

Indian River County Florida

*Indian River County Administration Complex
1801 27th Street, Building A
Vero Beach, Florida, 32960-3388
www.ircgov.com*



Meeting Minutes - Draft

Tuesday, November 20, 2018

5:00 PM

Special Call Meeting

Commission Chambers

Board of County Commissioners

*Bob Solari, Chairman, District 5
Susan Adams, Vice Chairman, District 1
Joseph E. Flescher, District 2
Peter D. O'Bryan, District 4
Tim Zorc, District 3*

**Jason E. Brown, County Administrator
Dylan Reingold, County Attorney
Jeffrey R. Smith, Clerk of the Circuit Court and Comptroller
Randi Wardlow, Deputy Clerk**

1. CALL TO ORDER

Present: 5 - Chairman Bob Solari
Vice Chairman Susan Adams
Commissioner Joseph Flescher
Commissioner Peter O'Bryan
Commissioner Tim Zorc

2.A. A MOMENT OF SILENT REFLECTION FOR FIRST RESPONDERS**2.B. INVOCATION**

Commissioner Susan Adams

3. PLEDGE OF ALLEGIANCE

Commissioner Joseph E. Flescher

4. COUNTY ATTORNEY MATTERS**4.A. 18-2532** Martin County, Indian River County, and CARE-FL Brightline Settlement

Recommended Action: The County Attorney's Office recommends that Indian River County Board of County Commissioners consider the framework of a settlement agreement. If the Board wishes to enter into a settlement agreement, the County Attorney's Office recommends that the Board adopt a resolution approving the settlement agreement and authorize the chair to execute the settlement agreement and any and all documents necessary to effectuate the settlement agreement, after review and approval by the County Attorney.

Attachments: [Staff Report](#)
[Draft Settlement Agreement](#)
[Draft Settlement Agreement Exhibits](#)

County Attorney Dylan Reingold opened the special session by reading the staff report which summarized the County's efforts to oppose the Brightline high-speed rail project; he went on to lay out the benefits and concessions of the proposed Martin County, Indian River County, and CARE-FL Brightline settlement agreement. Both he and Chairman Solari thanked everyone involved in the fight against Brightline, also known as All Aboard Florida and Virgin Trains USA.

Chairman Solari opened the discussion with a prepared statement outlining key issues in the County's opposition to high speed rail including: the weakness of Brightline's financials, the diminished value of its brand, their poor safety record, the absence of safety regulations from the Florida Department of Transportation (FDOT), and the limitations to litigation imposed by the settlement agreement. The Chairman was in favor of retaining the right to oppose the project's planned expansion to the Treasure Coast.

Each Commissioner was given the opportunity to speak to their concerns with regard to the settlement agreement which included:

- Quantifying the cost to continue litigation and whether the County could retain legal representation given that Martin County and CARE-FL have signed the agreement.
- The benefits the County would receive such as a cap to maintenance costs, funds to install fencing, and construction of a train station; additionally, the County would have to relinquish the current lawsuit, the ability to challenge the project in the future, and there was concern for the impact on future Commissions.

A discussion with the Board ensued regarding the language contained in the agreement that limited the scope of future objections from the County, with similar concerns being expressed for the concessions included in the agreement. It was opined that continuing litigation may not be in the County's best interest with the recent developments that could possibly weaken Indian River County's likelihood of successfully blocking the financing of Brightline's expansion.

A suggestion was posed that it may be best to join Marin County and CARE-FL in accepting the settlement agreement and gaining some safety improvements. Other members of the Board questioned the benefit of abandoning the opposition to Brightline noting that the public safety concerns would persist even with the provisions of the agreement. A discussion followed with staff on whether the promised train station for the Treasure Coast would actualize and the value of the proposed cap to maintenance costs.

Chairman Solari opened the discussion to the public.

The following people spoke in favor of the County continuing to fight against Brightline and rejecting the settlement agreement:

George Royster, 211 Johns Island Drive
Peter Seed, Indian River Shores
Nick Schaus, Indian River Shores
Bob Auwaerter, Vice Mayor Indian River Shores
John Preschlack, 101 Oyster Cut
Jan Demko, Vero Isles
Joseph Paladin, President, Black Swan Consulting
Walter McNeil, Indian River Shores
William Troxell, Orchid Island
Dick Brickman, Indian River Shores

The following speakers expressed concern over the possibility of Brightline trains carrying Liquefied Natural Gas:

Cecile Scofield, Palm City
Lamarre Notargiacomo, 5082 4th Lane

The Commissioners wrapped up the meeting with discussions regarding licensing agreements for railroad crossings and the cost to maintain those crossings, limits to future legislative action, retaining the County's right to advocate for safety measures, the value of the benefits included in the agreement, liability issues, outlook for the pending litigation, and the lack of support from State regulatory agencies.

The Board also addressed the possibility of allocating additional funds for the legal fight in case the agreement does not pass.

A motion was made by Commissioner Flescher, seconded by Chairman Solari, to reject the Martin County, Indian River County and CARE-FL Brightline Settlement Agreement. The motion carried by the following vote:

Aye: 4 - Chairman Solari, Vice Chairman Adams, Commissioner Flescher, and Commissioner Zorc

Nay: 1 - Commissioner O'Bryan

Commissioner Flescher revisited the suggestion to allocate additional funds for the legal efforts against Brightline.

Commissioner O'Bryan commented that since policy had been set with the previous vote, he would support it going forward by approving the additional funds.

Vice Chairman Adams opposed the suggestion to add funds; she expressed her preference to wait until after the ruling on the County's oral arguments was handed down before deciding on a path forward.

A motion was made by Commissioner Flescher, seconded by Chairman Solari, to add \$1,000,000 to the efforts to address and prevent the Brightline Train from going through Indian River County. The motion carried by the following vote:

Aye: 4 - Chairman Solari, Commissioner Flescher, Commissioner O'Bryan, and Commissioner Zorc

Nay: 1 - Vice Chairman Adams

5. ADJOURNMENT

There being no further business, the Chairman adjourned the meeting at 7:12 pm.