



AGENDA REPORT
May 2, 2019

**Motion Waiving Potential Conflict of D2 TDC Nominee Anna Palermo,
District 2**

SUBJECT:

Standards of conduct for public officers, employees of agencies, and local government attorneys: doing business with one's agency.

FISCAL IMPACT:

None.

DEPT/OFFICE:

District 2

REQUESTED ACTION:

The Board of County Commissioners is asked to approve the appended motion.

SUMMARY EXPLANATION and BACKGROUND:

§ 112.313, Fla. Stat., imposes certain standards of conduct upon public officers, employees of agencies, and local government attorneys. The Board of County Commissioners is asked to waive any conflict resulting from District 2 TDC appointee Anna Palermo's employment with Spectrum Reach insofar as it might preclude District 2 TDC appointee Anna Palermo from serving on the TDC and, to the greatest extent permissible, any subcommittee thereof as discussed in much greater detail in the appended motion.

ATTACHMENTS:

Description

- ▣ **Motion Waiving Potential Conflict of D2 TDC Nominee Anna Palermo**
- ▣ **Form 4A Anna Palermo 4-29-19**



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Tammy.Rowe@brevardclerk.us

May 3, 2019

M E M O R A N D U M

TO: Bryan Lober, Commissioner District 2

RE: Item J.1., Motion Waiving Potential Conflict of District 2 Tourist Development Council (TDC)

The Board of County Commissioners, in regular session on May 2, 2019, approved the Motion Waiving Potential Conflict for subsections (3) and (7) of the Florida Statue 112.313, insofar as precluding District 2 TDC appointee Anna Palermo from serving on the TDC, to the greatest extent permissible, and any subcommittee thereof; and directed the County Attorney and the County Manager to implement any necessary procedural change(s) with respect to the appointment process such that appointees list potential business conflicts prior to appointment, so that conflicts may be more timely addressed and waived concurrent with appointments being made.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/ds

cc: Each Commissioner
County Manager
County Attorney
Tourism Development Director

Motion Waiving Potential Conflict of D2 TDC Nominee Anna Palermo

I move, pursuant to § 112.313 (12), Fla. Stat., to waive subsections (3) and (7) of § 112.313, Fla. Stat., insofar as they might otherwise preclude District 2 TDC appointee Anna Palermo from serving on the TDC and, to the greatest extent permissible, any subcommittee thereof. This motion contemplates, pursuant to statute, Ms. Palermo timely disclosing, upon becoming aware, that a particular vote would inure to her special private gain or loss.

It also contemplates that, while Ms. Palermo will be free to participate in discussions of such votes following her timely disclosure, she will abstain from voting in any such matter and follow the provisions of section § 112.3143 (3) a and (4).

Ms. Palermo has extensive subject matter expertise in marketing, hence the reason I selected her for inclusion onto the TDC as well as the marketing subcommittee. It is also likely the reason TDC Chairman Tim Deratany appointed her to chair the marketing subcommittee. Ms. Palermo has been and remains an employee of Spectrum Reach (previously Brighthouse, previously Time Warner, etc.) for approximately 30 years. She has a preexisting business relationship with the Tourism Office in that she has been involved, for approximately 15 years, in handling the Tourism Office's account, with Spectrum. Upon information and belief, Ms. Palermo is paid on a commission basis. I have been additionally informed that her commission has not exceeded \$5,000 for the preceding two years and that it is not expected to exceed \$5,000 this year.

It would be wholly inappropriate for Ms. Palermo to vote on any matter which would inure to her special private gain or loss. However, it would be similarly inappropriate to punish the TDC and, by extension, Brevard County by depriving the TDC of Ms. Palermo's subject matter expertise given that she will not be voting on matters involving her employer.

The Tourist Development Tax statute requires representation, on the council, by individuals involved in various tourism related industries. Due to that requirement, conflicts are likely to occur in a county of this size. To avoid similar concerns arising, in the future, included with the instant motion, I am additionally moving that the County Attorney and County Manager be directed to implement any necessary procedural change(s) with respect to the appointment process such that appointees list potential business conflicts prior to appointment (e.g., upon nomination) so that conflicts may be more timely addressed and waived concurrent with appointments being made.

Though this is not a part of this motion, should this motion fail, I'd ask that TDC Chairman Tim Deratany appoint me to the Marketing Subcommittee and permit me to serve as Chair for the remainder of the year.

FORM 4A DISCLOSURE OF BUSINESS TRANSACTION, RELATIONSHIP OR INTEREST

LAST NAME - FIRST NAME - MIDDLE INITIAL <u>Palermo Anna A</u>		OFFICE / POSITION HELD <u>TDC & Chair of marketing</u>	
MAILING ADDRESS <u>750 Avocado DR</u>		AGENCY OR ADVISORY BOARD <u>Brevard County Tourism Development Council</u>	
CITY <u>Merritt Island FL</u>	ZIP <u>32953</u>	COUNTY <u>Brevard</u>	ADDRESS OF AGENCY <u>430 Brevard Ave. #150 Cocoa FL</u>

HOW TO COMPLETE AND FILE THIS FORM:

32922

Parts A and B of this form serve two different purposes. Part A is for advisory board members who wish to use an exemption in the ethics laws that is applicable only to advisory board members. Part B is for public officers and employees who wish to use a separate exemption that is applicable when the business entity involved is the sole source of supply within the political subdivision. In order to complete and file this form:

- Fill out Part A or Part B, as applicable.
- Sign and date the form on the reverse side.
- File Part A with the appointing body or person that will be waiving the restrictions of 112.313(3) or (7), Fla. Stat., prior to the waiver.
- File Part B with the governing body of the political subdivision in which the reporting person is serving, prior to the transaction.

PART A - DISCLOSURE OF TRANSACTION OR RELATIONSHIP CONCERNING ADVISORY BOARD MEMBER

WHO MUST COMPLETE THIS PART:

Sections 112.313(3) and 112.313(7), Florida Statutes, prohibit certain business relationships on the part of public officers and employees, including persons serving on advisory boards. See Part III, Chapter 112, Florida Statutes, and/or the brochure entitled "A Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees" for more details on these prohibitions. However, Section 112.313(12), Florida Statutes, permits the appointing official or body to waive these requirements in a particular instance provided: (a) waiver by the appointing body must be upon a two-thirds affirmative vote of that body; or (b) waiver by the appointing person must be effected after a public hearing; and (c) in either case the advisory board member must fully disclose the transaction or relationship which would otherwise be prohibited by Subsections (3) or (7) of Section 112.313, Florida Statutes. This Part of Form 4A has been prescribed by the Commission on Ethics for such disclosure, if and when applicable to an advisory board member.

PLEASE COMPLETE THE FOLLOWING:

- The partnership, directorship, proprietorship, ownership of a material interest, position of officer, employment, or contractual relationship which would otherwise violate Subsection (3) or (7) of Section 112.313, Florida Statutes, is held by [please check applicable space(s)]:
 - ☒ The reporting person;
 - ☐ The spouse of the reporting person, whose name is _____; or
 - ☐ A child of the reporting person, whose name is _____.
- The particular transaction or relationship for which this waiver is sought involves [check applicable space]:
 - ☒ Supplying the following realty, goods, and/or services: Advertising
 - ☐ Regulation of the business entity by the governmental agency served by the advisory board member.
- The following business entity is doing business with or regulated by the governmental agency:

Spectrum Reach
- The relationship of the undersigned advisory board member, or spouse or child of the advisory board member, to the business entity transacting this business is [check applicable spaces]:
 - ☐ Officer; ☐ Partner; ☐ Associate; ☐ Sole proprietor; ☐ Stockholder; ☐ Director; ☐ Owner of in excess of 5% of the assets of capital stock in such business entity; ☒ Employee; ☐ Contractual relationship with the business entity;
 - ☐ Other, please describe:

PART B - DISCLOSURE OF INTEREST IN SOLE SOURCE OF SUPPLY

WHO MUST COMPLETE THIS PART:

Sections 112.313(3) and 112.313(7), Florida Statutes, prohibit certain employment and business relationships on the part of public officers and employees. See Part III, Chapter 112, Florida Statutes, and/or the brochure entitled "A Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees" for more details on these prohibitions. However, Section 112.313(12)(e), Florida Statutes, provides an exemption from the above-mentioned restrictions in the event that the business entity involved is the only source of supply within the political subdivision of the officer or employee. In such cases the officer's or employee's interest in the business entity must be fully disclosed to the governing body of the political subdivision. This Part of Form 4A has been prescribed by the Commission on Ethics for such disclosure, *if and when applicable*.

PLEASE COMPLETE THE FOLLOWING:

1. The partnership, directorship, proprietorship, ownership of a material interest, position of officer, employment, or contractual relationship which would otherwise violate Subsection (3) or (7) of Section 112.313, Florida Statutes, is held by [please check applicable space(s)]:

☐ The reporting person;


☐ The spouse of the reporting person, whose name is _____; or

☐ A child of the reporting person, whose name is _____.
2. The following are the goods, realty, or services being supplied by a business entity with which the public officer or employee, or spouse or child of such officer or employee, is involved is:

_____.
3. The business entity which is the only source of supply of the goods, realty, or services within the political subdivision is:

(NAME OF ENTITY)(ADDRESS OF ENTITY)
4. The relationship of the undersigned public officer or employee, or spouse or child of such officer or employee, to the business entity named in Item 3 above is [check applicable spaces]:
☐ Officer; ☐ Partner; ☐ Associate; ☐ Sole proprietor; ☐ Stockholder; ☐ Director; ☐ Owner of in excess of 5% of the assets or capital stock in such business entity; ☐ Employee; ☐ Contractual relationship with the business entity;
☐ Other, please describe:

SIGNATURE

SIGNATURE	DATE SIGNED	DATE FILED
	4/29/2019	4/29/2019

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES s. 112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

Handout from
Kauri Lee Thompson
BCC 5/2/19

L.3.

8.0 EVALUATION CRITERIA

Tourism Development Council FY 2019-2020 Tourism + Lagoon Grant Program – Evaluation Form		
<i>Requests must achieve a minimum rank score of 75% (75 points/100 points) to be considered for funding.</i>		
REVIEWER (PRINT):		
REVIEWER (SIGNATURE):		
Project Title:		
Project Applicant:		
Total Project Cost:		
Requested Funding from TDC:		
Applicant Match Amount:		
Percentage Match:		
Evaluation Criteria	Points Available	Points Earned
Section 2 - Project Specifics		
A. Need and Urgency		
Proposal clearly demonstrates the need to implement the project, articulates the project location, why the location was chosen and why the location will achieve success. Is the project location shown on the IRL Watershed Map? Is the project boundary map included?	10	
Reviewer: Use the following scoring rubric: <u>Poorly presented/unresponsive</u> : 0 points <u>Adequate</u> : 3 points <u>Good</u> : 6 points <u>Excellent</u> : 10 points		
B. Project Alignment with TDC Tourism Mission		
Project specifically demonstrates a positive impact on Brevard County Tourism. Proposal clearly cites the methodology used to qualify the project's benefit to tourism.	15	
Reviewer: Use the following scoring rubric: <u>Poorly presented/unresponsive</u> : 0 points <u>Adequate</u> : 4 points <u>Good</u> : 8 points <u>Excellent</u> : 15 points		
B. Project Alignment with Lagoon Mission		
Project specifically demonstrates a positive benefit to the health of the Indian River Lagoon. Proposal clearly cites the methodology used to qualify the project's benefit to the health of the Indian River Lagoon.	15	
Reviewer: Use the following scoring rubric: <u>Poorly presented/unresponsive</u> : 0 points <u>Adequate</u> : 4 points <u>Good</u> : 8 points <u>Excellent</u> : 15 points		