



Attorney's Matters - 12/20/16
Office of
**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBraul, Deputy County Attorney
Kate Pingolt Cotner, Assistant County Attorney

MEMORANDUM

TO: Board of County Commissioners

FROM: William K. DeBraul, Deputy County Attorney *WAD*

DATE: December 13, 2016

SUBJECT: Request for Access Easement to Datapath Tower, LLC for Emergency Services Tower

You may recall the former County jail property at 1725 17th Street was surplus and divided between the Boys & Girls Club and St. Francis Manor and portions of the property were added to their respective leases with the County. The 150 foot guyed tower was not made part of those leases and remained County property. Currently, the County has a lease on the tower site with PrimeCo Personal Communications LP (now Verizon Wireless) running through 2022. Verizon is the only tenant on this tower. There is a recorded easement for access that provides for tenants to gain access to the tower site. The current rental rate paid by Verizon is \$19,450.00 per year or \$1,620 per month.

This tower was sited, engineered and constructed before cellular service existed. It once held antennae used by the South County Fire District and the Sheriff's Department but with the construction of newer, more strategically located towers, Emergency Services had no further use for this tower and no future County use was projected for this tower. On August 18, 2015, the Board of County Commissioners declared the Emergency Services Tower Site to be surplus property and instructed staff to sell the tower site by sealed bid. On July 5, 2016, the Board approved sale of the tower site to Datapath Tower LLC for \$175,680.00. Datapath plans to rehab and update the tower to allow for additional antennae arrays to be co-located on the tower. In order to provide for reconstruction of the tower and to close this sale, a new access easement must be provided to Datapath. When the County owned the tower site, no easements were needed as the County held title to the ground underneath the tower and the guy wires. When the property is sold to Datapath, they will need to have permission to cross over County owned property to get to their tower site.

At its meeting of May 10, 2016, the Board declared the 16th Street Ballfield property east of 20th Avenue, north of 16th Street and west of 17th Avenue, within the City of Vero Beach to be surplus property and expressed its desire to sell the property. The existing lease on the 16th Street Ballfield property expired in November 30, 2016. The County Surveyor's Office has

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recently completed a boundary survey of the 16th Street Ballfield property. They have also completed sketches and legal descriptions over a portion of the 16th Street Ballfield property for the needed access needed by Datapath for access to the tower site. The easement will be held in escrow by the closing agent until the time of closing.

The access and legal description is attached to this memorandum.

Funding: There is no expenditure of County funds for this matter. The buyer will pay for the cost of recording the easement at closing.

Recommendation: Emergency Services recommends that the Board approve the access easement to Datapath Towers, LLC and authorize the Chairman to execute the easement on behalf of the Board.

Copes to: Datapath Towers
 Atlantic Coastal Title