FDLE still could consider charges in Fenn Center case

By Alexi Howk

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ST. LUCIE COUNTY — The Florida Department of Law Enforcement said it's reviewing its options in pursuing charges against former Parks and Recreation Director Debra Brisson after the State Attorney's Office — in a rare disagreement between the two sides — declined to prosecute the case.

"While we are clearly disappointed with the decision, we have a long-standing working relationship with the State Attorney's Office, and we look forward to working with them in the future," FDLE spokesman Keith Kameg said in a statement to the St. Lucie News Tribune. "We'll review what other options we have. A decision on the future of this case has not been made."

Brisson, who resigned in October, was accused of spending more than $18,000 of taxpayer money on the May 28, 2011 private wedding reception of Joe and Heather Smith at the county-owned Havert L. Fenn Center.

County spokesman Erick Gill said Friday that County Administrator Faye Outlaw did not wish to make a statement. He said the county has implemented new policies and procedures regarding the use of the Fenn Center and has hired a new parks and recreation director.

"Essentially, the report found fault with one individual who no longer works for St. Lucie County," Gill said. However, at Tuesday's 9 a.m. County Commission meeting, Outlaw has scheduled a discussion about her role in the wedding reception and her contract.

The FDLE in documents released earlier this week concluded evidence showed Brisson committed one count of felony grand theft when she purchased items for the wedding reception in the amount of $18,089 without the approval or authority of St. Lucie County.

Joe Smith, a former county commissioner, is the St. Lucie County Clerk of the Circuit Court. He is running for re-election this year. Heather (Lueke) Smith is a former St. Lucie County assistant attorney. She resigned in November amid the controversy.

The FDLE asked the State Attorney's Office to issue an arrest warrant on Brisson. However, in a June 7 memo to an FDLE special agent, Assistant State Attorney Lev Evans declined the request, saying there wasn't enough evidence to support a conviction.
It may be the first time the State Attorney's Office and the FDLE have publicly disagreed on a case, Evans said.

Evans has worked for the State Attorney's Office since 1997 and has headed the major crimes division since 2002. He said he couldn't recall a single case where the FDLE asked for an arrest warrant, despite the State Attorney's Office concluding the evidence wasn't strong enough to prevail in court.

"I've never seen it where they present a warrant without consultation," Evans said. "It's usually they present the evidence, and we discuss the findings and give a written statement. Usually, they investigate and then they come back and ask, 'Does this meet the criteria for anything?'"

Evans said his decision not to prosecute was based purely on lack of strong evidence.

"I don't want people to think we cut anybody a favor. We're itching to prosecute bad guys," he said.

Evans' decision, however, has puzzled and angered some Treasure Coast taxpayers.

"The whole thing smells," said Stuart resident Don Glynn, who spoke to the newspaper after writing a letter to the editor expressing outrage over the incident. "I am outraged that a group of public officials are squandering taxpayers' money and (the FDLE) does its duty and determines it was grand theft and (the State Attorney's Office) determines (Brisson) is allowed to resign and go unscathed. There should be some sort of punishment and the taxpayer should be repaid for those monies."

Stuart resident Ritch Wagner echoed similar sentiments.

"It seems like a slam-dunk," Wagner said. "They have checks. They have witnesses. They had the party. I can't figure out how they don't have enough evidence. Somebody owes us an explanation as to why they don't have enough evidence."

Kevin Wagner, a political-science professor at Florida Atlantic University, said it's unusual for two agencies such as the FDLE and State Attorney's Office to have a public disagreement.

"In defense of the state attorney here, it's not the FDLE that's going to have to stand up there and explain why they didn't get the conviction. It's the state attorney. Not only is it their burden, it's their reality. And if they really think there isn't enough here they're going to be the ones with the egg on their face, not the FDLE."

Susan McManus, a political science professor at the University of South Florida, said with the growing transparency of government records and an increasingly hostile public, agencies are becoming a little bit less reticent to try and dismiss cases.
"I'm sure that's what happened," McManus said, referring to the FDLE findings. "Of course with Florida recently being identified as one of the more corrupt states in the country — two different studies have determined that recently — that of course, again has made some of these agencies hold their feet to a fire a little bit better."

Robert Weissert, vice president for research at Florida Taxwatch, said going forward, the county can put in place reforms to ensure this doesn't occur again.

"Any elected official or government official has a fiduciary duty of fiscal responsibility and that's always true, but especially in these difficult times," he said. "So waste at any level of government is completely unacceptable and is something the taxpayers can't afford."

The FDLE began its investigation in October after Stuart attorney Joe Gufford contacted the agency asking it to look into allegations of fraud and grand theft. Gufford represents former Fenn Center Coordinator Anthony Allen, who has accused Outlaw of being involved in the wedding plans. Outlaw attended the wedding as an invited guest but denied to investigators having any knowledge, despite conflicting accounts by employees and Heather Smith that Outlaw did have knowledge.

"St. Lucie County residents have the right to an accountable local county government," Allen said in a statement issued through his attorney. "In this case there was no accountability on all levels. The county administrator is responsible for the actions of all county staff. She must be held accountable by our county commission leaders. I thank FDLE for a complete investigation of these matters and hope the county will have better leadership in the future."

Brisson has said she was given direction by Outlaw to find ways to generate additional revenue for the Fenn Center, and the Smith wedding reception was a way to market the center as a high-end wedding venue. Brisson purchased items for the reception at no charge to the Smiths, including fabric, lights, live trees, chandeliers and glassware and said they would be reused for future wedding events.

The Smiths paid the county a total of $3,133 for a reception worth approximately $20,000.

Evans said the evidence did not show theft because the items were purchased by Brisson with the intent they would be re-rented during future Fenn Center weddings. He said Brisson did not personally profit from the event.

"I do not think Debra Brisson committed a crime. She was acting in what she thought was the county's best interest," Evans said during a telephone interview.

"Outlaw told her the Fenn Center has got to make money," Evans said. "Brisson wants to get into the high-end wedding business, so she buys $20,000 worth of stuff. But again, all that stuff, the glasses, the chinaware remained the property of the Fenn Center to be rented for future weddings."
"Where it kind of smells," Evans said, "is that (Brisson) has no guidance whatsoever on what to charge and what to buy and (Heather Smith) said she talked to Outlaw and said she said she knew what Brisson was spending and Outlaw said she didn't know what Brisson was spending."

In his June 7 memo, Evans said, "These conflicting statements create an issue as to who knew what."

A political ethics expert said even without a prosecution, the fallout from this incident could be mistrust of public officials. "There's a difference between what is illegal and how things appear," said Beth A. Rosenson, a political science professor at the University of Florida who studies legislative ethics. "Regardless of what the intent is or what the legality is there's an appearance issue and appearance matters in a democracy because we want the public to have trust in their officials that they're behaving in the public's interest rather than their own personal financial interest."