

Brevard County
Save Our Indian River Lagoon Project Plan
Citizen Oversight Committee

April 15, 2022 – 8:30 to 11:30 am
Brevard County Government Center
2725 Judge Fran Jamieson Way, Bldg. C, 3rd Floor,
Viera, Florida 32940
Florida Room and On-line via Zoom Conference

- I. Call to Order
- II. Roll Call
- III. Acceptance of Virtual Votes
- IV. Approval of the Agenda
- V. Approval of Minutes
- VI. Progress and Fiscal Reports
 - a. Monthly Progress Report – Virginia Barker, Director
 - b. Monthly Revenue Graph – Crystal Melton, Finance Manager
 - c. Monthly Financial Statement – Crystal Melton, Finance Manager
 - i. Clarify Oversight Committee Request for a Table of Grant Information
- VII. Other Reports and Special Presentations
 - a. My Lagoon Story Video – Captain John Byron
 - b. New Committee Member Orientation Information – Virginia Barker, Director
 - i. Welcome Letter and Checklist
 - ii. Typical Action Items of the Committee by Month
 - iii. Save Our Indian River Lagoon Sunshine Memo
 - iv. Brevard County Policy on Advisory Bodies (BCC-67)
 - v. Citizen Oversight Committee Ground Rules
 - vi. Guidance for Ensuring Compliance
 - vii. Citizen Oversight Committee By-Laws
 - viii. Save Our Indian River Lagoon Ordinance
 - ix. Save Our Indian River Lagoon Plan Update
 - c. Government in the Sunshine/Florida's Public Meetings Law/Conflicts of Interest Review – Heather Balser, Assistant County Attorney
 - d. Public Reading of Conflict of Interest forms 8b – Carol Gerundo
 - e. Sunnyland Beach Environmental Fair Video
- VIII. Old Business
- IX. New Business
 - a. Legislative Session – Senator Mayfield
- X. General Public Comments
- XI. Final Comments by Chair and Committee Members
- XII. Adjournment

**Save Our Indian River Lagoon
Citizen Oversight Committee Meeting Minutes**

March 18, 2022 – 8:30 a.m.
2725 Judge Fran Jamieson Way, Bldg. C, 3rd Floor,
Florida Room and On-Line via Zoom Conference
Viera, FL 32940

Members Present:

Expertise	Member	Present	Alternate	Present
Science	Lorraine Koss	Yes	Charles Venuto	Yes
Technology	Vinnie Taranto - Chair	Yes	David Sherrer	Yes
Education	Stephany Eley – Vice Chair	Yes	Kimberly Newton	Yes
Finance	Courtney Barker	Yes	Todd Swingle	No
Tourism	David Lane	Yes	Laurilee Thompson	Yes
Real Estate	Susan Hodgers	Yes	Eric Mannes	Yes
Lagoon Advocacy	John Windsor	Yes	Terry Casto	Yes

Staff Present:

Virginia Barker, Brevard County Natural Resources Management Director
Amanda Elmore, Brevard County Natural Resources Management Deputy Director
Heather Balser, Assistant County Attorney
Sarah Beazley, Assistant County Attorney
Brandon Smith, Environmental Specialist
Matt Badolato, Associate Environmental Specialist
Terri Breeden, Environmental Section Supervisor
Jenny Hansen, Associate Environmental Specialist
Beb Sebastian, Environmental Specialist
Courtney Maier, Engineer I
Walker Dawson, Engineer III
Anthony Gubler, Environmental Specialist
Crystal Melton, Department Finance Manager

I. Call to Order

II. Roll Call

III. Acceptance of Virtual Votes

Stephany Eley moved to allow Committee Members, who were attending online via Zoom, to vote virtually; seconded by Courtney Barker.

There were no public comments.

Motion was unanimously approved.

Save Our Indian River Lagoon Citizen Oversight Committee Meeting
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IV. Approval of the Agenda

Lorraine Koss moved to approve the Agenda with Items IX.a. and IXb., Other Reports and Special Presentations, moved up before Item VII, Approval of Minutes; seconded by John Windsor. Discussion ensued.

There were no public comments.

Motion was unanimously approved.

V. Introduction of New Committee Member and Legal Counsel

a. Eric Mannes, Real Estate Alternate

Vinnie Taranto introduced Eric Mannes, newly appointed Real Estate Alternate. Mr. Mannes gave a brief introduction.

b. Heather Balser, Assistant County Attorney

Vinnie Taranto introduced and welcomed, Heather Balser, Assistant County Attorney.

VI. Selection of a Chair and Vice-Chair

The floor was opened for nominations of Chair. David Lane and Vinnie Taranto were nominated. Discussion ensued. Nominations were closed.

The vote was taken for nominee, David Lane, to serve as Chair. The vote failed with members voting; Susan Hodgers, Aye, David Lane, Nay, Vinnie Taranto, Nay, John Windsor, Nay, Lorraine Koss, Nay, Courtney Barker, Nay, Stephany Eley, Nay.

The vote was taken for nominee, Vinnie Taranto, to serve as Chair. The vote was unanimously approved.

The floor was opened for nominations of Vice-Chair. David Lane was nominated to serve as Vice-Chair. Discussion ensued. Nominations were closed.

The vote was taken for nominee, David Lane, to serve as Vice-Chair. The vote was unanimously approved.

VII. Approval of Minutes

(This item was considered after IX.b., Other Reports and Presentations)

John Windsor moved to approve the January 21, 2022 meeting minutes as written; seconded by Courtney Barker. Discussion ensued.

Public Comments were heard.

Motion was unanimously approved.

VIII. Progress and Fiscal Reports

a. Monthly Progress Report – Virginia Barker, Director

The Monthly Progress Report was given by Virginia Barker.

Discussion ensued. Virginia Barker responded to the Committee's questions.

b. Monthly Revenue Graph – Crystal Melton, Finance Manager

Crystal Melton reported on the Monthly Revenue Graph.

Discussion ensued. Crystal Melton and Virginia Barker responded to the Committee's questions.

c. Monthly Financial Statement Crystal Melton, Finance Manager

Crystal Melton reported on the Monthly Financial Statement.

Discussion ensued. Crystal Melton and Virginia Barker responded to the Committee's questions.

d. Quarterly Financial Table – Crystal Melton, Finance Manager

Crystal Melton reported on the Quarterly Financial Table.

Discussion Ensued. Crystal Melton, Virginia Barker, Terri Breeden and Brandon Smith responded to the Committee's questions.

e. Quarterly Save Our Indian River Lagoon Project Performance Table Update – Terri Breeden, Environmental Section Supervisor

Terri Breeden gave an update on the Quarterly Save Our Indian River Lagoon Project Performance Table, October 1 – December 31, 2021. Highlights included; 1) Sewer Lateral Projects; 2) Septic Removal – County Projects, Septic Upgrades and Quick Connects; 3) Cocoa Beach Convair Cove Stormwater Projects; 4) Titusville High School Baffle Box; 5) Ray Bullard Water Reclamation Stormwater Management Area; 6) Cocoa Beach Phase IIB Muck Removal Project; and, 7) Brevard Zoo Oyster Bars.

Discussion ensued. Virginia Barker, Terri Breeden, and Matt Badolato responded to the Committee's questions.

Lorraine Koss moved to extend the meeting for thirty minutes; seconded by David Lane.

There were no public comments.

Motion was unanimously approved.

IX. Other Reports and Special Presentations

(Items IX.a. and IX.b. were heard before Item VII. Approval of Minutes.)

a. FL Geology and Nutrient Transport in Groundwater – Guy “Harley” Means, Director, Florida Geological Survey

Mr. Means gave a power point presentation entitled, Geology, Karst, and Groundwater Vulnerability. Topics included; 1) Introduction to Florida's geology; 2) Karst – what is it and how it forms; 3) Groundwater flow; 4) Florida's aquifer systems; 5) Indian River Lagoon watershed surficial geology; and, 6) Groundwater vulnerability and nutrient transport in the Indian River Lagoon Watershed.

Discussion ensued. Mr. Means responded to the Committee's questions.

Public Comment: Vinnie Taranto recognized Councilman Daniel McDow, City of West Melbourne, who was in the audience and had filled out a speaker card. As a courtesy to an elected official, and due to time constraints, Councilman McDow was allowed to speak before the next presentation.

b. Update on the Indian River Lagoon – Dr. Chuck Jacoby, Supervising Environmental Scientist, St. Johns River Water Management District

Dr. Jacoby gave a power point presentation entitled, Update on the Indian River Lagoon. Topics included; 1) Key goal and associated concerns for the lagoon; 2) Plans and actions to restore the system; 3) Status of the lagoon; 4) Calculations on other concerns; and, 5) Take-home messages.

Discussion ensued. Dr. Jacoby, Virginia Barker, Jenny Hansen, and Walker Dawson responded to the Committee's questions.

c. Future Presentation Topics Intake Form – Brandon Smith, Environmental Specialist

(This item was heard after VIII.e., Quarterly Save Our Indian River Lagoon Project Performance Table Update)

Brandon Smith shared information on a Future Presentation Topics Intake Form that staff created. The form can be used as an online tool the Committee could use to request speakers.

Discussion ensued. Brandon Smith responded to the Committee's questions.

d. Project Video – Basin 122/Sunset Avenue Bioreactor

A video about a baseflow nutrient reduction system project in Mims was shown.

Discussion ensued. Brandon Smith and Virginia Barker responded to the Committee's questions.

X. Old Business

None.

Save Our Indian River Lagoon Citizen Oversight Committee Meeting
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XI. New Business

a. Legislative Session – Open Session

Virginia Barker spoke briefly about the State House and Senate Conference Report recommendation which includes State legislative match funding for water projects. Ms. Barker noted that the recommendation would still need to be approved by the Governor, who has veto power.

Discussion ensued.

Courtney Barker moved to extend the meeting for fifteen minutes; seconded by David Lane.

There were no public comments.

Motion was unanimously approved.

XIIX. General Public Comments

Public Comments were heard.

Courtney Barker moved to extend the meeting for fifteen minutes; seconded by Susan Hodgers.

There were no public comments.

Motion was unanimously approved.

XIII. Final Comments by Chair and Committee Members

John Windsor moved to extend the meeting for fifteen minutes; seconded by Stephany Eley. Discussion ensued.

There were no public comments.

Motion was unanimously approved.

Final Comments were heard.

XIV. Adjournment



Save Our Indian River Lagoon Project Plan April 2022 Progress Report

WORK COMPLETED THIS MONTH:

- Legislative Appropriation Support Letter submitted to Governor DeSantis
- Awarded an Innovative Technology Grant to Pilot Test Algae Harvesting in the Indian River Lagoon
- South Central C Septic-to-Sewer – sewer pipe installation completed for the southern subdivision
- 2 Septic Upgrades reimbursements processed for a total of 62 completed to date; post cards mailed to 1500 highest priority sites; 4500 additional postcard mailers scheduled
- 2 Quick Connect reimbursements processed for a total of 39 completed to date; post cards mailed to 930 highest priority sites
- Brevard Zoo completed installation of first oyster corral design at Ryckman Park, Melbourne Beach
- Living Shoreline Performance - University of Central Florida 12-month monitoring at the Wexford oyster bar observed approximately three times more oysters than at the previous monitoring, with more oysters, bridges, and larger oysters found in gabions.
- Remote Sensing of Harmful Algae Blooms – Weekly reports were received and shared
- Derelict Vessels Removed this month – 1
- Video Completed – Sunnyland Beach Homeowners Association Environmental Festival
- 2022 Plan Update Projects added to the County Budget in the Mid-Year Adjustment

WORK UNDERWAY THIS MONTH:

- 2020 Audit to be presented by the Auditors to the Brevard County Audit Committee April 20th
- Micco Septic-to-Sewer – Review of contractor's shop drawings and prep for pre-construction meeting
- South Beaches P Septic-to-Sewer – County Right-of-Way permitting in progress
- South Beaches O Septic-to-Sewer project bid advertised March 24
- Smoke Testing on the Barrier Island is contracted and scheduled to begin May 2nd
- Sunset Ave/Serenity Park/Basin 26 Stormwater Treatment – Awaiting final acceptance walkthrough
- Basin 79 Scottsmeer C & Basin 89 Scottsmeer I Stormwater Treatments - Bid posted, due April 14th
- Basin 958 Pioneer Road – Plans are under review
- Kingsmill-Aurora Phase II – Design/modeling underway
- Basin 998 Richland Canal – Pre-scoping meeting scheduled
- Johnson Junior High Modification – Designs Complete; construction cost estimating underway
- Sykes Creek Phase 1 Muck Dredging – Pre-construction submittal reviews are underway
- Grand Canal Muck Dredging –Dredging resumed on March 21st
- Grant-funded Remote Algae Bloom Sensing study – High frequency bloom areas are being compared to stormwater outfall, septic community, muck deposit and seagrass locations. Drone flights underway.
- Video progress – Task orders executed for Derelict Vessel Removal, Clam Restoration, and Eric Mannes' My Lagoon Story
- Contracts in draft – Titusville Sand Point Park Baffle Box, Brevard Zoo Restore Our Shores: Community Collaboration, Rockledge Equalization Basin, and West Melbourne's Lake Ashley Circle and Dundee Circle/Manor Place Septic to Sewer
- Contract Amendments in draft – M-1 Canal Flow Restoration and Oak Point Package Plant



PRESENTATIONS THIS MONTH:

March 23 – Palm Bay Sustainability Board – Brandon
April 5, America's Boating Club - Brandon
April 9 – Sunnyland Beach Environmental Festival – Matt
April 9 – Viera Nature Festival – Brandon
April 14th – Town of Melbourne Beach: Environmental Leadership Summit - Virginia
April 26th – Florida Water Resources Conference on Septic Upgrades and Septic to Sewer - Virginia
April 27 – Center for Watershed Protection Conference - Terri

UPCOMING LAGOON SCIENCE FORUMS AND PUBLIC EVENTS:

April 9 – Boater's Exchange [Spring Boating and Fishing Expo](#)
April 20 – Ocean Research & Conservation Association [Introduction to Citizen Science Projects](#)
April 21 & 22 – [Indian River Lagoon Symposium](#)
April 29 – Ocean Research & Conservation Association [Pollution Mapping Reporting](#)

UPCOMING VOLUNTEER PARTICIPATION OPPORTUNITIES:

April 16 & 20 – Brevard Zoo Restore Our Shores [Oyster Supply Making](#)
April 9th – Space Coast Surfrider [Thousand Islands Trash Bash](#)
April 12 – Ocean Research & Conservation Association [One Health Fish Monitoring Project Intro & Processing](#)
April 29 – Brevard Zoo Restore Our Shores [Mangrove Adoption Day](#)
April 30 – Keep Brevard Beautiful [Banana River Park Cleanup](#)
Brevard Zoo Restore Our Shores [Clam Restoration Project seeking volunteers](#)
Marine Resources Council Super Clam monitoring seeking volunteers – [Email Caity Savoia to register](#)
Rotary Park rain garden maintenance – [Email Carlos Cuevas for opportunities](#)
Storm drain marking in Cocoa – [Email Carlos Cuevas for opportunities](#)
Storm drain marking in Melbourne – [Email Bri Forte for opportunities](#)

WEBSITE AND SOCIAL MEDIA LINKS:

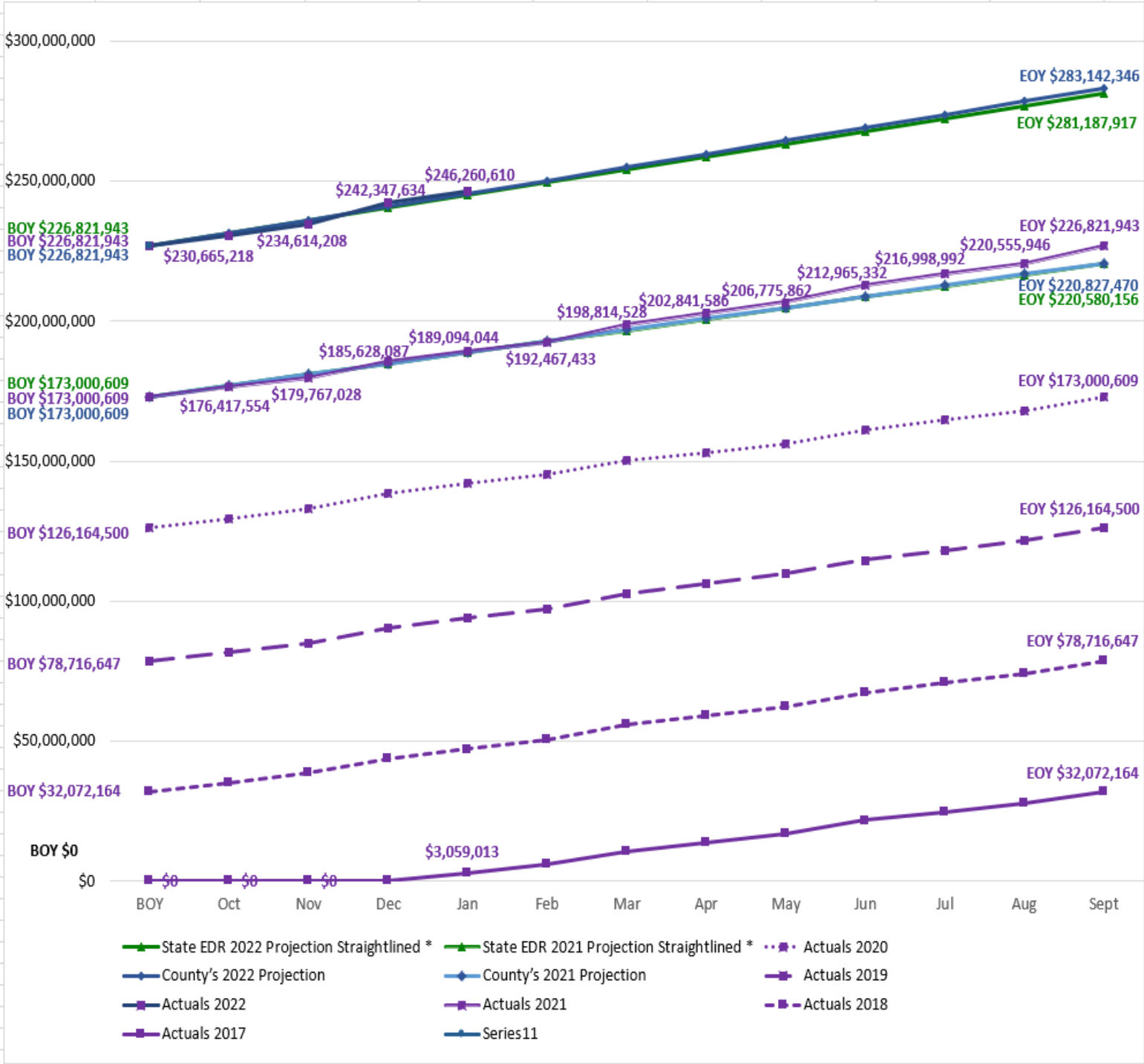
[Lagoon Loyal Outreach and Engagement Landing Page](#)
[Save Our Indian River Lagoon Website](#)
[Save Our Indian River Lagoon Facebook](#)
[Save Our Indian River Lagoon Instagram](#)
[Save Our Indian River Lagoon YouTube](#)

FUTURE TOPICS FOR SPECIAL PRESENTATIONS:

1. 2020 Audit of the Save Our Indian River Lagoon Program
2. Pollution and Algal Bloom Mapping via Satellite Imagery Interpretation
3. Low Impact Development/Resilience – Local examples, efforts and potential opportunities
4. Stormwater Treatment Purpose, Design and Performance
5. BioActivated Media Performance and Maintenance Requirements
6. Shoreline Armor and Living Shoreline Permitting Authorities, Rules and Opportunities
7. Surface Water Remediation Technologies
8. Nutrient Loading Impacts of Reclaimed Water
9. Project Performance Measurement Results

Save Our Indian River Lagoon Revenues Cumulative Graph
Fiscal Year 16-17 to Current Fiscal Year

- * Economic and Demographic Research Data is sourced from Florida's Office of Economic & Demographic Research using their Estimation of Realized and Unrealized Tax Revenues Table
- Projected and Actual Data is from Systems, Applications and Products program
 - EDR-Economic and Demographic Research Data, BOY-Beginning of Year, EOY-End of Year
 - For Screen Readers use the Save Our Indian River Lagoon Revenues Cumulative Chart Fiscal Year 16-17 to Current Fiscal Year Table
 - Updated the State EDR Beginning Of Year to match Actuals End Of Year to the prior Fiscal Years



Save Our Indian River Lagoon Revenues Cumulative Chart

Fiscal Year 16-17 to Current Fiscal Year

Economic and Demographic Research Data is sourced from Florida's Office of Economic & Demographic Research using their Estimation of Realized and Unrealized Tax Revenues Table

- Projected and Actual Data is from Systems, Applications and Products program
- EDR-Economic and Demographic Research Data, BOY-Beginning of Year, EOY-End of Year
- For Screen Readers use the Save Our Indian River Lagoon Revenues Cumulative Chart Fiscal Year 16-17 to Current Fiscal Year Table

Month	State EDR 2022 Projection Straightlined *	County’s 2022 Projection	Actuals 2022	State EDR 2021 Projection Straightlined *	County’s 2021 Projection	Actuals 2021
BOY	\$226,821,943	\$226,821,943	\$226,821,943	\$173,000,609	\$173,000,609	\$173,000,609
Oct	\$231,352,441	\$231,515,310	\$230,665,218	\$176,965,571	\$176,986,181	\$176,417,554
Nov	\$235,882,939	\$236,208,677	\$234,614,208	\$180,930,533	\$180,971,752	\$179,767,028
Dec	\$240,413,437	\$240,902,044	\$242,347,634	\$184,895,496	\$184,957,324	\$185,628,087
Jan	\$244,943,935	\$245,595,411	\$246,260,610	\$188,860,458	\$188,942,896	\$189,094,044
Feb	\$249,474,432	\$250,288,778		\$192,825,420	\$192,928,467	\$192,467,433
Mar	\$254,004,930	\$254,982,145		\$196,790,382	\$196,914,039	\$198,814,528
Apr	\$258,535,428	\$259,675,512		\$200,755,345	\$200,899,611	\$202,841,586
May	\$263,065,926	\$264,368,879		\$204,720,307	\$204,885,183	\$206,775,862
Jun	\$267,596,424	\$269,062,246		\$208,685,269	\$208,870,754	\$212,965,332
Jul	\$272,126,922	\$273,755,612		\$212,650,231	\$212,856,326	\$216,998,992
Aug	\$276,657,419	\$278,448,979		\$216,615,194	\$216,841,898	\$220,555,946
Sept	\$281,187,917	\$283,142,346		\$220,580,156	\$220,827,470	\$226,821,943

Month	Actuals 2020	Actuals 2019	Actuals 2018	Actuals 2017
BOY	\$126,164,500	\$78,716,647	\$32,072,164	zero
Oct	\$129,590,162	\$81,926,390	\$35,300,032	zero
Nov	\$133,089,868	\$85,225,970	\$38,647,632	zero
Dec	\$138,551,296	\$90,640,944	\$43,870,270	0
Jan	\$142,014,229	\$93,950,291	\$47,150,412	\$3,059,013
Feb	\$145,518,464	\$97,296,142	\$50,484,322	\$6,217,230
Mar	\$150,424,958	\$102,671,360	\$55,782,660	\$10,686,395
Apr	\$153,099,730	\$106,219,161	\$59,191,675	\$13,941,510
May	\$156,326,096	\$109,784,828	\$62,444,639	\$17,177,137
Jun	\$161,413,353	\$114,720,850	\$67,409,450	\$21,754,009
Jul	\$164,827,524	\$118,207,520	\$70,776,206	\$24,898,729
Aug	\$167,886,836	\$121,640,336	\$74,021,947	\$27,890,034
Sept	\$173,000,609	\$126,164,500	\$78,716,647	\$32,072,164

Save Our Indian River Lagoon - FY 2022

Monthly Financial Statement

Date Range 01 October 2021 – 06 April 2022

Fund 1260

*Total Assigned YTD-Year to Date, includes all stages of accounting for expenditures, with data derived from Systems, Applications and Products program

Revenues	Budget	Total Assigned YTD*	% Earned
Taxes	\$48,783,398	\$19,438,666	39.85%
Interest Earned	\$725,952	\$192,302	26.49%
Other Federal Grants	\$3,141,901		0.00%
Federal Grants Hurricane Irma	\$1,357,269		0.00%
Other State Grants	\$9,092,186		0.00%
State Grants Hurricane Irma	\$226,212		0.00%
Tourism Development Council Grants	\$96,843		0.00%
American Rescue Plan Act (ARPA)	\$5,278,700		0.00%
Statutory Reduction	\$(3,171,192)		0.00%
Balance Forward	\$193,383,908	\$200,653,985	103.76%
Total	\$258,915,177	\$220,284,953	85.08%

Expenditures (Roll-Up)	Budget	Total Assigned YTD*	Actuals
Compensation & Benefits	\$630,128	\$841,094	\$336,085
Operating Expenses	\$194,396	\$145,987	\$37,435
Capital Outlay	\$17,000		
SOIRL Projects funded under Operating Expenses (Non-Capital County Project & Programs)	\$4,360,822	\$1,935,320	\$410,468
SOIRL Projects funded under Capital Improvement (County Projects over \$35K)	\$67,305,863	\$13,253,321	\$2,020,421
SOIRL Projects funded under Aid to Gov't Agencies (Cities & Water Management Districts)	\$54,239,506	\$17,069,519	\$2,602,057
SOIRL Projects funded under Aid to Private Organizations (Property Owners & Non-Government Organizations)	\$51,458,103	\$2,661,513	\$489,788
Contingency	\$11,395,538		
Reserves (for approved projects scheduled beyond this fiscal year)	\$69,313,821		
Total	\$258,915,177	\$35,906,754	\$5,896,253



Save Our Indian River Lagoon Citizen Oversight Committee Welcome Letter and Orientation Checklist

Dear **NAME**,

On **DATE** the **Space Coast League of Cities or Brevard County Commissioners** selected you to fill a vacancy on the Save Our Indian River Lagoon Citizen Oversight Committee, as an **alternate or member** for the **AREA** (finance, science, tourism, real estate, technology, education/outreach, lagoon advocacy). The **voting or alternate** member is **NAME**. On **DATE** the County Commission confirmed your appointment. Alternates and members are encouraged to attend and participate in all meetings to provide a wider diversity of input. Alternates should be prepared to step up and vote anytime the voting member is absent. Please familiarize yourself with the [Save Our Indian River Lagoon Program \(SOIRL\)](#) and [Citizen Oversight Committee \(COC\)](#) websites as well as the checklist of items listed below.

- Read and become familiar with [Florida Sunshine/Public Meetings/Conflicts of Interest Law](#).
- Read and become familiar with [Brevard County Policy on Advisory Bodies \(BCC-67\)](#).
- Read [Citizen Oversight Committee Ground Rules](#).
- Read [February 2017 Guidance for Ensuring Compliance](#).
- Read SOIRL [COC By-Laws](#).
- Read [Save Our Indian River Lagoon Ordinance](#).
- Read the latest [SOIRL Plan Update](#) (hard copy will be provided).
- Send photo, preferred contact information and a short bio for posting on the [COC website](#).
- Schedule filming "My Lagoon Story" video with Brandon.Smith@brevardfl.gov. These COC videos are available on [YouTube](#) and [Facebook](#).

Congratulations and thank you very much for volunteering your service. We look forward to getting to know you. Please let us know if you have any questions.

Virginia

Virginia Barker, Director
Brevard County Natural Resources Management Department
2725 Judge Fran Jamieson Way, Building A
Viera, FL 32940
Phone (321) 633-2016



Tentative Schedule for Action Items and Quarterly Reports

Save Our Indian River Lagoon Citizen Oversight Committee

January

Annual Project Plan Update Recommendation

February

Quarterly Project Progress and Financial Updates
Annual Project Plan Update to Board of County Commissioners

March

Election of Chair and Vice Chair

April

May

Quarterly Project Progress and Financial Updates
Plan Update Schedule including New Proposal Due Dates

June – Meeting typically canceled

July

Annual Cost-Share Eligibility Recommendation by Project Type

August

Quarterly Project Progress and Financial Updates

September

October

New Project Funding Proposals Recommendations
Next Year's Meeting Calendar

November

Quarterly Project Progress and Financial Updates

December – Meeting typically canceled

Draft Annual Plan Update sent to Committee Members to review/comment in preparation for
January Meeting Recommendation

*Special Presentations are scheduled throughout the year. Topics focus on the state of the lagoon, the performance of implemented projects, as well as new challenges, technologies, and opportunities.



County Attorney's Office
2725 Judge Fran Jamieson Way
Building C, Room 308
Viera, Florida 32940

Inter-Office Memo

BOARD OF COUNTY COMMISSIONERS

TO: Commissioner Bryan Lober, District 2 Commission Office
FROM: Alex Esseeesse, Assistant County Attorney
THRU: Abigail Jorandby, County Attorney
SUBJECT: Conflict of Interest General Research
DATE: March 8, 2022

Questions: Are there any particular scenarios that would trigger a conflict of interest for either a County director or appointees to an advisory committee in relation to the selection and/or funding of certain projects? For the appointed committee members, would they need to disclose their interest or would both a disclosure and abstention from voting be needed?

Short Answer: There are a number of scenarios in which a County director or members of an advisory board may trigger the regulations outlined in the State's Code of Ethics outlined in Chapter 112, Part III, Florida Statutes; Section 286.012, Florida Statutes; BCC-03; and the County's Employee Handbook. Crucially, however, the specific facts and circumstances of each individual case will dictate whether or not a conflict of interest exists and what steps the individual must take in order to avoid such a conflict of interest.

Analysis

I. Chapter 112, Part III, Florida Statutes

A. *Standards of Conduct*

Chapter 112, Part III, Florida Statutes, imposes certain standards of conduct for public officers and employees. The regulations outlined in Chapter 112, Florida Statutes, are general in nature and only after reviewing all the facts and circumstances of a particular situation can a decision be made on whether an individual has violated such provisions of law. Potential conflicts of interest may exist in a number of scenarios, including, but not limited to:

- when an employee of an agency acting in their official capacity as a purchasing agent, or public officer acting in their official capacity, directly or indirectly purchases, rents, or leases any realty, goods, or services for their own agency from any business entity of which the officer or

employee (or their spouse or child) is an officer, partner, director, or proprietor or in which such officer or employee (or their spouse or child) has a material interest. *Section 112.313(3), F.S.*

- when a public officer or employee of an agency, acting in a private capacity, rents, leases, or sells any realty, goods, or services to the officer's or employee's own political subdivision if they are serving as an officer or employee of that political subdivision. *Section 112.313(3), F.S.*
- when the public officer, employee of an agency, or local government attorney corruptly¹ uses or attempts to use their official position or any property or resource which may be within their trust, or perform their official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. *Section 112.313(6), F.S.* In order to determine if *Section 112.313(6), F.S.*, is violated, the Commission on Ethics, which is tasked with ensuring the State's standards of conduct for public officers and employees are enforced,² looks at whether: (1) the individual used or attempted to use their official position (2) to secure a special privilege, benefit or exemption for himself/herself or another and (3) acted corruptly in doing so, that is with a wrongful intent and for the purpose of benefitting himself/herself, or another person from some act or omission, which is inconsistent with the proper performance of his/her public duties. See, Siplin v. Comm'n on Ethics, 59 So.3d 150 (Fla. 5th DCA 2011). In order to satisfy the statutory element of acting "corruptly", "proof must be adduced that [the public officer or employee of an agency] acted 'with reasonable notice that [his or] her conduct was inconsistent with the proper performance of [his or] her public duties and would be a violation of the law or code of ethics. . . .'" *Id.*, at 151-52 (citations omitted).
- when a public officer or employee of an agency has or holds any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which they are an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the State or any political subdivision of the State; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between their private interests and the performance of their public duties or that would impeded the full and faithful discharge of his or her public duties. *Section 112.313(7)(a), F.S.*

For purposes of *Section 112.313, F.S.*, the term "public officer" includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body. *Section 112.313(1), F.S.* Therefore, this definition would extend to

¹Pursuant to *Section 112.312(9), F.S.*, "corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties.

²*Section 112.320, F.S.*

members of the Save Our Indian River Lagoon Citizen Oversight Committee (SOIRL COC).

B. Voting Conflicts

Voting conflict regulations are outlined in Section 112.3143, F.S., and go into detail about when and how an individual can participate in certain votes and action item discussions. Again, the facts and circumstances of a particular situation will dictate whether an individual can vote, whether a disclosure must be made, and whether the individual must abstain all together. For purposes of Section 112.3143, F.S., there are certain important definitions. First, a “public officer” includes any person elected or appointed to hold office in any agency, including any person serving on an advisory board. *Section 112.3143(1)(b), F.S.* Second, a “special private gain or loss” means an

economic benefit or harm that would inure to the officer, his or her relative, business associate, or principal, unless the measure affects a class that includes the officer, his or her relative, business associate, or principal, in which case, at least the following factors must be considered when determining whether a special private gain or loss exists:

1. The size of the class affected by the vote.
2. The nature of the interests involved.
3. The degree to which the interests of all members of the class are affected by the vote.
4. The degree to which the officer, his or her relative, business associate, or principal receives a greater benefit or harm when compared to other members of the class.

The degree to which there is uncertainty at the time of the vote as to whether there would be any economic benefit or harm to the public officer, his or her relative, business associate, or principal and, if so, the nature or degree of the economic benefit or harm must also be considered.

Section 112.3143(1)(d), F.S.

Pursuant to Section 112.3143(3)(a), F.S., no county public officer shall vote in an official capacity upon any measure which would inure to their special private gain or loss; which they know would inure to the special private gain or loss of any principal by whom they have been retained or to the parent organization or subsidiary of a corporate principal by which they are retained (with limited exceptions); or which they know would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer’s interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of their interest as a public record in a memorandum filed with the person responsible for

recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

An additional layer of regulations exists with Section 112.3143(4), F.S., pertaining to limitations on whether a vote will result in a special private gain or loss to an appointed public officer. Specifically, no appointed public officer shall participate³ in any matter which would inure to the officer's special private gain or loss; which the officer knows would inure to the special private gain or loss of any principal by whom they are retained or to the parent organization or subsidiary of a corporate principal by which they are retained; or which they know would inure to the special private gain or loss of a relative or business associate of the public officer, without first disclosing the nature of their interest in the matter. The disclosure, indicating the nature of the conflict, shall be made in a written memorandum filed with the person responsible for recording the minutes of the meeting, prior to the meeting in which consideration of the matter will take place, and shall be incorporated into the minutes. Such disclosure shall be a public record, shall be provided to other members of the agency, and shall be publicly read at the subsequent meeting. *Section 112.3143(4)(a), F.S.* If the disclosure is not made prior to the meeting or if the conflict is unknown prior to the meeting, the disclosure shall be made orally once the conflict is identified. The written memorandum disclosing the conflict shall be filed within 15 days of the oral disclosure with the person responsible for keeping the minutes of the meeting and incorporated into the minutes of the meeting. The memorandum shall be a public record, shall be provided to other members of the agency, and shall be publicly read at the subsequent meeting. *Section 112.3143(4)(b), F.S.*

Voting requirements are also addressed in Section 286.012, F.S. This provision of Florida law provides that a member of a county board or agency who is present at a meeting of any such body at which an official decision or other official act is to be taken may not abstain from voting in regard to any such decision or act; and a vote shall be recorded or counted for each such member present, unless, with respect to any such member, there is, or appears to be, a possible conflict of interest under Sections 112.311, 112.313, 112.3143, F.S., or additional or more stringent standards of conduct, if any, adopted pursuant to Section 112.326, F.S. If there is, or appears to be, a possible conflict under Sections 112.311, 112.313, 112.3143, F.S., the member shall comply with the disclosure requirements of Section 112.3143, F.S. If the only conflict or possible conflict is one arising from the additional or more stringent standards adopted pursuant to Section 112.326, F.S., the member shall comply with any disclosure requirements adopted pursuant to Section 112.326, F.S. If the official decision, ruling, or act occurs in the context of a quasi-judicial proceeding, a member may abstain from voting on such matter if the abstention is to assure a fair proceeding free from potential bias or prejudice.

II. County-Imposed Regulations

³Pursuant to Section 112.3143(4)(c), F.S., the term "participate" means any attempt to influence the decision by oral or written communication, whether made by the officer or at the officer's direction.

There are also restrictions that exist pursuant to BCC-03 and the Employee Handbook.

A. *BCC-03*

In addition to Chapter 112, Part III, Florida Statutes, the Board adopted Board Policy BCC-03 to establish local regulations pertaining to certain ethics and conflict standards. As part of BCC-03, a Board employee, which includes County public officers and staff, must address a conflict⁴ between personal interests and official responsibilities by consciously avoiding possible conflicts and by disclosing the basis of a conflict to a superior so that, if necessary, decisions can be reviewed or made by others. Another situation where a County officer or employee must be aware of certain conduct exists to prevent such individual from using his/her official position or office, or take any action, or influence others to take or fail to take any action, in a manner which he/she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following, including, but not limited to: himself/herself, a spouse, a household member, a dependent, or a customer or client of the official or employee's outside employer or business. *BCC-03, Section III.C.* Financial interests must also be considered by the County employee or officer in order to avoid real or apparent conflict of interests. *BCC-03, Section III.E.*

B. *Employee Handbook*

The County's Employee Handbook also identifies conflicts of interest that must be avoided. For example, no employee may use or attempt to use his/her official position to secure a special privilege, benefit, or exemption for himself/herself or another person.

Conclusion

Based on the above, there are a number of situations in which a County employee or an advisory board member could run into conflicts of interests. However, the specific facts and circumstances of the case will dictate whether or not an actual conflict exists, and what steps, if any, the individual must take in order to avoid such a conflict as it pertains to official action.

⁴Pursuant to BCC-03, Section III.B., a "conflict" or "conflict of interest" means a situation in which regard for a special private gain tends to lead to disregard of a public duty or interest.