

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 March 6, 2014 at 5:02 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Robin Fisher	Commissioner District 1	Present	
Chuck Nelson	Commissioner District 2	Present	
Trudie Infantini	Commissioner District 3	Present	
Mary Bolin Lewis	Vice Chairman/Commissioner District 4	Present	
Andy Anderson	Chairman/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.

INVOCATION

The Board observed a moment of silence.

PLEDGE OF ALLEGIANCE

Commissioner Infantini led the assembly in the Pledge of Allegiance.

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ITEM I.A., RESOLUTION, RE: CONGRATULATING ANNA OSBORNE, POOJA SHAH, AND EMMA WELMAN ON THEIR AWARD WINNING FILM AT THE 2014 YOUTH MAKING RIPPLES FILM FESTIVAL

Chairman Bolin Lewis read aloud, and the Board adopted, Resolution No. 14-033, congratulating Anna Osborne, Pooja Shah, and Emma Welman on their award winning film at the 2014 Youth Making Ripples film festival.

Pooja Shah stated the film was a project for school; they were looking for a topic; and found that algae blooms are a big problem in the Indian River Lagoon.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chuck Nelson, Commissioner District 2
SECONDER:	Robin Fisher, Commissioner District 1
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM I.B., RESOLUTION, RE: CONGRATULATING THE MELBOURNE HIGH SCHOOL LADY BULLDOGS SOCCER TEAM

Commissioner Infantini read aloud, and the Board adopted, Resolution No. 14-034, congratulating the Melbourne High School Lady Bulldogs soccer team for winning the State 4A Championship.

The Lady Bulldogs soccer team coach expressed her thanks to the Board for its recognition of winning the State 4A Championship; stated it was a fantastic season; and she appreciates all who has helped the team.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Andy Anderson, Chairman/Commissioner District 5
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM I.C., RESOLUTION, RE: CONGRATULATING THE MELBOURNE HIGH SCHOOL BULLDOGS SOCCER TEAM

Commissioner Infantini read aloud, and the Board adopted, Resolution No. 14-035, congratulating the Melbourne High School Bulldogs soccer team for winning the State 4A Championship.

The Melbourne High School Bulldogs coach expressed his thanks for the Resolution.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Andy Anderson, Chairman/Commissioner District 5
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

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ITEM I.D., RESOLUTION, RE: PROCLAIMING MARCH 2014 AS IRISH AMERICAN HERITAGE MONTH

Chairman Bolin Lewis read aloud, and the Board adopted, Resolution No. 14-036, proclaiming March 2014 as Irish American Heritage Month.

Ed Riley expressed his appreciation to the Board for its recognition.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chuck Nelson, Commissioner District 2
SECONDER:	Andy Anderson, Chairman/Commissioner District 5
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM III.B.1., (13PZ-00106) - DALE W. CORNISH AND GABRIELE BAUER CORNISH - REQUESTS A CHANGE OF CLASSIFICATION FROM GU TO AU ON 1.95 ACRES, LOCATED ON THE SOUTHEAST CORNER OF CABBAGE PALM STREET, AND PINE STREET (5295 PINE STREET, COCOA)

Chairman Bolin Lewis called for a public hearing to consider a request change of classification from GU to AU on 1.95 acres, located on the southeast corner of Cabbage Palm Street and Pine Street (5295 Pine Street, Cocoa).

Cindy Fox, Planning and Zoning Enforcement Manager, advised this Item is a rezoning from FU to AU on 1.95 acres, located in the West Canaveral Groves area; and she suggested for the Board to consider the AU(L) zoning classification rather than the AU, because AU(L) was created to prohibit commercial activity.

There being no objections, the Board approved Dale W. Cornish and Gabriele Bauer Cornish's request of changing zoning classification from GU to AU(L) on 1.95 acres, located on the southeast corner of Cabbage Palm Street and Pine Street (5295 Pine Street, Cocoa).

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Andy Anderson, Chairman/Commissioner District 5
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM III.B.2., (13PZ-00084) - CARMINE FERRARO, TRUSTEE - REQUESTS REMOVAL OF AN EXISTING BINDING DEVELOPMENT PLAN (BDP) IN A BU-1-A ZONING CLASSIFICATION, ON 2.59 ACRES, LOCATED ON THE SOUTHEAST CORNER OF FAY BOULEVARD AND ADAMS PLACE (4735 FAY BOULEVARD, PORT ST. JOHN, COCOA)

Chairman Bolin Lewis called for a public hearing to consider a request to remove an existing Binding Development Plan (BDP) in a BU-1-A zoning classification, on 2.59 acres, located on the southeast corner of Fay Boulevard and Adams Place (4735 Fay Boulevard, Port St. John, Cocoa).

Commissioner Fisher disclosed that he met with Carmine Ferraro.

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Carmine Ferraro, Trustee, stated his request is for a modification to the existing BDP; in 2008 the property was rezoned from a residential church use to BU-1-A; a BDP was entered into to restrict some uses and access on Adams Place; in November 2013 a contractual agreement was entered into with Family Dollar, to develop the vacant portion of the property; and he provided the Board with a handout of timeline's. He advised the preliminary site plan review was denied by staff due to the BDP that was already in place restricting access, and full access in and out was submitted for; he was told to go through the zoning process; he submitted the application; and the provided timeline's help to explain where it is today. He advised during the process he has listened to residents and input from the Planning and Zoning Board, to make adjustments to accommodate the Family Dollar; four days ago, he received word from the Housing and Human Services Director Ian Golden that the proposal he was planning to bring to the Board today would not work with the County's requirements. He advised the proposal went to the Brevard County School Board, but they have not contacted the County; he was proposing to close the road during school hours and putting in a gate to ensure safety for the children crossing the road; it is unfortunate that cannot be done now; and he has gone back to his original request. He advised the current zoning has approval for two ingress points of access on Adams Place; Family Dollar prefers to have full access in line with the gas station, and having a secondary access on Fay Boulevard; and traffic would then be lined up with the traffic light. He proposed closing the ingress driveway permanently on Adams Place, that is close to the daycare, because children walk down Adams Place and cross at the intersection with a crossing guard. He advised that unanimous denials were given by the Planning and Zoning Board; in the staff notes, it specifies that the subject property is currently under the County's site plan review for redevelopment for retail store; the Board may wish to amend the existing BDP to limit the uses as previously stipulated by the BDP while allowing egress from Adams Place, as desired by the applicant; and added, the first time going before the Planning and Zoning Board it was now known that there were residents opposed and he feels it is part of the reasoning for being denied. He held a residents open house meeting on February 5th for the list of individuals that received zoning cards; there were three residents that showed up for the meeting; their concerns were addressed and he explained to them exactly what was being proposed; he does not know if any of those individuals are present tonight; but everyone was in agreement at the end of the meeting. He advised the only real issue is access; the Family Dollar will be going to this location one way or the other; he met with the Planning and Zoning Board on February 12th, but they elected not to vote on it because one member knew of him, due to attending an adjacent church; it was thought to be a conflict of interest; he did not get an opportunity to get a second vote from the Planning and Zoning Board; and he then decided to come before the Board for its consideration to approve, with no consideration of the Planning and Zoning Board.

Commissioner Infantini inquired if an individual is able to make a right turn on Adams and then make a left turn to head west on Fay Boulevard when leaving the property; and stated right now when leaving the property one has to do a u-turn on Fay Boulevard to be able to head west when leaving the property. Mr. Ferraro responded affirmatively; and stated the current BDP restricts any egress onto Adams Place.

Commissioner Nelson stated there is a school located close to the proximity; approving a commercial building and operation on a street that is used by a school, is additional traffic; and the church's aspect is different because it does not conflict with school timing.

Commissioner Fisher inquired if Family Dollar is allowed to be at the location by a zoning Code; and what is staff's opinion of ingress and egress at this location. Ms. Fox responded affirmatively; she replied that in her personal observation about the u-turn aspect, it would cause a lot of traffic backups in the area with trucks u-turning on Fay Boulevard; and stated there is a lot of traffic before, during, and after school hours on Adams Place.

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Commissioner Anderson stated school times are distinct times; the afternoon time would have more traffic issues than the before time, because the Family Dollar is probably not open when school starts; the idea of crossing Fay Boulevard and doing a u-turn, is far more unsafe than the proposed ingress and egress on Adams Place; and is he okay with the last proposed drawing that was submitted tonight.

Commissioner Fisher stated it will lineup traffic at the light; he respects the originally placed BDP on property; now looking at what the use of the property will be, it makes no sense to have people u-turning on Fay Boulevard, especially with school kids in the area; and by having this new design, it makes better sense to him, and it ensures safety for traveling east or west.

Mr. Ferraro advised he has already submitted a BDP to staff with that language in it.

Ms. Fox inquired if Mr. Ferraro had a pre-application conference with County staff; if it has been reviewed by the traffic section; and if they had any issues. Mr. Ferraro responded affirmatively; and stated the trips were minimal; and has no major impacts to level of service.

There being no objections heard, the Board approved Binding Development Plan limited to close the existing Adams Place driveway, and constructing a full access driveway on Adams Place to line up with adjacent property to the west.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Andy Anderson, Chairman/Commissioner District 5
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

ITEM III.C., ORDINANCE, RE: AMENDMENT TO ARTICLE VIII - ENTITLED "FERTILIZER USE ON URBAN LANDSCAPE"

Ernie Brown, Natural Resources Management Department Director, stated this evening the proposed amendments to the current fertilizer Ordinance are being presented to the Board; he has a PowerPoint presentation to talk about why to consider some additional strengthening of the existing Ordinance; the Board may recall the Indian River Lagoon (IRL) is in a crisis; one of the major inputs to the IRL related to nutrients is stormwater runoff and groundwater base flow; and those two contributors result in excess nutrients being carried to the IRL, which are feeding the algae blooms. He stated algae blooms, along with other turbidity in the system shade out the sunlight going into the sea grasses; the sea grasses are impacted, stressed, and are dying; that has resulted in a catastrophic decline; and there are several measures that the County can seek to restore. He stated the requirements and cost benefits of local government is the federal law that deals with Total Maximum Daily Loads (TMDL), that are requirements minimizing the amounts of nitrogen and phosphorus and limiting the amount of nutrients that go into our system; the State has created Basin Management Action Plans (BMAPS); Senate Bill 494 requires any impaired water with TMDL, is required to have a fertilizer ordinance and has to meet the State model; the burden to restore the IRL falls to the local governments; the average cost is \$1,000 per pound of nitrogen, to remove it from the IRL once it is there; and it is cheaper to remove or reduce the actual inputs before they head to the IRL. He advised the State has recognized that excessive fertilizer is creating a problem; and it has required Brevard County to have a baseline ordinance. He provided some historical actions of Brevard County, such as on December 11, 2012, the Board approved the fertilizer Ordinance substantially in the form of the State model ordinance; on October 17, 2013, the IRL Workshop was held, with 300-plus citizens talking about the condition of the IRL, and the Board unanimously directed staff to revisit the

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stronger elements of the fertilizer Ordinance; on December 17, 2013, the Board unanimously approved legislative intent to hear those stronger elements of the fertilizer Ordinance provisions; and on February 24, 2014, the Local Planning Agency unanimously recommended the amendments being presented to the Board tonight. He stated the conversations from 2011 to present are dealing with algal blooms, that are unprecedented in the IRL; it is suspected to have that same problem again this year; there has been several unusual mortality events with manatees, dolphins, and brown pelicans; and studies are currently underway to try, find, and refine exactly what those causes were. He stated there has been economic and ecological issues since the late 1990's; there have been a loss of the shellfish industry in Brevard County; and there is no direct correlation scientifically, but it seems to be extraordinarily coincidental that there has also been a significant deterioration of water quality, and increases of muck and input. He talked about the 60 percent loss of sea grasses from 1986 to present; the framework for the restoration strategy has a three-thronged approach, with the research being essential to its outcome; the amount of input needs reducing to the IRL system; the muck needs to be removed; and the filter feeders, such as oysters, clams, and the wetlands needs restoring. He advised the fertilizer Ordinance is one part of the overall solution to reduce pollutants; Brevard County has 71 percent of the entire IRL water body within its boundaries; and what is done here, so goes the northern lagoon. He highlighted on trends of fertilizers sold versus nutrients in the IRL; overall fertilizer sales in Brevard County have been declining; it is interesting that the nutrients in the Banana River are declining on a corollary level; the estimated phosphorus use, based on the sales trend in agriculture has drastically reduced its use of phosphorus; and commercial and residential has also reduced its uses of phosphorus, but not to the extent that agriculture has. He stated the estimated nitrogen use trend is declining; the agricultural use of nitrogen in Brevard County has gone from 3.5 million pounds a year to just under one million pounds a year; and he pointed out an interesting trend line of the non-agriculture nitrogen use has increased in that same time period from about 1.5 million pounds a year to just under 2.5 million pounds a year. He added, agriculture communities are a bottom-line driven operation; and they are only going to put on what they have to put on to maximize their yield. He stated tonight there are five significant changes proposed to the existing Ordinance; one is no fertilizer containing phosphorous shall be applied to turf or landscape plants unless a soil or plant tissue deficiency is verified by the University of Florida, Institute of Food and Agriculture Sciences (IFAS) methodology; two is 50 percent slow release nitrogen per guaranteed analysis, that is consistent amongst Martin, St. Lucie, and Indian River counties, and nine municipalities having an ordinance of this nature, along with over 50 other jurisdictions in the State of Florida; there is no fertilizer containing nitrogen or phosphorous shall be applied to turf or landscape plants during the restricted application period of June 1st through September 30th; four is recommending to expand the existing State mandate of 10 foot fertilizer free zone of to 15 foot fertilizer free zone; and five is removing the provisions for the deflector shield exemption. He went on to say the agriculture community for decades has been using filter strips to improve water quality; if the filter strips are properly installed and maintained, they have the capacity to remove up to 50 percent or more of nutrients and pesticides, remove up to 60 percent or more of certain pathogens, and remove up to 75 percent or more of sediment. He concluded by saying staff is striving to present an ordinance that provides Lagoonwide consistency of reducing inputs; a number of Commissioners had asked staff to explore what is happening on the west coast; Sarasota County has had its ordinance in place since 2008; its waters are in recovery now; and its fertilizer ordinance is one small part of a very large restoration effort. He added, the Commissioners had also asked staff how would the fertilizer ordinance impact the industry; a telephone survey of five questions was done by calling the lawn care companies within a 50-mile radius of Sarasota County, that consisted of surveying 28 companies, such as if services are performed in Sarasota County, if they comply with the ordinance, if the customers are satisfied with the service, and if the company is willing to provide a letter or statement of that affect to Brevard County's Board; and 77 percent of the respondents said they work in Sarasota County and the customers are satisfied. He advised that he was quite persuasive when he was inquiring if they were willing to provide a written statement to the Brevard County Board of

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County Commissioners, explaining how this has affected businesses and the industry, with education being key.

Commissioner Infantini inquired if the Board is interested in taking a pre-vote to poll the Board, because if it is a 5:0 vote to approve, that may save a lot of time.

Commissioner Fisher replied in all fairness the people who are opposed to the ordinance need to have their opportunity to speak.

Commissioner Infantini clarified she is not suggesting for anyone to not speak; and stated if there is a consensus on the Board of 5:0, some people may not choose to speak.

Commissioner Anderson stated he would like to hear from the gentleman of the industry, because he has some questions; stated legally the Board cannot poll, but it can state what they are going to do in advance; and he does not disagree with what Commissioner Infantini is thinking to save time.

Commissioner Nelson inquired if the County Attorney will give clarification. Morris Richardson, Assistant County Attorney, responded this is not a Quasi Judicial hearing and technically, that does not apply; stated it could relax some debate and be seen as restrictive of the public's ability to come and state what they want if they believe the Board has already predetermined what they are going to do prior to hearing; and everyone who is present today has the right to speak on the Item.

Commissioner Infantini stated if everybody was on-the-same-boat and if the Board was in favor, it would not be hindering anyone's vote because everybody is on the same page; but if there are some that are on a different page, she completely agrees.

Chairman Bolin Lewis advised she prefers to not do a pre-vote, because there could be anyone in the audience that would have a statement or some information that could change the decision of where she stands; she wants to hear that before making her final decision; and she inquired if the Board would consent to three minutes of public comments.

Mr. Richardson advised by motion of the Board, three minutes can be done; and for the number of speakers to try and not be unduly repetitive.

The Board authorized three minutes for public comments.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Chairman/Commissioner District 5
SECONDER:	Robin Fisher, Commissioner District 1
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

Michael Juchnowicz, President, Chief Executive Officer, and Founder of Garden Master of Southwest Florida, stated his scope of work stretches from Manatee, Sarasota, Charlotte, Lee, and Collier counties; his annual revenue has increased \$1.2 million from 2007 to 2013; and in Sarasota County he was instrumental in helping to get the fertilizer restrictions passed. He advised fertilizer companies have adapted; there are good slow release blends; the setback rule will consist of having consumer education; his fertilizer usage has been reduced; and he uses two granular fertilizer a year, two liquids, and one micro nutrient during the blackout period. He pointed out that since there was no excess nitrogen coming in the summer, the lawns were not overt; chinch bugs and fungus were reduced; and his historical data shows that since the laws

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have been implemented, his fungicide and insecticide uses had gone down. He advised there are great models in place for crafting a law; the Board should make sure there is a provision for a variance of foreclosed homes; be firm, fair, and consistent; and education for all is paramount.

Jason Steele, Florida Partnership for Sustainable Green Space Representative, stated he thinks Mr. Brown did not reach anyone on his side to talk about a survey that they could have done opposite of Mr. Juchnowicz; this issue has been cloaked with wonderful children that love the IRL; but the Board is blaming the wrong group. He stated he does not want the Board to tell him what to do, when to do it, and not insult him through an ordinance that is not enforceable; the real problems are septic tanks, freshwater intrusion, climate, and big money; and the model ordinance proves that this issue is not going to go away without full measures.

Clyde Giesenschlag stated in Brevard, Indian River, St. Lucie, and Martin Counties, there are 27 municipalities, accounting for 31 government entities, and 26 have passed or in the process of passing fertilizer ordinances; and he agreed entirely with Mr. Brown.

Elliot Zace, Slug-A-Bug Pest Control, revealed a 2009 photo before dealing with fertilizer ordinances; he stated he uses the picture when training and showing people that if there is a setback, to stay away from water; the BMP manual refers to it as the ring of responsibility; his second photo shows a straight line of fertilizer; and in his third photo, it shows one of the most important principles of fertilization is avoiding fertilizer application to dormant, or none growing turf grass. He is frustrated that there is a room full of professionals, not fly-by-night companies that do not give a crap about water; the BMP manual was written and it says 'Florida friendly, Best Management Practices, for protection of water resources by the green industries'. He added, Florida Department of Environmental Protection (FDEP), Florida Department of Agriculture and Consumer Science (FDAC), St. Johns River Water Management District (SJRWMD), South Florida Water Management District (SFWMD), Southwest Florida Water Management District (SWFWMD), University of Florida (UF), and Extension Offices who helped write the manual, not big industry. He asked the Board to be fair and exempt the BMP certified professionals.

Vince Lamb stated during the recent Palm Bay City Council discussion of a fertilizer ordinance, two Commissioners stated that they believed the UF science indicated that the rainy season ban, and other provisions of a strong ordinance were not needed; as a concerned citizen who began investigating information from UF Institute of Food and Agricultural Sciences (IFUS), he has a two-page listing of IFUS publications with "supporting a rainy season ban, and the other strong ordinance elements"; and IFUS presented results in January 2013 that confirmed a successful experience, with rainy season bans. He advised that he thinks there is more that IFUS has presented; while fertilizing during the rainy season may be helpful to the grass, it is harmful to the IRL because the runoff is unavoidable; the partnership for a sustainable green space was formed by a coalition of fertilizer, real estate, and other industries; and these groups are planning litigation against municipalities for an attempt to protect the waterways. He stated a strong fertilizer ordinance is a necessary part of the solution; and he is hopeful it would be followed up with muck removal, reductions in septic tank leaching, and improvements in stormwater management.

Rob Solito, TruGreen representative, stated he supports the State model ordinance.

Authur Cleveland stated he has 23 years experience in the industry with TruGreen; he asked the Board to reject the blackout period from the proposed ordinance; and to exempt professionals from the blackout period.

Bill Morris stated he has a study that shows nitrogen from fertilizer application ends up in Florida's water bodies; it seems to be a private property rights issue; the BMP is not written in

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stone and can be changed; the State model ordinance is a one-size-fits-all and it does not address extraordinary circumstances of a dying IRL; and he recommend the Board adopt a stronger ordinance for Brevard County.

Bill Hillberg, North Merritt Island Homeowners Association Representative, stated there are over 3,500 residents who have strong ties to the IRL; there are health risks to the population when water is allowed to be contaminated to the point of marine death; and he urged the Board to approve the amendment as written.

Todd Josko, TruGreen Representative, stated all lawns are not the same; the problem is a one-size-fits-all solution; the problem with a blackout period for professionals is folks are hiring them for an expert opinion of lawn quality; and when the folks are told that their lawn is damaged and they have to say there is nothing that can be done for about four to six months, because of being a route-based business. He advised the professionals will not be able to do what they were trained to do for six months out of a year; and he is requesting something that works for every one by exempting professionals that is based on a documented need. He suggested having a date certain commitment to pull sides together, with the goal of coming up with a limited exemption for professionals.

Stephen Chalmers stated he reviewed the Annual Report he received Sunday in *Florida TODAY*; the coming years focus is job creation and balance with needs to protect the environment, but it does not reflected the dollars and cents part of it; it spells out what has been heard over the last couple of years about the state of the IRL; and it is a myopic snapshot of last year and the years to come without any committed business substance.

Charles Tovey stated he has been working on the IRL for 10 years; he has evidence and video to help make money cleaning the IRL; he wants to give the Board minor and major elements of fertilizer use; when phosphate is taken out of fertilizer it makes a plant unbalanced with no roots; when heavy rains come, it washes fertilizers into the IRL; and then causing double applications of fertilizer being needed to fix the cause. He stated green algae is the freshwater and brown algae is the saltwater; it all has to be balanced; Canal 54 is un-filtered water heading to the IRL; and is a major freshwater source that's filtered to the IRL, which is Palm Shores.

Peter Snyder, Florida Turfgrass Association Executive Director, stated he is present to advocate for healthy turf, because healthy turf grass is the best filter of nutrients and pollutants; the best way to maintain healthy grass is to fertilize it during its active growing period; his industry will fight the blackout period; and he is willing to work with the Board to find a compromise for all.

Commissioner Fisher inquired why Florida Turfgrass Association has not fought any other county or city that has passed this type of ordinance. Mr. Snyder responded it has in Sarasota County; stated he is not the only association in the industry that is speaking out; and there is Florida Nursery, Growers, and Landscape Association (FNGLA), Florida Pest Management Association (FPMA), Certified Pest Control Operators (CPCO), the golf course people, and the sports turf people have all came together to act as one. He advised all the professionals by January 1st must be BMP certified; by the Board taking its action, it is taking away from them; and he does not know if there will be a lawsuit because he does not make that decision.

Commissioner Anderson advised he is a Libertarian and it is all-or-none for him, with everybody getting blacked out, or nobody getting blacked out.

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Mr. Snyder advised the certification programs can be extended to the homeowner for a nominal fee; but enforcement can be very difficult.

Erica Santella, TruGreens Florida Branches Technical Manager, asked the Board to reject the blackout period.

Judy McCluney suggested the Board to pass a strict ordinance.

George Rosenfield reiterated for the Board to pass a strict fertilizer ordinance.

Mike Daniel, Sebastian Inlet Chapter of Surfriders Foundation Chair, advised the Board to pass the strongest fertilizer ordinance possible.

The Board recessed at 7:14 p.m. and reconvened at 7:25 p.m.

Steve Konrath advised the Board to make a fact-based decision on the science and to keep the current Ordinance in place; and he asked the Board to reject the blackout period.

Jim Durocher read aloud the 'Dune of Death' by Matt Hayden.

Michael Alford stated the blackout period is not a good idea and will not be effective, because there will be customers going five to six months without getting any type of fertilizer; he encouraged the Board to not do things because it is easier or cheaper, but to do the right things to save the IRL; and he believes that the blackout period is not going to save the IRL.

Allen Fugler, Florida Pest Management Association Executive Vice President, advised the Board to reject the blackout period; he stated there is no new science produced by any reputable review organization, university, or through any publication; and he asked the Board to let the Ordinance work, because it does work, and to call the researchers to ensure that the conclusions drawn by staff are the same conclusions intended by the researcher. He added, IFUS does not support the blackout period.

Steve Lum, Slug-A-Bug Pest Control President, provided the Board with a handout of pictures; stated 50 percent slow release fertilizer is legal to apply; and he inquired if the proposed ordinance is going to be effective and do what it says it is going to do. He stated in the City of Rockledge the place to go for fertilizer is Lowes; on March 4, 2014, he took pictures of all the turf fertilizer he could find in Lowes; pages one through three show photos of fertilizers containing 50 percent slow release nitrogen; and there are 18 pages showing photos of fertilizers that is not 50 percent slow release nitrogen. He stated in the City of Satellite Beach the place to go for fertilizer is Lowes; he counted 1,630 bags of fertilizer, which 270 was 50 percent slow release nitrogen; the other 1,360 was not 50 percent slow release nitrogen; and he inquired if over 80 percent of the fertilizer stocked in these two stores where it is legal to put out 50 percent slow release nitrogen is likely to be in compliance. He pointed out that a stricter ordinance is unenforceable and effective and enforcement is possible when directed at the green-services industry; it unfairly targets professionally trained Green Industries Best Management Practices (GI-BMP) certified applicators; and is discriminatory. He asked the Board to exempt those who are GI-BMP certified.

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Dr. Leesa Souto, Marine Resources Council Executive Director, stated there is a serious nitrogen pollution problem in the IRL and it is in a crisis, with nutrients playing a big part in that; between 20 and 79 percent of urban fertilizer runs off into receiving surface waters; nitrogen can be stored as sinks in the soil indefinitely, and it might take years to leach out, or runoff; chemical fertilizers are bad for soil; they strip and kill the native Biota; and causes a lawn to become almost addicted to chemical fertilizers. She went on to say once fertilizer is dissolved in water it costs a fortune to get it out; the local economy is at risk with the impact of the sea grass losses to fisheries and tourism; 15,000 jobs are relying on the IRL's health; and UF/IFUS BMP is codified and based on science and these additional recommendations came out of that BMP. She added, homeowners usually apply fertilizer in spring and fall; professionals apply all year, including rainy and dormant seasons; the chemical industry is adamantly opposed to strong fertilizer ordinances and they have invested a lot of money to prevent local fertilizer control; and she encouraged the Board to adopt the additional provisions.

Doug Sphar provided the Board with a handout of a vacant lot in his neighborhood that seems to suggest the need for fertilizer is overhyped; he stated that lot is owned by some foreign nationals that live in Asia; they have never stepped foot on the lot; and about 20 years ago he and another neighbor were tired of the nuisance and started mowing. He pointed out originally there was no turf grass there; the turf grass moved in on its own, never had fertilizer, pesticide, or irrigation and it thrived year round; when the chinch bugs were bad in the neighborhood, they passed over this particular lot; and he encouraged the Board to go ahead and pass the strong fertilizer ordinance.

Raymond Godfrey stated his family moved to Brevard County in the late 1940's and they enjoyed decades of swimming, fishing, and boating the IRL; he had always been struck by the sense of joy, hope, inspiration, and imagination that came to the young and not so young who live, and visit here; the longer a complex problem is allowed to remain unfixed, the greater the problem becomes the cost to fix; and he read aloud words of inspiration from a Native American Chief "We are looking ahead as is one of the first mandates given us as Chief, to make sure and to make every decision that we make to the welfare, and well being of the seventh generation to come."

Spence Guerin stated the 1996 IRL Comprehensive Conservation and Management Plan was an important Plan to restore and save the IRL; after 20 years everyone is quibbling about how much fertilizer should be allowed on sod grass lawns; and making threats to sue to be able to fertilize. He stated the value of a healthy IRL is \$3.7 billion annually to the communities along the IRL; there are healthy alternatives for sod grass lawns; and healthy sea grasses are essential and sod grass lawns are not. He advised the IRL is almost dead compared to what he remembers in the 1950's; millions of duck migrated in the IRL at the Melbourne Causeway; and it is time to quit the quibbling and pass a strong ordinance.

Suzanne Valencia stated England exported their green lawns; this is not native; and she agrees with all the people who want this ordinance to pass. She urged the Board to pass a strong fertilizer ordinance.

Jill Klein stated if there was not a problem there would not have been the greatest manatee die off this year; and she thinks passing the strongest environmental legislation possible will help preserve what is left of the IRL, instead of spending taxpayer dollars to clean up the mess.

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Michael Myjak stated he grew up in Bunnell and learned the sawfish came out of the IRL; things have changed and there are no clams, oysters, and sawfish in the IRL; he was appointed to a study being done by the SJRWMD to try and make the IRL a water source; to get rid of the poisonous, excess freshwater; and within a matter of weeks it was pointed out that there is no way that they are going to be able to pull out 60 million gallons of water a day. He advised there was a crisis when the oysters and clams left; pulling water out was not taking out the poisonous effluents from that kind of desalinization; the IRL is like a bathtub, collecting water and effluents that is coming off of the lands; the problem is known that it is created by humans; the IRL is a jewel that needs taking care of; and he is hopeful for the Board to pass a strong ordinance.

Gail Meredith expressed her thanks to the Board for trying to pass a strong fertilizer ordinance; she encouraged the Board to do so; it is sad to see a global treasure die; and it is heartwarming to be part of a group trying to encourage the Board to save the natural beauty of the animals and plants of the IRL. She asked the Board to stand firm and pass a strong fertilizer ordinance.

David Botto, Marine Resources Council Volunteer, stated the BMP and the State model has been around for several years; the status quo is not working; 60 percent of seagrass has been lost; in a couple of years 60 percent of the fish will be lost; the IRL has a \$3.7 million value per year to the communities; many businesses and jobs have been lost; and no more businesses and jobs needs to be lost. He advised that the Anglers for Conservation in January held a canoe and kayak paddle the length of the IRL; they reported a 70 mile stretch had no seagrass in Brevard County; last month he talked with officials in Sarasota County; and he was told that in the six years of having a strong ordinance, they have had not had any significant problems. He concluded by saying an open-minded government is hard to find today in this country; he commended the Board for being open-minded; and he is proud of every one.

Dean Traylor suggested for the Board to look at the 2008 ordinance passed in Duval County; it has 30 percent slow release nitrogen and no blackout; St. John County has 30 percent slow release nitrogen and no blackout; Alachua County has 30 percent slow release nitrogen and no blackout; there has not been a lot of media coverage on things failing in those counties; and those water issues are due to the St. Johns River, springs, and Tampa Bay. He advised that he is hearing in the news about the manatee die offs being due to bacteria growing on the algae, that is growing on the seagrass which is killing the manatees.

Mary Sphar expressed her thanks to the Board for considering a revision to the model ordinance for the IRL; stated she is proud the Board is putting the IRL first; there are 15 local governments along the IRL that passed the State model ordinance; and 13 of those local governments are in the process of revising their model ordinance to be stronger or they have already revised their model ordinance. She addressed the exemption for professionals during the blackout period; stated Orange County has the only ordinance with professional exemptions; in the City of Rockledge they passed a strong ordinance and after a couple of weeks three representative of the turf grass industry asked for an exemption; and that request provoked a big protest outside of the City's Hall. She went on to say in Indian river County they temporarily passed an exemption, but at its next meeting there was such outrage, that they decided it to be a horrible idea; and she thinks a law suit would be a public relations nightmare for the turf grass industry, and is never going to happen. She stated the IRL Counties Collaborative has a meeting tomorrow; they are pushing the idea of

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uniformity with regard to these ordinances; she is hopeful Commissioner Nelson will be able to report tomorrow morning that Brevard County passed a strong ordinance.

Linda Behret stated she is speaking on behalf of the local Sierra Club and herself, as someone who will be affected by what may be passed this evening; she expressed her thanks to the Board for reconsidering a strong ordinance to help the IRL to recover from the impalement that it has now; and she asked the Board to pass a strong ordinance.

Maureen Rupe stated she has been in contact with the west coast where the fertilizer ordinance has been in effect for many years with great success; the Pinellas County ordinance is countywide, which is critical to the program's success; the water quality report for Tampa Bay last year had unprecedented water clarity in many areas; and if enforcement is put in the ordinance, the turf grass industry will comply. She asked the Board to pass a strong ordinance for Brevard County and the IRL.

Brent Dixon, Massey Services General Manager, stated he and his family spends a lot of time on the IRL; the smell of the river is a problem; compelling results have been heard from professionals about the IRL; the ordinance in Sarasota County was designed to reduce Red Tide; and the BMP works and can be enforced. He stated the blackout ordinance on the west coast has added a 20 percent increase to cost; 15 percent more in no charge services; and more homeowners are beginning to fertilize themselves.

Molly Jennings, Scotts Miracle-Gro Florida Team of West Palm Beach, expressed her thanks to the Board and to staff for its time spent on fertilizer issues; stated she is present to express Scotts Miracle-Gro support of the ordinance in effect today; there are opportunities to help people be good water stewards; and this desire helps to remove phosphorus from lawn-food products, reducing nitrogen content in products, and pioneering things like Snap Spreader Systems. She stated Scotts Miracle-Gro has launched a multi-year commitment to research and outreach in Florida, aiming at water quality; on the east coast they are supporting local research groups working towards uncovering the sources of nitrogen in the IRL; and they announced a Statewide consumer education campaign through advertising, with tips of proper lawn care ideas for regular consumers. She advised radio and digital advertising's are underway in Brevard County, which will be heard when going into the growing season; lawns provide a valuable function in neighborhoods, by providing buffers and counteracting the hard services that exist; it is known that healthy and well-feed lawns will filter and absorb stray nutrients from running water and stormwater, much more efficiently than un-feed lawns; and rather than a blanket prohibition during the growing season, they believe that the most progress can be made by working collaboratively, to promote a common set of best practices for lawn and garden care.

Leslie Maloney pointed out enforcement keeps coming up; stated people change their behavior over time when things become a law; if a strong ordinance is passed it will help with qualifying for grant money to help educate the citizens; she urged the Board to include the rainy season ban in the ordinance, which is a must for receiving grant monies; she provided the Board with an educational pamphlet called 'Be Floridian'; and she wants the Board to pass a strong ordinance to help protect quality of life.

Terry LaPlante stated rather than exempting golf courses, they should follow the example of Sarasota County, by having a separate Code of ordinances for golf courses because they require a resource management plan requiring a plan for fertilizer, insecticide, water, and stormwater management; and the Board should have received it via an email sent today.

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She stated if the decision were hers to make today, she would have a moratorium on all fertilizers for everyone until the IRL is clean.

Carol Hamilton provided the Board with pictures of her yard that were taken in August 2013; several years ago she received a proposal for her lawn that included six applications of fertilizer a year; in addition to winter and spring; late spring and summer applications are a supplemental fertilizer applications to keep the lawn green; the late summer fertilizer is applied in August or September is an additional fertilizer treatment to keep the grass growing; and a fall fertilizer treatment is applied in October or November. She went on to say after following this schedule for a couple of years her lawn care provider complained to her about the growth of the grass, having a hard time mowing it, and that it is growing over itself; stated she became concerned because her yard slopes back into a lake, that flows into the IRL; and she then decided to have no more summer fertilizer. She added, this is the eighth year she has imposed a voluntary summer ban; stated the IRL, the fish, and the wildlife do not need the extra fertilizer; the science that supports the need to reduce the use of chemical fertilizers is clean; and she asked the Board to pass the summer ban.

John Hitchcock, Board Member of United Water Fowling of Florida and Diamond Member of Ducks Unlimited; stated the combined membership Statewide is in excess of 15,000 of the groups he represents; and the sport fishermen statewide is several hundred thousand people that enjoy the IRL. He stated Brevard County used to be one of the best places in the southeast to go duck hunting; this year more ducks were found in stormwater ponds than in the stick marsh; the stick marsh is grown over and does not have a good habitat for the ducks anymore; and when there is not a good habitat for ducks, there is not good spawning areas for game fish. He stated the algae is dominating the IRL; when the food web crashes, the economy is going to crash, and all those sportsmen who come from all over the world will not come; and United Water Fowling of Florida voted unanimously several times on this issue to support a summertime rainy season ban.

Diane Stees stated she has one sprinkler, underfed grass, over 72 species of birds on her property, and she is proud of it; she is a homeowner, a long-time resident of Brevard County, and does not represent any organization; and she has been educating herself since the plight of the Lagoon being international news. She advised tonight it was heard that over 60 percent of the seagrass is lost, but it is closer to 97 percent in central Brevard County; there is no seagrass between Cocoa and Melbourne; there has been at least five different species of algae's blooming in waters recently; and it was found that the manatees and dolphins that died last spring were dying in different ways. She went on to say the manatees were eating macro algae and were dying suddenly from neurotoxins; the dolphins were starving to death because there is no fish; when the aerial surveys were being done to look for dolphins, it was found that bull sharks throughout the Lagoon, and they were feeding on the dolphins; and had to look at which way the tails were moving to determine if it was a dolphin or a bull shark. She stated she has a co-worker that had a graze on his ankle before spending a day in the water near the barge canal and he got Meticillin Resistant Staphylococcus Aureus (MRSA); he could not walk; it took six weeks and three rounds of antibiotics before he healed; and the state of the IRL is affecting people also. She advised the Board to consider using this issue as an opportunity to do some public education; encourage Lagoon friendly landscaping; the public supports the passing of a stronger ordinance; and the Board represents the public.

Deborah Longman-Marien stated she is worried for her health, because her family lives in Quebec, and lakes are being shut down due to blue-green algae; she does not have any

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articles to provide the Board with, because they were all written in French; she read about the bad effects of blue-green algae has on humans; and people were even advised to not go near any shores. She stated there is water everywhere in Florida; she is wondering what are in all of the retention ponds in her area; and she is not sure if the area she is living in is all that clean. She stated she wished there were more studies done; all bodies of water are being affected; she loves nature, but she is concerned about her own health because too much blue-green alga can give someone Alzheimers; and she prefers Florida's native landscape.

Laurilee Thompson stated she is a Member of the Southeastern Fisheries Association and a 65-year Member of the Trade Association in the State of Florida; BMP's have been in place for while; whatever has been done for the IRL has not worked; it keeps getting worse; it needs fixing; and she urged the Board to pass a stronger ordinance.

Jim Moir stated he is a resident of Martin County; they passed a strong fertilizer ordinance several years ago; the issues are different in Martin County; communities both environmental and social are complicated networks of interconnected feedback loops; it is a complex ecosystem that everyone lives within; and the interdependence to the right thing is visceral. He stated the Lagoon's dependence on the cycles of life that has been sustained for hundreds of thousands of years are vital; the nitrogen cycle that has existed forever is very complex; it relies on mostly nitrogen coming from the sky, rain, and air being fixed by lightening; most of the rain happens in the summertime; and there is no need for surplus nitrogen to make grass grow, any better than it does. He advised surplus is pollution and by not passing a strong summertime ordinance, the Board is permitting people to pollute; it is bad for the environment; it has been proven through all sorts of river and ocean bodies in the world that there is too much nitrogen coming from petroleum and natural gas; it can be seen in the body; it is a moral imperative to start working at reversing the degradation inflicted on the Lagoon; it is the Boards imperative to not inflict anymore nitrogen on the IRL; and as neighbors to the south, they want a strong ordinance adopted now.

Corry Westbrook stated if a person has a choice of where they want to retire to or buy a seasonal residency home why would they pick a place that has a dead Lagoon; instead they may go to Sarasota or Tampa; and the Eighth District should be extremely concerned about the health of the IRL. She stated she is hopeful that the IRL can be restored back to health; passing the strongest possible fertilizer ordinance is one step towards restoration; and she expressed her thanks to the Board for its steps towards bringing the IRL back to health.

Philip Stasik stated the Board has heard some very compelling arguments; he is hopeful the Board has thought the subject thoroughly; and he asked the Board to have the courage to vote in support of the strongest possible ordinance tonight limiting fertilizer. He advised the Board that for 20 years he has been a scuba diver; he has dove the IRL many times; he is the president of the largest dive club in the County; and he is a retired airline pilot who has been flying over the IRL for more than 30 years, and has watched it degrade in that time. He went on to say the IRL is not dead, but it is dying; it is disturbing to see dead animals at the bottom of the IRL; the Board can make a difference by making the right decision to limit fertilizer runoff, remove muck, and install sewers to replace septic systems that are leaching nitrogen into the IRL. He stated if the IRL is left to die, so will Brevard County.

Commissioner Fisher stated in October it was known that there is a serious issue; a Workshop was held at the Lagoon House; and a fertilizer ordinance was looked into. He

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appreciated all the comments opposed to it; but the Board needs to go ahead and pass the ordinance.

Commissioner Infantini stated she originally was opposed to this; she has met with individuals and done some homework; typically this is not the way she would vote, but she is concerned about the IRL; this is the starting something that she can do to help make a difference; and this ordinance can be reversed if it does not help.

Commissioner Anderson stated his son did a science project this year on fertilizers and turf grass; he had 30 pans with pieces of sod that were fertilized; he replicated normal and heavy rain events; the ammonia that was coming off the project made his eyes burn, and he thought that cannot be healthy; the project showed that even with the 50 percent use, the heavy rain season had a ton leaching in those pans versus the other pans; and everyone can thank his son, because he is in favor of this.

Commissioner Nelson stated the Board received a letter from the industry folks saying the lawn is not just a piece of land between his house and the street, it is part of his home; he agrees with that to an extent, that it is his yard, but the Lagoon is everybody's; this is the right thing to do, it is the first step, and there is a long way to go; the citizens have said that something has to be done; this is supported by the folks the Board represents; and he is going to vote in favor of it.

Commissioner Fisher advised the groups present today, they will be needed to be present to address stormwater, because that is another issue that needs to be addressed.

Commissioner Bolin Lewis stated her husband has been in the fishing industry for over 30 years; she is for this ordinance; and this is one step towards a solution to turn things around.

The Board adopted Ordinance, No 14-10, amending Chapter 46, Environment, creating Article VIII, entitled "Fertilizer Use on Urban Landscape"; specifically providing for the regulation of pollutant runoff and the application of fertilizers as required by law; creating Section 46-335 Purpose and Intent; Section 46-336 Definitions; Section 46-337 Applicability; Section 46-338 Timing of Fertilizer Application; Section 46-339 Fertilizer Free Zone; Section 46-340 Low Maintenance Zone; Section 46-341 Fertilizer Content and Application Rates; Section 46-342 Application Practices; Section 46-343 Management of Grass Clippings and Vegetative Matter; Section 46-344 Exemptions; Section 46-345 Training; Section 46-346 Licensing of Commercial Applicators; Section 46-347 Enforcement and Monitoring; Section 46-348 Penalty; additional remedies; Section 46-349 Appeals; providing for conflicting provisions; providing for severability; providing for inclusion in code; and an effective date.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Fisher, Nelson, Infantini, Bolin Lewis, Anderson

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By consensus of the Board, the meeting adjourned at 8:55 p.m.

ATTEST:

SCOTT ELLIS, CLERK

MARY BOLIN LEWIS, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA