

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 13, 2018

9:00 AM

Commission Chambers

Board of County Commissioners

Peter D. O'Bryan, Chairman, District 4

Bob Solari, Vice Chairman, District 5

Susan Adams, District 1

Joseph E. Flescher, District 2

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 Peter O'Bryan
Vice Chairman Bob Solari
Commissioner Susan Adams
Commissioner Joseph Flescher
Commissioner Tim Zorc

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

Chaplain Lou Tropf, Indian River County Jail

3. PLEDGE OF ALLEGIANCE

Dylan Reingold, County Attorney

4. ADDITIONS/DELETIONS TO THE AGENDA / EMERGENCY ITEMS

Move: Item 14.E.1. Commissioners Matters, to be heard in conjunction with Item 10.B.1. Public Discussion Item

At this time, Chairman O'Bryan announced that there would be a break from 10:30 am to 2:00 pm for the memorial service honoring longtime Indian River County Property Appraiser David Nolte.

A motion was made by Commissioner Flescher, seconded by Commissioner Zorc, to approve the Agenda as amended. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

5. PROCLAMATIONS and PRESENTATIONS

5.A. 18-2502 Presentation of Proclamation Designating the Week of November 14 through 21, 2018 as Farm-City Week

Recommended Action: Read and Present

Attachments: [Proclamation](#)

Commissioner Flescher presented the Proclamation to Ashley Cox of the Indian River County Farm Bureau, who informed the Board of their month-long food drive benefitting United Against Poverty.

Read and Presented

6. APPROVAL OF MINUTES

7. INFORMATION ITEMS FROM STAFF OR COMMISSIONERS NOT REQUIRING BOARD ACTION

7.A. 18-2483 Residential Paper Shredding Event on November 17, 2018

Recommended Action: For informational purposes only - no action needed.

Attachments: [Staff Report](#)

Chairman O'Bryan read the details of the free event into the record.

No Action Taken or Required

7.B. 18-2504 Indian River County Venue Event Calendar Review

Recommended Action: This is an informational item only; no Board action is required

Attachments: [Staff Report](#)

No Action Taken or Required

8. CONSENT AGENDA

A motion was made by Commissioner Flescher, seconded by Commissioner Adams, to approve the Consent Agenda as amended, pulling Item 8.F. for discussion. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

8.A. 18-2481 Checks and Electronic Payments October 26, 2018 to November 1, 2018

Recommended Action: Approve the list of checks and electronic payments issued by the Comptroller's office for the time period of October 26, 2018 to November 1, 2018

Attachments: [Finance Department Staff Report](#)

Approved

8.B. 18-2479 Abandonment of Sanitary Sewer Manhole and Associated Piping within Private Easement on Lot 32, Quail Creek PD

Recommended Action: County staff recommends the County, in accordance with customary industry standards, abandons the infrastructure within Lot 32 of Quail Creek PD and that the Board of County Commissioners authorizes the Chairman to execute the Bill of Sale of Abandoned Utility Facilities.

Attachments: [Staff Report](#)
[Bill of Sale of Abandoned Utility Facilities](#)
[Map](#)

Approved staff's recommendation

8.C. 18-2495 Flight Safety Drive Easement

Recommended Action: The County Attorney recommends that the Indian River County Board of County Commissioners approve the access and utilities easement and authorize the chair to execute the access and utilities easement.

Attachments: [Staff Report](#)
[Access and Utilities Easement](#)

Approved staff's recommendation

8.D. 18-2382 Ranking of Firms for RFP 2018071 - Transit Advertising Services

Recommended Action: Staff recommends the Board approve the committee's final ranking and authorize negotiations with the top ranked firm.

Attachments: [Staff Report](#)

Approved staff's recommendation to award the contract to the sole responder, SunUp Advantage, and authorized staff to begin negotiations with the firm.

8.E. 18-2486 Approval of Continuing Architectural Services Agreements for RFQ 2018063

Recommended Action: Staff recommends the Board approve the sample agreement and submitted rate schedules and authorize the Chairman to execute the agreements once the County Attorney has approved as to form and legal sufficiency.

Attachments: [Staff Report](#)
[Sample Agreement](#)
[Submitted Rates](#)

Approved staff's recommendation

8.F. 18-2478 Award of Bid No. 2019008, Gifford Neighborhood 45th Street Beautification Project Phase II (IRC-1748)

Recommended Action: Staff recommends the Board approve award to the lowest responsive and responsible bidder, Johnson-Davis, Inc. for \$2,365,850.00. Staff further recommends the Board authorize the Chairman to execute the sample agreement upon review and approval of both the agreement and required public construction bond by the County Attorney as to form and legal sufficiency, and the receipt and approval of required insurance by the Risk Manager.

Attachments: [Staff Report](#)
[Sample Agreement](#)

Chairman O'Bryan mentioned that the award of Bid No. 2019 008 had been returned back to the Board after the single bidder for the project was rejected for being considerably higher than the engineer's estimate. After re-advertising the project, bids within estimate were secured and staff was able to make their recommendation.

Joe Idelette, 4570 57th Avenue, thanked the Board for their patience. Freddie Woolfork, 4590 57th Avenue, spoke in appreciation for the Board's persistence and cooperation.

Commissioner Flescher thanked the speakers for their continued support.

A motion was made by Commissioner Flescher, seconded by Commissioner Adams, to approve staff's recommendation. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

8.G. 18-2484 Award of Bid No: 2019016, US Highway 1 Landscaping - South County Line to Oslo Road

Recommended Action: Staff recommends that the Board of County Commissioners: 1) Authorize the expenditure of \$291,591.62 from the County's Tree Ordinance Fund, \$100,000.00 of which was previously authorized at the February 7, 2017 Board of County Commissioners meeting, for completion of the US Highway 1 Landscaping Project; and 2) Award the project to Green Construction Technologies, Inc. in the amount of \$373,659.52, and approve the sample agreement and authorize the Chairman to execute said agreement after receipt and approval of the required Public Construction Bond and Certificate of Insurance, and after the County Attorney has approved the agreement as to form and legal sufficiency.

Attachments: [Staff Report](#)
[Sample Agreement](#)

Approved staff's recommendation

9. CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES

- 9.A. 18-2493** Indian River County Clerk of the Circuit Court and Comptroller Jeffrey R. Smith Annual Fiscal Report for the Year Ended September 30, 2018

Recommended Action: Accept Report and Place on File

Attachments: [Clerk of Court and Comptroller Correspondence](#)
[Annual Fiscal Report](#)

Clerk of the Circuit Court and Comptroller Jeffrey R. Smith stated that he was pleased to report the return of \$195,111.12 in excess fees, the largest amount since 2007. Mr. Smith expressed appreciation for the Board's assistance with the Courthouse expansion work, and gave thanks to his staff as well as the staff of the County Office of Budget and Management.

A motion was made by Commissioner Flescher, seconded by Commissioner Adams, to approve the Annual Fiscal Report for the Clerk of the Circuit Court for the Year Ended September 30, 2018. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

- 9.B. 18-2492** Indian River County Property Appraiser David C. Nolte Annual Fiscal Report for the Year Ended September 30, 2018

Recommended Action: Accept Report and Place on File

Attachments: [Property Appraiser Correspondence](#)
[Annual Fiscal Report](#)

A motion was made by Vice Chairman Solari, seconded by Commissioner Zorc, to approve the Annual Fiscal Report for the Property Appraiser's Office for the Year Ended September 30, 2018. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

- 9.C. 18-2490** Indian River County Sheriff Deryl Loar Annual Fiscal Report for the Year Ended September 30, 2018

Recommended Action: Accept Report and Place on File

Attachments: [Sheriff Correspondence](#)
[Annual Fiscal Report](#)

Sheriff Deryl Loar announced his office would be returning \$46,495.24 in excess

to the Board. The Sheriff mentioned the impact of the newly-created school resource officer positions, and thanked the Board and staff for their support.

A motion was made by Commissioner Flescher, seconded by Commissioner Zorc, to approve the Annual Fiscal Report for the Sheriff's Office for the Year Ended September 30, 2018. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

9.D. 18-2496 Indian River County Supervisor of Elections Leslie Rossway Swan Annual Fiscal Report for the Year Ended September 30, 2018

Recommended Action: Accept Report and Place on File

Attachments: [Supervisor of Elections Correspondence](#)
[Annual Fiscal Report](#)

The Board commended Supervisor of Elections Leslie Rossway Swan and her staff for their handling of this year's election and vote recount. Ms. Swan extended thanks to the Board and the County Attorney for their assistance.

A motion was made by Vice Chairman Solari, seconded by Commissioner Adams, to approve the Annual Fiscal Report for the Supervisor of Elections Office for the Year Ended September 30, 2018. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

9.E. 18-2491 Indian River County Tax Collector Carole Jean Jordan Annual Fiscal Report for the Year Ended September 30, 2018

Recommended Action: Accept Report and Place on File

Attachments: [Tax Collector Correspondence](#)
[Annual Fiscal Report](#)

Tax Collector Carole Jean Jordan introduced the Kids Tag Art Program which raises funds for classroom art supplies, and then continued on to detail several other recently added services. Ms. Jordan extended thanks to the Board and staff for their assistance, and presented a check for \$2,900,000 in returned funds.

A motion was made by Commissioner Zorc, seconded by Commissioner Adams, to approve the Annual Fiscal Report for the Tax Collector's Office for the Year Ended September 30, 2018. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

10. PUBLIC ITEMS

A. PUBLIC HEARINGS**B. PUBLIC DISCUSSION ITEMS**

10.B.1. 18-2494 Request to Speak from Kim Gilbert Regarding Request to Waive Current Impact Fees

Recommended Action: Public Discussion Item - No Action Required

Attachments: [Request to Speak Form](#)

[Clerk's Note: This item was heard in conjunction with Item 14.E.1. Commissioners Matters. See Item 14.E.1. for further discussion and action.]

Kim Gilbert, 1730 24th Street, appeared before the Board requesting assistance in waiving impact fees that were incurred by the previous owners of her property. In 2002, a change of use for the property was approved by the City of Vero Beach (City); the required impact fees were never assessed to the then owners. In 2008, Ms. Gilbert purchased the property after her due diligence failed to uncover any outstanding fees or liens. After a 2018 permit application uncovered the past oversight, County staff coordinated with the City to reduce, but not eliminate, the fees.

No Action Taken or Required

C. PUBLIC NOTICE ITEMS

10.C.1. 18-2473 Notice of Scheduled Public Hearing for November 20, 2018: DiVosta Homes L.P., Request to Amend Land Development Regulation Chapter 934 (Excavation and Mining) to Modify the Time Frame for Exporting Excess Fill From Large Scale Development Projects and Extend the Time Frames for Large Volume Mining Operations [LDRA-18-09-01 / 2018060191-82197] (Legislative)

Recommended Action: This notice of public hearing is provided for the Board's information. No action is needed at this time.

County Attorney Dylan Reingold read the notice into the record.

No Action Taken or Required

10.C.2. 18-2485 Notice of Scheduled Public Hearing for December 4, 2018: County Initiated Request to Amend the 5 Year Capital Improvements Program and the Supporting Data and Analysis of the Capital Improvements Element of the Comprehensive Plan for the Period FY 2018/19 - 2022/23 (Legislative)

Recommended Action: The referenced Notice of Scheduled Public Hearing is provided for the Board's information. No action is needed at this time.

County Attorney Dylan Reingold read the notice into the record.

No Action Taken or Required

11. COUNTY ADMINISTRATOR MATTERS

12. DEPARTMENTAL MATTERS

A. Community Development

B. Emergency Services

C. General Services

1. Human Services

2. Sandridge Golf Club

3. Recreation

D. Human Resources

E. Office of Management and Budget

F. Public Works

G. Utilities Services

12.G.1. 18-2463 Valve Machine/Trailer Unit

Recommended Action: Staff recommends that the Board of County Commissioners waives the requirement to bid and authorize the Purchasing Department to issue a purchase order for the purchase of the valve maintenance machine/trailer unit as well as any ongoing repairs or replacement parts through E.H. Wachs.

Attachments: [Staff Report](#)
[Wachs Valve Machine Quote](#)
[Wachs Sole Source Letter](#)
[Valve Nut RX Datasheet](#)

Director of Utilities Services Vincent Burke described the maintenance and repair requirements necessary to keep the County's water systems functioning. In the Fiscal Year 2018/19 Budget, the Board had approved purchasing a new valve machine to fulfill these requirements. Staff recommended the E.H. Wachs' valve maintenance machine/trailer unit, which is a patented system

sold by only one manufacturer. Director Burke requested permission to waive the bid process and to receive approval to purchase the budgeted equipment from E.H. Wachs.

A discussion ensued on this vendor's products and whether other municipalities had done business with them.

A motion was made by Vice Chairman Solari, seconded by Commissioner Flescher, to approve staff's recommendation. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

12.G.2. 18-2498 Surface Water Supply Topic - Deferred from Meeting of November 6, 2018

Recommended Action: Authorize staff to complete the Consumptive Use Permit modification process. Once that process has been completed, authorize staff to explore additional locations to handle surface water supply reservoir/treatment needs at the time it is forecast that additional water capacity will be needed.

Attachments: [Staff Report](#)
[Staff Report from February 16 2016 BCC Meeting](#)

This item follows up on the October 23, 2018 meeting in which the Board asked staff to look into alternative water supply options for the future. Director of Utilities Services Vincent Burke recounted the previous studies done on this subject, including the approved 2015 Osprey Marsh Expansion; he referenced staff's memo for an analysis of those studies.

Director Burke explained that his department was focused on completing modifications to the Consumptive Use Permit (CUP) which would allow the County access to enough water to serve residents for an estimated ten (10) years into the future.

While the Utilities Department was poised to investigate alternative water supplies such as indirect potable reuse, surface water reservoirs, and deeper drilling, staff was requesting permission to continue focusing on the CUP modification before choosing a path forward for alternative supplies.

Chairman O'Bryan stated that his goal was to keep this issue on the front burner, but approved of staff's request to complete the CUP modification process. The Board received information on utilizing existing wells in the County, and a discussion followed on the possibility of developing irrigation quality reuse water to offset groundwater use, especially on the barrier island. There was agreement on using the phrase "future water supply" rather than "alternative water supply".

A motion was made by Commissioner Flescher, seconded by Vice Chairman Solari, to approve staff's recommendation. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Commissioner Adams, Commissioner Flescher, Commissioner Zorc, and Vice Chairman Solari

The Chairman called a break at 10:24 a.m., and reconvened the meeting at 2:00 p.m. with all members present. Discussion commenced on Item 12.G.3. Re-Use Plan.

12.G.3. 18-2466 Re-Use Plan

Recommended Action: Staff recommends the Board of County Commissioners consider the following: Authorize staff to negotiate a cost proposal with one of the engineering firms in the 2018 Continuing Consulting Engineering Services Agreement for Professional Services for a detailed evaluation of a Re-use Master Plan. The evaluation is to include funding requirements, build out scenarios, land development regulation changes, regulatory compliance, sources of funding, timing and appropriate rate structure modifications and/or rate adjustments; and, Authorize staff to negotiate a cost proposal to determine the feasibility of a pressurized re-use system within the Barrier Island area, specifically along A1A south of CR-510.

Attachments: [Staff Report](#)

Vincent Burke, Director of Utilities Services, presented his department's analysis on the potential for creating a pressurized re-use water system for the County. Staff had budgeted funds in Fiscal Year 2018/19 to contract for a detailed evaluation of a Re-Use Master Plan; Director Burke touched upon some of the major considerations the study would cover.

Additionally, in light of the recently executed agreement to have the County provide re-use water to John's Island, staff suggested negotiating a cost proposal to evaluate expanding a pressurized re-use water system to the barrier island along A1A.

A discussion followed among the Board and staff regarding: the cost impact to residents as well as maintenance concerns, and other County's experiences; a request to have the study pinpoint the amount potable water being used for irrigation among residents on the barrier island; the safety of using re-use water for citrus groves and the need for further evaluation; clarification on the logistics and infrastructure requirements, as well as the impact to the County's regular water supply permits.

Joseph Paladin, Black Swan Consulting, noted St. Lucie County, and St. Lucie West were currently utilizing re-use water.

A motion was made by Vice Chairman Solari, seconded by Commissioner Flescher, to approve staff's recommendations with the additional request to have staff investigate which neighborhoods on the barrier island use potable water for irrigation. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

12.G.4. 18-2500

Comprehensive Water, Wastewater, and Reclaimed (Reuse) Water Rate Study, and Water and Sewer Impact Fee Study Recommendations - Deferred from Meeting of November 6, 2018

Recommended Action: Staff recommends the Board of County Commissioners (BCC) authorize the following: 1. Implement changes to go into effect on March 1, 2019; 2. Modify the billing to reflect usage to the nearest 100 gallons rather than 1,000 gallons; 3. Adopt rate scenario 3; 4. Adopt the rates and fees as depicted in Attachment 5; 5. Adopt the miscellaneous charges as reflected on Attachment 6; 6. Adopt the impact fees as depicted in Attachment 7; and, 7. Provide an allowance for an annual Consumer Price Index increase contingent upon BCC approval each year.

Attachments: [Staff Report](#)

[Attachment 1-Water and Sewer Rate Scenarios](#)

[Attachment 2-Comparison of Bills Using Current and Proposed Rates](#)

[Attachment 3-Comparison of Billing Events Between Existing and Alternative Rate Structures](#)

[Attachment 4-Percentage of Events by Tier](#)

[Attachment 5-Fundamental Rate Modifications](#)

[Attachment 6-Miscellaneous Charges](#)

[Attachment 7-Impact Fees](#)

[Comprehensive Water, Wastewater and Reclaimed Water Rate Study](#)

[Water and Wastewater Impact Fee Study](#)

Director of Utilities Services Vincent Burke used a PowerPoint presentation to provide the Board with additional information from the Comprehensive Water, Wastewater, and Reclaimed Water Rate Study, as well as the Water and Wastewater Impact Fee Study which were both initially presented at the October 2, 2018 Board meeting. Utility Finance Manager Cindy Corrente was also present to answer any questions.

As requested, staff returned with further rate scenarios designed to encourage water conservation and penalize high-volume users; several slides used side-by-side comparisons to show the existing rates versus the newly proposed ones. In addition to the rate and fee modifications, staff presented several other recommendations that were drawn from the rate and fee studies.

The Board entered into a discussion regarding the best to way to keep up with the Utilities' biggest expenses of personnel, chemicals, and electricity. They debated the necessity of indexing rates to the Consumer Price Index (CPI), and how that concept would be managed.

In response to a request from Chairman O'Bryan, staff recommended returning before the Board in five (5) years with a recommendation regarding an updated rate study.

A motion was made by Commissioner Flescher, seconded by Vice Chairman Solari, to approve staff's recommendations one (1) through six (6). The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

The Board returned to their discussion regarding the best method to allow for an annual CPI based rate increase, contingent on Board approval.

A motion was made by Commissioner Adams, seconded by Chairman O'Bryan, to approve recommendation number seven (7) with the modification to have the Consumer Price Index increase factored into the Utilities Department's annual budget, which would be discussed during the July Budget Workshop meeting; the Board would have the option of declining the rate increase at that time. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

A motion was made by Commissioner Flescher, seconded by Commissioner Adams, to have staff appear before the Board in 2024 with a report regarding the necessity of a new rate study. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

12.G.5. 18-2499 Uniform Septic to Sewer Policy - Deferred from Meeting of November 6, 2018

Recommended Action: Staff recommends the Board of County Commissioners create a septic to sewer (S2S) policy and direct staff to: 1. Require benefiting property owners to pay a minimum of 20% of project costs; 2. Solicit alternative funding options, which include various grants, to cover the remaining project costs; 3. Use optional sales tax dollars as needed, not to exceed 25% for both construction costs and impact fees; 4. Establish a S2S financing interest rate to be the greater of either the maximum of 2% or half of the current BCC approved rate. Current rate is 5% so the S2S rate would be 2.5%; 5. Extend the amortization period from ten years up to a 20-year term and direct staff to work with the Indian River County Tax Collector to add the annual assessment fee to the property tax bill in order to assure a more consistent reimbursement cash flow for the project; and, 6. Offer a S2S impact fee credit of 100% for those property owners who commit to connect to the sewer system before sewer is available to the property. For those property owners that connect within one year from service availability, provide a credit of 50% of the impact fee.

Attachments: [Staff Report](#)

A key element of the Raftelis Consultants Comprehensive Water, Wastewater, and Reclaimed Water Rate Study was the recommendation to create a uniform Septic to Sewer (S2S) policy. The goals of the S2S policy include standardizing cost structures for construction and impact fees, finding alternative funding sources, and creating incentives to maximize connections.

Using a PowerPoint presentation, Director of Utilities Services Vincent Burke recapped current S2S projects, outlined next steps, provided an overview of local and state funding sources, and displayed a list of his department's recommendations.

The Commissioners entered into a discussion with Director Burke and covered the following topics: whether costs are tied to a property, what qualifies as a benefiting property, and clarification of potential funding sources. The Board agreed on the need for community outreach and education to maximize participation in S2S conversions.

Each of the Commissioners stated their opinion on the policy item that required mandatory connection to a sewer conversion project. While the requirement has benefits and is mandatory for most government grants, there was concern for the affordability of impact fees. Director Burke and Utilities Finance Director Cindy Corrente expanded on the incentive program that would waive impact fees for early adopters, and noted that there are State Housing Initiatives Partnership (SHIP) program funds available for qualifying households. The Board agreed to modify the incentive structure by increasing the credits offered.

A motion was made by Vice Chairman Solari, seconded by Commissioner Flescher, to approve staff's recommendations one (1) through five (5). Recommendation number six (6) was approved with the following modification: Offer a Septic to Sewer impact fee credit of 100% for those property owners who commit to connect to the sewer system before sewer is available to the property. For those property owners that connect within one year from service availability, provide a credit of 75% of the impact fee. For those property owners that connect within two years from service availability, provide a credit of 50% of the impact fee. There would be no credit (0%) for property owners who connect after the second year of availability, with mandatory hookup required by year three. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

12.G.6. 18-2488 Reserve Accounts

Recommended Action: A summary of the recommendations contained herein is listed below: 1. Modify County Code to allow for the refund of impact fees paid, if such request is made within twenty-four months of the purchase of the ERU(s). It is recommended that this

modification become effective January 1, 2019; 2. Modify County Code to allow for the relinquishment of ERUs purchased during one of the voluntary assessment programs provided that the property remains undeveloped and/or service is not available within two hundred feet of the parcel. Such relinquishment shall include a refund of any impact fees paid only if service is unavailable within 200 feet of the property. Accounts shall be brought current before allowing any such relinquishment; 3. Modify County Code to allow for the relinquishment of ERUs purchased at any time if the buildout of the property under the current comprehensive plan does not allow for utilization of all ERUs affiliated with the property. Unless the ERUs were purchased within the past twenty-four months, relinquishment shall not include a refund of impact fees. Accounts shall be brought current before allowing any such relinquishment; 4. Modify County Code to accommodate the County reclaiming any ERUs wherein twenty-four months of service availability fees are past due; 5. Modify County Code to provide a 90-day amnesty period that also provides the property owner an opportunity to relinquish ERUs upon the account becoming current; and, 6. Direct staff to work with the County Attorney's office to research the logistics of foreclosing on properties that have excessive accounts receivable balances and enforcing the foreclosure option moving forward.

Attachments: [Staff Report](#)
[Resolution 87-142](#)

Vice Chairman Solari disclosed partial ownership of Reserve Accounts in Wabasso; County Attorney Dylan Reingold confirmed that the Commissioner's interest was small enough not to be deemed a conflict of interest on this item.

The previously presented Comprehensive Water, Wastewater, and Reclaimed Rate Study identified several operational concerns related to Utilities operations; one of those concerns was Reserve Accounts. Vincent Burke, Director of Utilities Services, utilized a PowerPoint presentation to detail three types of situations that needed to be addressed in order to maximize available equivalent residential units (ERUs) and ensure adequate project funding. These included reserve accounts where the maintenance fees had not been paid, accounts that had more ERUs than could be utilized, and accounts that sought to relinquish their ERUs.

Vice Chairman Solari entered into a discussion with staff regarding recommendation number 3 in staff's report which would allow certain relinquished ERUs to be re-sold; he received clarification from Utility Finance Manager Cindy Corrente on the rationale for the policy. The Vice Chairman stated the reasons for his preference to return to the former system of crediting returned ERUs directly to new users.

Commissioner Zorc recalled the case of Provence Bay where ERUs were relinquished back to the Utility Department; Finance Manager Corrente confirmed the existence of similar cases.

Chairman O'Bryan questioned whether any of the returned sewer ERUs could be banked and applied to Septic to Sewer (S2S) projects to incentivize connections and offset fees for low income users. Ms. Corrente noted that the suggestion raised some issues, but possibly could be used as an alternate funding source for S2S projects.

Chairman O'Bryan called for action on recommendation number one (1) from staff's report which has an effective date of January 1, 2019.

A motion was made by Vice Chairman Solari, seconded by Commissioner Flescher, to approve staff's recommendation number one (1). The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

Commissioner Adams requested a vote on staff recommendation number six (6) which would permit staff to begin research on a foreclosure option for reserve accounts in arrears.

A motion was made by Commissioner Adams, seconded by Commissioner Flescher, to approve staff recommendation number six (6). The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

Chairman O'Bryan invited members of the public to speak on any of the other recommendations before the Board.

David Ederer, 9086 Castle Harbour Circle, recounted his previous discussions with Utilities' staff and requested more information on when recommendation number five (5), an amnesty period, would be readdressed.

A discussion ensued among the Board and Finance Manager Corrente on the necessity of limiting amnesty to applicants who have not previously taken advantage of the benefit. Chairman O'Bryan requested that staff return with a draft amnesty policy for review on December 4, 2018, with a planned public hearing on December 18, 2018. County Attorney Dylan Reingold received permission to advertise the public hearing in advance of the presentation of the draft Ordinance. Recommendations two (2), three (3), and four (4) included in staff's report, would be tabled for a future date.

A motion was made by Commissioner Adams, seconded by Commissioner Flescher, to approve recommendation number five (5): modify County Code to provide a 90 day amnesty period that also provides the property owner an opportunity to relinquish ERUs upon the account becoming current. A draft Ordinance would be brought back before the Board for review on December 4, 2018 with an advance-advertised Public Hearing scheduled for December 18, 2018. Recommendation numbers two (2), three (3), and four (4) from staff's report would be tabled. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

13. COUNTY ATTORNEY MATTERS

13.A. 18-2489 Second Addendum to Agreement between Indian River County and REDEVGROU, Inc.

Recommended Action: Staff recommends the Board of County Commissioners approve the Second Addendum to Agreement between Indian River County and REDEVGROU, Inc., and authorize the Chairman to execute the Second Addendum on behalf of the Board.

Attachments: [Staff Report](#)
[Agreement](#)
[Aerial Photo](#)
[First Addendum to Amend Agreement](#)
[Second Addendum to Agreement](#)

[This item was heard following Item 10.C.1.Public Notice Items and is placed here for consistency.]

Deputy County Attorney Bill DeBraal summarized key points of the previously approved agreement between the County and developer REDEVGROU, Inc. The agreement stated that the County would lift a conservation easement on Indian River Mall Lot 5 in exchange for receipt of alternate conservation land (portions of the Kinner and Siew parcels), and special development restrictions on Lot 5.

REDEVGROU approached the County with a request for an addendum which would modify the sequence of events listed in the original agreement in order to avert a possible challenge to the Title of Lot 5.

In response to questions from the Board, attorney for REDEVGROU Bruce Barkett provided further details on the nature of the potential title challenge. He explained that the addendum poses no risk to the County because the County would receive ownership of the Kinner and Siew parcels regardless of the outcome of the title dispute.

Commissioner Zorc received further information from Attorney Barkett regarding access to Lot 5.

A motion was made by Vice Chairman Solari, seconded by Commissioner Flescher, to approve staff's recommendation. The motion carried by the following vote:

Aye: 5 - Chairman O'Bryan, Vice Chairman Solari, Commissioner Adams, Commissioner Flescher, and Commissioner Zorc

14. COMMISSIONERS MATTERS**A. Commissioner Peter D. O'Bryan, Chairman****B. Commissioner Bob Solari, Vice Chairman****C. Commissioner Susan Adams****D. Commissioner Joseph E. Flescher****E. Commissioner Tim Zorc****14.E.1. 18-2497** Discussion regarding modifying County Ordinance

Recommended Action: Discuss and modify County Ordinance 2014-016.

Attachments: [Commissioners Memorandum](#)

[Previous use and actions](#)

[Ord. 2014-016 Sec. 1000-07](#)

[Clerk's Note: This item was discussed following Item 10.B.1. Public Discussion Items.]

Commissioner Zorc recounted the history of the property Kim Gilbert purchased in 2008. The Commissioner and County staff worked together to try to waive impact fees that were incurred by a previous owners' change of use; the fees were reduced but could not be waived. Commissioner Zorc made two suggestions for assistance: modify the existing policy regarding impact fees charged after the fact, or allow a one-time waiver of these missed fees.

Chairman O'Bryan raised concerns about a possible conflict of interest with Commissioner Zorc and his consulting firm which helps clients recover impact fees. Commissioner Zorc explained that his firm does not charge clients in Indian River County, and that his experience seemed relevant to Ms. Gilbert, who is not a client.

The Commissioners entered into a discussion regarding conflicts of interest and avoiding appearances of impropriety. Vice Chairman Solari suggested tabling the issue to allow staff more time to research past occurrences of situations similar to Ms. Gilbert's, and to return before the Board with more information. Chairman O'Bryan suggested moving the item to Vice Chairman Solari's matters to avoid any suggestion of conflict.

The Board reached a consensus to move the item to Commissioner Solari's

matters and to table the matter in anticipation of staff's report planned for the December 4, 2018 meeting.

Postponed/Continued

15. SPECIAL DISTRICTS AND BOARDS

A. Emergency Services District

B. Solid Waste Disposal District

C. Environmental Control Board

16. ADJOURNMENT

There being no further business, the Chairman declared the meeting adjourned at 4:30 p.m.