit of sitting on that board, if they do not have a voice in the vote. She went on to say she does not have a problem with the waivers she just wants to make sure if there are other waivers needed, that they will be evaluated individually, and the Board will approve them, if they are not too much of a conflict.

The Board approved the Motion Waiving Potential Conflict for subsections (3) and (7) of the Florida Statute 112.313, insofar as precluding District 2 TDC appointee Anna Palermo from serving on the TDC, to the greatest extent permissible, and any subcommittee thereof; and directed the County Attorney and the County Manager to implement any necessary procedural change(s) with respect to the appointment process such that appointees list potential business conflicts prior to appointment, so that conflicts may be more timely addressed and waived concurrent with appointments being made.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Rita Pritchett, Bryan Lober, Curt Smith, Kristine Isnardi
NAYS:	John Tobia

ITEM J.1., MOTION WAVING POTENTIAL CONFLICT, RE: DISTRICT 2 TOURIST DEVELOPMENT COUNCIL (TDC) NOMINEE ANNA PALERMO (CONTINUED)

Chair Isnardi stated Commissioner Tobia probably should have told the Board why he does not support this.

Commissioner Lober advised him to go for it if he wants, it would not upset him.

Commissioner Tobia asked if Chair Isnardi wanted his rationale for the no vote.

Chair Isnardi stated maybe he could have convinced another Board Member to possibly not

support it.

Commissioner Tobia stated to the best of his knowledge, Commissioner Pritchett mentioned that Ms. Palermo made some changes or there were some changes to circumstances, he was unaware of the change to the circumstance; there is a note of \$5,000 in here and he thinks \$5,000 is a substantial amount of money and that many of the Board's constituents would agree; while he finds Ms. Palermo's resume very impressive, it is certainly not unique by any means; a marketing professional is not something this County is in short supply of; and there is some waiver coming up for what looks like, Ms. Laurilee Thompson, Mr. Giles, and Mr. Malone, and those individuals do not receive direct benefits, so he feels those are quite a bit different than this one. He noted he would certainly be willing to vote for waivers, he just does not agree with this case; Ms. Palermo certainly has the ability to contact the Commission of Ethics and he thinks that probably should have been the first step to go; if the Board got a response back from that commission that there was no conflict, then there would be no need for a waiver here; and he thinks there are many reasons. He added the second part of this deals with the conflicts in other boards; and he feels it is a little far reaching. He went on to say while he understands the TDC and P&Z may have financial conflicts but some of these board are so obtuse out there, he really does not think people need to disclose their business relationships if someone sits on the Melbourne Beach Library Council; it is certainly wise in some areas; and he thinks that would be a great topic to discuss in a workshop that the Board has coming up in a couple of weeks. He noted he respects the Board's decision and he did not see any point in going in a different direction knowing he would be in the minority.

Commissioner Pritchett stated that is a good point; Ms. Palermo agreed to move it over to another sales person so she is no longer in that loop; and she inquired if that is correct.

Commissioner Lober advised that is his understanding but he will defer that to her in an abundance of caution; it is also his understanding that she will not have any involvement with negotiating with anyone in the County, whether it is the Tourism Office, the TDC, the County Manager, or otherwise; and he inquired if that is a correct statement. He noted for the record Ms. Palermo stated he was correct in that statement.

Commissioner Pritchett stated that was what she realized, Ms. Palermo stepped outside of the flow from receiving any financial money; she thinks Spectrum is everywhere with the County so she thinks it is almost not fair that she works for them; she thinks what is interesting is that no one else brought this up, Ms. Palermo brought it to the foresight; and she noted that is why she is so comfortable with it.

Chair Isnardi commented it probably would have been a piece of information that was beneficial to Commissioner Tobia before he voted against it.

Commissioner Tobia stated he just must have missed that, but he does not know that if that would have, in all honesty, changed his vote; and for clarification he inquired if Ms. Palermo would not be receiving any commission from any sales whatsoever from the TDC.

Commissioner Lober stated he is just going through his notes; he believes he addressed the fact that there were a couple differences between the motion today and the motion that was before the TDC board, but he cannot find it; the short of it was what the TDC board approved explicitly, contemplated her not being involved in negotiations, so by extension he guesses it is theoretically possible that she could make something; however, his understanding is she will be turning it over to a colleague. He mentioned he does not know that it is an explicit requirement, it is just something that is incredibly likely if she is handing it over.

Commissioner Tobia stated he fully expected Ms. Palermo not to be part of the negotiations,

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which is basic common sense; his concern is in the motion where it states her commission has not exceeded \$5,000 for the preceding two years, and it is not expected to exceed \$5,000 this year; that states she will be receiving commission; and if someone is receiving commission based on sales then he thinks whether someone is voting on it or not, that it is probably not the direction this Board needs to be going down.

Commissioner Lober stated he understands where Commissioner Tobia is coming from with that; perhaps he could have been more articulate in how he phrased that; if the Board would not have approved the waiver or the TDC would not have approved the waiver, she could not have continued to serve on the TDC; and at that point there would be no reason for her to hand over the contract.

Commissioner Tobia stated he would like to bounce that to the County Attorney because he contemplated that question being asked and he received a different response from the County Attorney. He inquired if this was not approved would Ms. Palermo have been immediately removed from the TDC.

Attorney Bentley responded she would not have been; she may have had to address a conflict of interest issue, and the Commission on Ethics may have become involved but she would not automatically be removed from the TDC board.

Chair Isnardi stated she would be in violation, so it needed to be addressed somehow.

Commissioner Lober stated his advice has been if TDC board members do not have a waiver approved, and that it was concerning enough that the waiver was brought forth to begin with, then they should leave the TDC because no one wants to be in a position of violating State Statute because the ramifications of that would be rather problematic; and it is not something he would say is an automatic function of this, but he would strongly suggest that Ms. Palermo quit the TDC board at that point.

Commissioner Pritchett stated she may have a little heartburn right now; she needs to clarify, because when she listened to the meeting, her understanding was if another salesman is working on that, there would no longer be a concern of her having a commission on this contract; if there is still a commission coming from the TDC for Ms. Palermo, she has some heartburn over that; she needs that question answered; and she noted she ran that by staff but maybe she did not make it clear enough because if there is an actual commission happening between the TDC and the employee, she thinks that is an issue because it is direct.

Attorney Bentley stated she does not know the answer to that question.

Commissioner Lober stated maybe the easiest way would be to ask Ms. Palermo; what he is talking about is something within the range of theoretically possible, not that it is likely; he does not think it is likely that there is going to be some sort of commission; the actual motion approved by the TDC did not address the commission just the negotiation; and he thinks with all reasonable circumstances it would suggest that there is not going to be a commission.

Commissioner Pritchett noted that is what she needs to know; and Ms. Palermo agreed she would step out and let another sales person do it so she thought there would be no more commission for her.

Commissioner Lober inquired if that is correct.

Commissioner Pritchett asked for clarification if Ms. Palermo is receiving a commission.

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Anna Palermo stated the way it was passed was someone else could negotiate for her, but she has agreed to step out and turn the account over to somebody else so there is no confusion.

Chair Isnardi stated she would imagine Ms. Palermo has not yet turned over the account as of yet because Ms. Palermo would want to wait and see if the waiver was approved by the Board before doing so.

Ms. Palermo responded affirmatively.

Commissioner Lober stated that is also why he stated it was not exceeding \$5,000 because he did not want her to give that up if she was going to step away.

Commissioner Pritchett inquired if that means when she steps out of it, there is not going to be any secondary commission coming from that sale and that she is completely out of this loop altogether.

Ms. Palermo stated that is correct.

Commissioner Pritchett noted she feels much better.

Commissioner Lober reiterated maybe he did not phrase this as well as he should have in the written motion; as far as the second portion of this being overreaching and potentially impacting other advisory boards, that was not his intent; he thought in the context it would be pretty clear that he contemplated that as only involving the TDC and directing staff to address those issues with respect to the TDC appointees; and he apologized if that was not clear.

Chair Isnardi noted that was sort of her point, at least her preference; and Commissioner Tobia can speak for and act on it however he wants, but she would always encourage a discussion because then the Board has all the information and there is no misunderstanding.

ITEM L.3., REPORT, RE: RITA PRITCHETT, COMMISSIONER DISTRICT 1

Commissioner Pritchett stated she has one item of concern from listening to the Tourist Development Commission (TDC) audio, at the end there was some discussion and she is not sure who was chair at the meeting.

Commissioner Lober advised it was Tim Deratany.

Commissioner Pritchett stated he made a statement, as they were trying to do the beach nourishing, that he was going to move it to staff; she is very uncomfortable with this, so she called Laurilee Thompson and asked her if the Advisory Board would be able to do that; Ms. Thompson stated she felt confident that they were; she just wanted to mention that because does not think that was voted on, but there was a push to bring it up and put it on staff hours; and he mentioned that Natural Resources Management Director, Virginia Barker, was totally comfortable with it, but she noted she herself is not. She commented she does not know how to take that back to Mr. Deratany or what needs to be done, but she thinks the advisory boards need to be able to do their thing because the Board is going to be the final vote anyway.

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Jim Leisenfelt, Assistant County Manager, stated he believes the motion was to ask District 2 to bring the Agenda Item to allow Natural Resources Management Director to be part of the evaluation.

Commissioner Lober stated he would end up putting it on himself anyway; and he thought by having staff do it, it would be phrased in a way that they would be more comfortable with, than if he did it himself.

Commissioner Pritchett noted she did not hear him in all that conversation, at all.

Commissioner Lober stated he cannot remember verbatim how that all went down; he does believe he had involvement in that particular discussion; and he thinks the direction towards staff may have originated through him.

Commissioner Pritchett asked if Ms. Thompson could come up because she had called her afterwards.

Commissioner Lober and Chair Isnardi agreed to allow Ms. Thompson to speak.

Commissioner Pritchett commented she heard the chair say they already talked to them and they were just going to turn it over to Natural Resources Management to do the evaluation; she reiterated she called Ms. Thompson and asked if the board was able to do this, because they are all new; and she will let Ms. Thompson speak for herself.

Laurilee Thompson stated it was an interesting meeting; in reference to this, what happened was a member of the beach subcommittee came to the TDC meeting and he said, in his opinion the beach subcommittee did not have the capacity to grade the Indian River Lagoon (IRL) restoration grants; she went through Deborah Webster of the TDC staff and spent a lot of time going through the scoring sheet; she copied what the IRL does with their scoring sheets because when people work with a committee and they do not have a lot of technical expertise, someone helps them out; that is what they do on the Indian River Lagoon National Estuary Program (IRLNEP) Grants; they provide parameters of what to look for when they are grading the grants; and that is what she did. She added the benefits of tourism are worth 25 points; people can look at the matrix; each question would have a matrix and a guide to help the person who is scoring; she thinks there is a conflict of interest if they take the grants to the Natural Resources Management Department because they are submitting grants; and she inquired how she can ask them to look at their own grants.

Frank Abbate, County Manager, stated he does not think there would be a conflict because Natural Resources Management submits grants to Save Our Indian River Lagoon (SOIRL) and they get evaluated; they are only a body that is providing input; and if they were chosen to do that he does not think it would be a conflict because it happens in the SOIRL process for SOIRL Grants right now.

Ms. Thompson stated the other thing is staff time; her beach committee was appointed by the TDC members; when making those appointments they should have made sure that they were appointing people who were capable of doing the job and interested in doing the job; she believes using the guidance on the score sheet, that the committee should be perfectly capable of looking at the grants and scoring them without having to task Natural Resources Management Department with having to take on more work; and she thinks there is a perception that the TDC is doing an awful job right now, and this will just add to the perception that they cannot do their own work, that their committee appointees were such poor choices that they cannot handle the obligations that are there for them, and that they have to be handed to County staff to do their work for them.

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Commissioner Pritchett again reiterated she called Ms. Thompson up and ask if they were not able to do this because of the newness on the board; and Ms. Thompson advised her the appointees are all really smart people and she thought they could pull this off.

Ms. Thompson stated on the last beach committee, there is only one member that is on this committee that was on the last one, a lot of them had no expertise but they enjoyed going through the grant process; they were very proud of the work they did; and they did it without even having a scoring matrix added to the score sheet to help guide their decisions and tell them what to look for.

Commissioner Pritchett stated she just heard a County cost, one that happened on that, so she thought before it went any further, she did not know if the Board would hear about it or not, but she is not in favor of having County staff take on an extra assignment until they come back to see if they can do it; and she reiterated she did not hear Commissioner Lober in that conversation.

Commissioner Lober stated his understanding, and he invites Ms. Thompson or Anna Palermo to jump in if he needs to be corrected, about the discussion from Vince Lamb was that he had already spoken with the Natural Resources Management Director and she had offered to do that; he appreciates and generally shares concerns about using staff resources, but his understanding based on the representations by Mr. Lamb at that particular meeting, it was already something that Ms. Barker volunteered to do and indicated it would not be burdensome to her or her office to complete; and he noted if his understanding is misplaced he apologizes. He added if Ms. Barker is confident with it, then he is, otherwise, he would not have been in favor of it; as for the level of the capability of the beach committee, he has an appointee on the beach committee and he is perfectly confident she is far from unintelligent or even of average intelligence, she has a Doctorate from Harvard, and is fairly bright; with that said, there is a big difference with someone being able to do something and someone having the level of expertise that is entailed to doing it day in and day out as a matter of course; there are folks who are professional engineers that are available to Natural Resources Management Department; and the Natural Resources Management Director went to Duke. He advised they have resources and capabilities based on their training and experience that the subcommittee level cannot possibly match; he does not have a problem with the subcommittee making a recommendation, contrary to what the Natural Resources Management recommends, but all of it in the end is advisory and it is not the final arbiter in terms of what the TDC is going to do; and in fact, the TDC is not even the final arbiter in some respects of what is going to happen with the Tourism Office. He continued having their input with the understanding that they are already on board and that it will not be overly burdensome for them, he would like to get more input and more well researched intelligent input, as well; he does not have a problem with the beach committee making recommendations; he agrees they are capable; however, if there is an additional avenue that is closer to an expert level opinion as opposed to a somewhat educated opinion or a very educated opinion, he would rather avail himself of having all that additional information and making a decision according to the merits of what is argued in the expertise and experience of the folks arguing it.

Commissioner Pritchett stated on that note, the Board probably has more abilities than the TDC board does, but she still wants them to do their job as advisory or the County would not need a TDC board, the Board could just do it from this level because it will be approving it an the end anyway; she did not know Ms. Barker agreed to that because that does not sound like her, so she will have to ask her; this could be substantial staff time and they have a lot going on right now; and she would have to hear Ms. Barker say they could do it. She advised her first concern would be that the conversation was shut down and they were told this is what they are going to do; that got her attention because the Board lost communication from that board trying to speak

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at that moment; she knows it was late, but she thought that should have been a conversation before it was shut down and given to County staff; she thinks in her opinion and she does not know if the TDC is going to listen to it or not, but if there is a board that is appointed and it cannot be trusted, then put someone else on there; and this Board needs to try to let them do what they were assigned to do, then move it forward with the same process.

Commissioner Lober stated he does not disagree with essentially anything Commissioner Pritchett just said; he would have to listen again because it was a multi-hour meeting that probably ran longer than this one will; he would have to listen to the particulars of how things were handled; and he thinks maybe the County Manager has some information with respect to Ms. Barker.

Mr. Abbate stated he spoke to Ms. Barker on this issue; he does not think she was as comfortable as perhaps it was made led to believe at that meeting; he believes her area of concern is substituting Natural Resources Management in areas where they do not have the expertise; for example project alignment with the TDC tourism mission, if Natural Resources Management was being substituted for that purpose, as part of the evaluation, they will of course follow whatever the Board directs them to do, but he knows Ms. Barker has some concerns in that area; and he noted he does not know the substitution for whatever their matrix is, for the evaluation of criteria or that Ms. Barker has that high level of comfort that they would or could do it as effectively.

Commissioner Lober stated the best way to handle it, to help out Natural Resources Management, is to make a motion to authorize Natural Resources Management to decline participation in putting together that particular information if they determine in their sole discretion that it is overly onerous to its staff members.

Chair Isnardi stated she thinks that is a little much; she would suggest holding off until Commissioner Lober has the chance to sit down with Natural Resources Management; the Board has been criticized before for not being subject matter experts when it wants to modify anything that has to do with the SOIRL Plan; no matter how smart or how much the Board members have learned regarding the Lagoon, they have been criticized for far less; and this Board does not have control over those board members because the subcommittees are appointed by the TDC board members, who this Board appoints. She advised, she does not have a problem with the County being a resource, but she does not want the County to step in as a substitute that decides who gets what projects; and she thinks maybe the solution is somewhere in between, where it can be asked what their thoughts are on certain projects as opposed to having them give recommendations because if they are applying for major nourishment funds with the County, there is a clear conflict, even if it is not a direct one.

Ms. Thompson stated the way it was presented to the TDC was that Natural Resources Management would rank the grants and she does not think that Department should.

Chair Isnardi stated maybe there could be someone there to answer questions or offer input, such as maybe a certain project is not needed; the TDC cannot expect to be an expert in that Department but at the same time she thinks it could benefit from the value of what Natural Resources Management can provide.

Ms. Thompson stated she thinks it would be fantastic to have someone from Natural Resources Management standing by while they are ranking the grants.

Commissioner Lober withdrew his motion.

Commissioner Smith stated he agrees with Commissioner Pritchett and Chair Isnardi; if the

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purpose of the subcommittee is to grade or making a decision whether it be to go forward or not, what is the purpose of having it, if the Board does not let them do it; he stated that is its purpose; and he asked why the Board would want it taken out of their hands.

Commissioner Lober stated the point that needs to be clarified here is that it is not a one or the other option, or that the Board has to choose between the subcommittee or Natural Resources Management; now if Natural Resources Management does not want to it, then he would not be inclined to make them do it anyway; his thought is not to substitute for them but to have that additional information available if it is not burdensome to them; and he noted he would like to have the information available.

Commissioner Smith stated Natural Resources Management is part of staff, they are always available for information; therefore, if the subcommittee needs information or advice they can always reach out to staff, any staff for that matter; and he noted that is what staff is for, to aid them and the Board with information.

Commissioner Lober advised he does not disagree with anything Commissioner Smith said, however, there is a difference from being available and using someone's expertise in what he or she does day in and day out; in particular with the SOIRL rankings to offer thoughts in which projects have more merit; he noted he is not saying that ought to substitute for the beach subcommittee, but if that is something Natural Resources Management does not think is burdensome, he would like to have the most information provided for the Board to make decisions with; and he mentioned it sounds like there may have been a miscommunication somewhere along the chain that he is not thrilled about and he plans on looking into it because he does not like when someone makes a representation to him that turns out to be potentially less than accurate or arguably accurate. He went on to say the subcommittee makes recommendations to the TDC, the TDC then says yes or no and makes a recommendation to this Board, and then this Board decides yes or no, so there are several levels of that; it does not mean if the Board is making the final call that it should get rid of the TDC or the subcommittees; he explained it is a process which they are all advisory up to the point that it is no longer advisory and the Board makes the final call; and he does not think that takes away the value of either the subcommittee or Natural Resources Management. He noted it may be moot at this point because it sounds like there may be more consternation from Natural Resources Management than what he was led to believe. He mentioned he is going to look into that; he has a TDC Item on this coming Agenda that was added; he will certainly have ample opportunity to discuss this; and he reiterated between now and then he intends to look into this.

Commissioner Pritchett thanked Commissioner Lober for that. She stated she watched him try to negotiate with things like he does on that board also; she has only been to one TDC meeting in the past; when the report was to come up and it started coming up, it was shut down and they were told it was just going to be given to Natural Resources Management; both of her antennas came up because Chair Isnardi has her so tuned in to public comment; and she reiterated she knows it was late in the evening but she also knows Ms. Thompson and her diligence to work hard on these projects, so she called her up right away. She added she asked if that was a whack-a-doodle board; Ms. Thompson advised that the board members were all very smart; and that is what got her concerned with this. She continued she wanted to have this conversation so the TDC did not go somewhere with it, to where it is going to come up and she is going to have to say she will not approve this; before things are sent to the County staff, she thinks there should be a conversation; she is real interested in what is about to come up with the Brevard Cultural Alliance (BCA); and she asked the Commissioners if they receive information to send it to the County Attorney because she is studying right now and anything would help her right now.

Chair Isnardi stated there are videos and interviews of TDC members about the BCA that have

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been in the media; and there are some stories.

Commissioner Pritchett stated she has not seen all of that yet; and she is trying to dig out where they get their resources from and where they go, all that information, so anything the Board gets she would appreciate that too.

Ms. Thompson stated she would like to clarify the TDC voted unanimously to go ahead and ask Natural Resources Management; while she was driving home she got to thinking about it; and she called Ms. Barker and Ms. Barker did not act like she was real excited about it.

Commissioner Pritchett stated she did not ask Ms. Thompson that part; and she inquired what the Board does when the TDC votes something through.

Commissioner Lober stated he can move to have it reconsidered or alternatively he can resurrect his motion and make it to authorize County staff and the Director of Natural Resources Management to decline to provide information with respect to that particular Item if they determine it is really burdensome; that way they have the freedom to say no, but are not obligated to say no; and he mentioned if the Board would like he can make that motion again.

Commissioner Smith stated he thinks it is an extra step that is not necessary.

Commissioner Pritchett stated the TDC voted to make it happen and the Board does not want that to happen.

Chair Isnardi stated she thinks the motion was a little confusing to everybody. She asked if Commissioner Lober wants to withdraw the last vote.

Commissioner Lober stated to let him see if it is necessary.

Commissioner Smith stated it has already passed, so it does not matter.

Commissioner Lober explained what the motion was, was to authorize Natural Resources Management to decline to undertake the work if they determined it was overly burdensome.

Chair Isnardi stated perhaps it needs to go back to the TDC first.

Commissioner Pritchett agreed.

Commissioner Smith stated he thinks Natural Resources Management is always going to be a source of information, so he does not think the Board needs to delineate whether it can or it cannot; if the subcommittee makes a suggestion and the someone on the subcommittee or this Board says to the TDC they want to know what Natural Resources Management has to say, they can do that; and he does not want to have to go through all these motions to get there.

Commissioner Tobia stated the reason he voted no is because if it became burdensome one Ms. Barker and her staff, she would go to the County Manager, and the County manager would make the decision; he does not want to impede on the County manager's authority to decide how to use staff's time; it was not against the sponsor of it, just with support of the County manager to make that determination how best to use his staff; and in fairness, that is the only reason he voted no on that one.

Commissioner Pritchett stated that is a good point; she inquired if Natural Resources Management is allowed to just decline.

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Mr. Abbate stated he would hope that he made it clear when he was speaking that they were all prepared to do whatever the Board tells them to do in that area; and he advised they were never going to decline to say they were not able to do it or that they would not carry out something that the Board requested.

Commissioner Pritchett inquired if the County Manager now knows he can say no.

Mr. Abbate stated he understands; their concern was that Natural Resource Management was looking at some of the criteria and the evaluation that related to tourism TDC, it does not relate specifically only to the Lagoon; and that was the issue and area of concern that was expressed to him as a potential concern by Ms. Barker.

Chair Isnardi stated she thinks this is getting a little silly; and what should have happened was for the Board to ask Commissioner Lober to bring this back to the TDC to either undo or revert that motion because that would have made more sense than to give Ms. Barker permission to decline.

Commissioner Smith stated he does not want Ms. Barker or any other staff member put in a position where they have to make a decision.

Chair Isnardi stated they will be; and she does not think anyone on the Board wants that.

Commissioner Smith noted the Board is using them as a resource for information.

Chair Isnardi stated she thinks the majority of the Board agrees on that point; but she does not think when the Board starts making motions on motions based on what the TDC does, it gets a little hairy.

Commissioner Pritchett stated she would like to rescind the prior motion.

The Board granted the motion to rescind the previous motion allowing the Natural Resources Management Director to decline to undertake the work from the TDC, if it was determined it was overly burdensome.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Kristine Isnardi, Chair Commissioner District 5
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM L.3., REPORT, RE: RITA PRITCHETT, COMMISSIONER DISTRICT 1 (CONTINUED)

Commissioner Pritchett stated she would like to make a motion for Commissioner Lober to go back to the TDC and have it change what it sent forward.

Commissioner Lober stated there does not need to be a motion, he would be happy to go back and move for the TDC to reconsider it.

Chair Isnardi inquired if the County Attorney prefers a motion.

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Eden Bentley, County Attorney, stated she thinks it is up to the Board.

Commissioner Lober stated he does not know if a motion could force his hand to that anyways, if he is not inclined to do it.

ITEM L.6., REPORT, RE: CURT SMITH, COMMISSIONER DISTRICT 4

Commissioner Smith advised today is National Prayer day; back in 1775 the Continental Congress came up with the original National Prayer Day; in 1988 President Ronald Reagan did the same; he finds it ironic that both houses of Congress have legislated that they will start each meeting with a prayer; the Supreme Court starts each meeting with a prayer; they authorized State legislators to start their meetings with a prayer; however, local government was not mentioned so Brevard County gets sued because it is ruled that it is unconstitutional. He noted he does not understand that.

ADJOURNED

Upon consensus of the Board, the meeting adjourned at 6:42 p.m.

ATTEST:

SCOTT ELLIS, CLERK

KRISTINE ISNARDI, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA