



Office of
**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBral, Deputy County Attorney
Susan J. Prado, Assistant County Attorney

MEMORANDUM

TO: Board of County Commissioners
FROM: Dylan Reingold, County Attorney
DATE: July 1, 2022
SUBJECT: Calcutta Drive Docks

BACKGROUND.

Calcutta Drive is a County road that runs parallel with a canal and the riparian rights to the canal are purportedly the County's. On May 6, 1985, the then County Attorney Gary M. Brandenburg wrote a memorandum to Art Challacombe, an Environmental Planner stating "that the canals and bulkhead system were placed within the subdivision for the benefit of all of the property owners in the subdivision." He went on to explain that "[a]s a result, the County has adopted the policy in the past of allowing individuals to build docks along the County road within the appropriate setbacks, provided they enter into an agreement to hold the County harmless for any and all damage to the bulkhead system of road." He added that "[t]his permitting has been done on a first-come, first-served basis, exclusively for property owners in Country Club Pointe."

On February 5, 1991, the County staff presented an agenda item to the Indian River County Board of County Commissioners (the "Board") concerning license agreements for these docks. In a memorandum from Roland M. DeBlois, Chief, Environmental Planning, dated January 30, 1991, Mr. DeBlois explained the history of the docks being constructed on a first-come, first served basis, provided that the applicant signed the appropriate waiver. Mr. DeBlois also noted that the approvals have been handled administratively. Mr. DeBlois then went on to explain that in consultation with the County Attorney's Office, that the County should look to entering into license agreements with a new applicant, instead of simply relying on the hold harmless waiver. After some discussion on the provisions of the license agreement, the Board approved the license agreement for \$100 per year, subject to the changes requested by the Board. It is important to note that the license agreement included a provision that if the property is sold, that the buyer could execute a similar license within 90 days, and that if the buyer failed to do so, the dock would become the property of the County.

On May 26, 1998, the Board passed Resolution 1998-58, in which the Board delegated the authority to the Community Development Director to execute license agreements pertaining to transferring property utilizing County riparian land for docks within the Country Club Pointe Subdivision. This allowed for a smooth transition for those property owners selling homes that had license agreements.

On May 10, 2022, the Board voted to increase the annual license fee from \$100 to \$2,000 per year, for any new license agreements and implement a one-time dock license transfer fee of \$5,000. The Board also voted to modify the current license agreements to add the following requirements:

- If a dock falls into disrepair and is not fixed within the applicable time period, the County has the right to remove the dock and lien the property for the costs associated with such removal.
- Licensees be required to have the docks inspected on a five-year cycle by an independent third-party expert and submit that report to the County.
- Termination of license for unpermitted work on the dock, for work that would require a permit.

Finally, the Board voted to implement a new policy that if a dock reverts to the County, then that dock will no longer be transferable to the future property owner, but will instead go to the next Country Club Pointe Subdivision property owner on the dock waiting list. The County Attorney's Office has revised the dock license agreements to reflect these changes and a resolution delegating to the Community Development Director the authority to execute the license agreements.

Finally, the dock owners of what is known as Dock Number 14 on the County list, Mr. and Mrs. Cusson, have not responded to letters concerning the disrepair of the dock. The County Attorney's Office requests that the Board authorize the County Attorney's Office to record a termination of the license agreement and then offer this dock to the first person on the wait list. Per the Board direction, this dock will no longer be directly tied to a property within the Country Club Pointe Subdivision.

FUNDING

Revenues collected for dock license agreements are deposited into account 001038-362010 - General Fund/Rents & Royalties.

RECOMMENDATION.

The County Attorney's Office recommends that the Indian River County Board of County Commissioners approve the resolution and the associated form license agreements. The County Attorney's Office also requests that the Board authorize the County Attorney's Office to record a termination of the license agreement for Dock Number 14 (Cusson) and offer this dock to the first person on the wait list.

ATTACHMENT.

Resolution
Form License Agreements