

**INDIAN RIVER COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**



**2017-2018 State Legislative Program**

# INDIAN RIVER COUNTY BOARD OF COUNTY COMMISSIONERS



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## **GUIDING PRINCIPLES**

The ability to maintain home rule and avoid unfunded mandates are central to Indian River County's state legislative priorities and concerns. Indian River County works with the Florida Association of Counties (FAC) and other local governments across the State of Florida to advocate for these ideals. In general, Indian River County Board of County Commissioners (BCC) supports FAC's legislative policy statements.

- Indian River County BCC **SUPPORTS** maintaining the integrity of county home rule power, both administrative and fiscal, which allows counties to develop and implement community-based solutions to local problems.
- Indian River County BCC **OPPOSES** any unfunded mandate legislation which would compel local governments to provide a service, program, or benefit without providing the appropriate monies or a funding source.

## LEGISLATIVE PRIORITIES AND THE COUNTY'S POSITION

### 1. INDIAN RIVER LAGOON

**Background:** The health of the Indian River Lagoon (“Lagoon”) is of great concern to Indian River County. The Lagoon provides an economic benefit by promoting tourism and creating recreational opportunities for residents. The Lagoon is also an important element in the protection of our environment including endangered and protected plant and animal populations.

This year, Indian River County is promoting a number of projects to protect the Lagoon, including, but not limited to, projects that would properly abandon aging septic tanks and provide County-operated sewer and create a new water treatment facility to remove nitrogen and phosphates from canal water within the Indian River Farms Water Control District prior to being released into the Lagoon.

**Support:** Indian River County BCC **SUPPORTS** legislation that will enhance the economic wellbeing of Indian River County by treating and monitoring the health of the Lagoon.

## 2. TRANSPARENCY, ACCOUNTABILITY, AND OVERSIGHT OF THE FLORIDA MUNICIPAL POWER AGENCY (FMPA)

**Background:** The Florida Municipal Power Agency (“FMPA”) is a Joint Use Action Agency created pursuant to a series of interlocal agreements with Florida municipalities to finance, acquire, contract, manage, and operate its own electric power projects or jointly accomplish the same purposes with other public or private utilities. The FMPA is governed by a Board of Directors, with one Board member appointed by each member municipality regardless of their status as an elected official. The Board decides all issues concerning each project except for the All Requirements Project. The All Requirements Project is governed by a separate Executive Committee, with each All Requirements Project member municipality that purchases power from the project appointing one Executive Committee member. Although the FMPA is a governmental entity, many of the laws applicable to local governments, including municipalities, do not apply to the FMPA. Further, unlike investor owned utilities such as Florida Power and Light (FPL), the FMPA is not subject to any rate-setting authority by the Florida Public Service Commission.

Approximately 1.6 million citizens within the State of Florida receive electricity from a participating municipality within the FMPA. However, approximately 24% of those citizens are not residents of the municipality supplying electric power. Therefore, while they are subject to the rates set by the FMPA, they do not have any representation on either the Board of Directors or the Executive Committee.

On March 30, 2015, the Joint Legislative Auditing Committee received Report No. 2015-165 (“Report”) from the Florida Auditor General regarding the FMPA which showed that due to risky investment decisions, most of which were inconsistent with industry practices, the FMPA lost approximately \$400 million. Specifically, the findings of the Report included, but was not limited to, the following: (a) FMPA’s hedging activities were inconsistent with other joint use action agencies, leading to net losses of \$247.6 million over the past 12 fiscal years; (b) FMPA’s investments in natural gas exploration and drilling were not consistent with industry practices utilized by other comparable joint action agencies and were more complex and involved more risk than alternative forms of hedging commonly practiced leading to a cash flow deficit of \$14.6 million; (c) certain interest rate swaps (a.k.a. Taylor Swaps) were not employed consistent with industry practices utilized by other comparable joint action agencies which lead to a loss of roughly \$108 million; (d) several personnel and payroll administration activities could negatively affect electricity rates in the future, including the Chief Executive Officer’s employment contract providing for severance pay and lifetime benefits even if employment is terminated for cause; (e) the FMPA did not consistently follow its own procurement and competitive selection policies, one of which could increase the cost of bond issues; and (f) certain All Requirements Project contract provisions relating to withdrawing members are ambiguous, use a fixed discount rate rather than one based on current capital costs, and do not provide for independent verification by a withdrawing member.

It is clear from both the Report and the FMPA’s subsequent action (or lack thereof) that the FMPA is a governmental entity which operates within a culture that is in need of accountability, transparency, and general oversight.

**Support:** Indian River County BCC **SUPPORTS** legislation to require greater oversight, transparency, and accountability by the Florida Municipal Power Agency (FMPA) to its member municipalities and ratepayers.

### 3. ALL ABOARD FLORIDA

**Background:** All Aboard Florida (AAF) is a private company that proposes to operate a higher speed passenger rail service between Miami and Orlando with intermediate stations in Fort Lauderdale and West Palm Beach. The current proposal has 32 trains passing through Indian River County with an average speed of 106 MPH. In certain areas between West Palm Beach and Cocoa Beach, the proposed passenger service is estimated to operate at 110 MPH. The proposed project will have significant negative impacts on Indian River County's economy as well as the safety of its citizens. Therefore, it is imperative the Florida Legislature do anything and everything within its authority to regulate the safety improvements required to operate a higher speed passenger rail service through urban downtown areas along the Treasure Coast.

**Support:** Indian River County BCC **OPPOSES** any state funding for AAF and its passenger rail project; **SUPPORTS** legislative and executive branch advocacy efforts relating to a high-speed rail's impacts on the health, safety, and welfare of citizens; **SUPPORTS** legislation that regulates passenger rail to protect the State of Florida's citizens, local governments, wildlife, waterways, and natural environment; and **OPPOSES** any effort to shift the cost burden of operating and maintaining AAF onto local governments.

#### 4. CANAVERAL PORT AUTHORITY FOREIGN TRADE ZONE

**Background:** The Canaveral Port District Charter currently limits Canaveral Port Authority's Foreign Trade Zone (FTZ) #136 to be operated within Brevard County. For a number of years Indian River County has worked closely with the Port District in an effort to modify its Charter to remove the referenced limitation so that a portion of Indian River County could be included within Foreign Trade Zone #136. The benefits include (a) a reduction of duties for manufacturers if they use foreign components in their finished products, (b) a duty exemption on imported goods that are later re-exported, (c) a delayed payment of duties for goods until they enter the U.S. Market, (d) an elimination of duties on waste, scrap and rejected or defective parts, and (e) a possible reduction in merchandise processing fees (U.S. Customs Processing fees).

**Support:** Indian River County BCC **SUPPORTS** an amendment to the Canaveral Port District Charter to remove the current language which limits the foreign trade zone boundary to Brevard County.

## 5. BEACH RESTORATION AND NOURISHMENT

**Background:** The Florida Department of Environmental Protection has a Beach Management Funding Assistance Program to protect and restore the state's beaches. Erosion leaves miles of beaches, public infrastructure and upland development vulnerable to the next storm event as well as impacting tourism. Currently, beach renourishment is funded via dock stamps along with countless other programs. This leaves beach renourishment projects fighting every year for a very small piece of a large pie.

Additionally, Indian River County, like its sister counties to the north and to the south on Florida's east coast, has a natural nearshore hardbottom resource. This resource is classified as an essential fish habitat and is a species of critical concern. It provides foraging and breeding grounds for sea turtles and juvenile fish. Indian River County's beach management plan is specifically customized to maximize the fill while minimizing the impact to the nearshore hardbottom resource. Last year, HB 877 (Albritton) and SB 1566 (Hutson) proposed to place additional considerations for determining and assigning annual funding priorities for beach management and erosion control projects. One of the proposed additional considerations would have likely caused a negative impact on Indian River County. The consideration would have required the Department of Environmental Protection to analyze the cost per volume per mile of the beach renourishment project and recognize those projects with design components to extend the nourishment interval. While Indian River County understands the State of Florida's interest in receiving the most "bang for its buck", Indian River County makes a conscious effort to only use the necessary amount of fill to renourish its beaches so it can minimize any negative impacts to the nearshore hardbottom resource.

**Support:** Indian River County BCC **SUPPORTS** the creation of a newly dedicated and reoccurring statutory funding source for beach restoration and nourishment projects.

**Oppose:** Indian River County BCC **OPPOSES** legislation that would change or modify the criteria used by the Department of Environmental Protection to rank eligible beach renourishment projects that would negatively impact communities interested in protecting nearshore hardbottom resources.



## LEGISLATIVE APPROPRIATIONS

### 1. OSPREY ACRES

The County is currently designing a large passively-managed water treatment system called Osprey Acres. Osprey Acres is located on 83.14 acres and its purpose is to compliment Osprey Marsh, an existing pollutant removal system which has proven to be very , by further reducing the pollutants in canal water before it enters into the Indian River Lagoon. Osprey Acres will also preserve over 60 acres of uplands, create approximately 17 acres of aquatic habitat for fish and waterfowl, and serve as an important public education facility for adults and school children.

Indian River County BCC respectfully requests you **SUPPORT** an appropriation of \$1 million in matching funds to construct the Osprey Acres project. \*

### 2. ASBSETOS PIPES

Asbestos pipe has been widely used in the utility world since the 40's, 50's and 60's timeframe. In some places it is nearing the end of its useful life. In Indian River County alone there are over 20 miles of asbestos water main pipes. Studies have indicated that in normal use, asbestos pipe does not pose a threat to public health if the line is operating properly and there are no soil disturbances in the near vicinity.

Recent projects such at 45<sup>th</sup> street beautification and an upcoming 12th street project have put the asbestos pipe replacement on Indian River County's radar as part of our asset management program. At this point, Indian River County's Utility Department has identified seven "project areas" where we have asbestos pipes that will need to be replaced. It is in Indian River County's best interest to take proactive steps to replace the pipes before there are any problems. Not only does this protect the environment and the health of our citizens, but it is also less expensive. Replacing the pipes now will cost approximately one-third (1/3) of the cost it would take to fix broken or failed pipes.

Indian River County BCC respectfully requests you **SUPPORT** an appropriation of \$\_\_\_\_\_ in matching funds to replace the asbestos piping along the 12th Street project. \*

### 3. BEACH RENOURISHMENT

Indian River County BCC respectfully requests that you **SUPPORT** an appropriation of \$337,500 in matching funds for a beach restoration project to Indian River County's Sector 5 beach. Sector 5 is within the City of Vero Beach and the project area is approximately 3 miles. Specifically, Indian River County has requested:

- \$25,000 in matching funds for a feasibility study, and
- \$312,500 in matching funds for the design of the beach project.

#### 4. HURRICANE MATTHEW BEACH FUNDING

Indian River County BCC respectfully requests that you **SUPPORT** a separate appropriation for beach restoration associated with damage caused by Hurricane Matthew. Indian River County has worked closely with FDEP to come up with the following estimates for the specific damage caused to Indian River County by Hurricane Matthew.

Sector 3 – \$5.5 Million (~240,000 cubic yards)

Sector 5 - \$2.5 Million (~90,500 cubic yards)

Sector 7 - \$2.5 Million (final costs are still being refined)

## LEGISLATIVE CONCERNS AND THE COUNTY'S POSITION

### 1. COUNTY FUNDING OF COURT RELATED FUNCTIONS

- Indian River County BCC **SUPPORTS** legislation to remove the automatic 1.5% increase in funding for Court related functions; and **SUPPORTS** legislation to increase the service fee charged for recording documents and instruments pursuant to s. 28.24(12)(e), F.S., from \$4.00 to \$8.00, so that \$6.00 of the fee distributed to boards of county commissioners to help fund court-related technology and technology needs as mandated by s. 29.008(1)(f)(2), F.S.

### 2. COUNTY SHARE OF COST FOR MEDICAID SERVICES

- Indian River County BCC **SUPPORTS** legislation to establish a 3% cap on growth in the individual county Medicaid costs under s. 409.915, F.S., and **OPPOSES** efforts to further shift state Medicaid costs to counties.

### 3. WASTE MANAGEMENT

- Indian River County BCC **OPPOSES** any legislation which would inhibit a local government's ability to meet the statutory requirement under Section 403.7032, Florida Statutes, to recycle 75% of its solid waste by the year 2020.

### 4. MEDICAL EXAMINERS

- Indian River County BCC **OPPOSES** legislation that prohibits medical examiners from charging a fee for examination and autopsy services that a medical examiner is required to perform by law for cremation services.

### 5. MILLAGE RATES

- Indian River County BCC **OPPOSES** legislation that negatively changes the formula for calculating a local government's maximum millage rate; and **OPPOSES** legislation that prohibits local governments from redeeming earned rolled back credits.

### 6. CELL TOWERS IN RIGHTS-OF-WAY

- Indian River County BCC **SUPPORTS** legislation ...\*

### 7. STATE HOUSING INITIATIVE PARTNERSHIP PROGRAM (SHIP)

- Indian River County BCC **SUPPORTS** the legislature appropriating the full SHIP funding for local governments.

## 8. LOCAL GOVERNMENT TAX REFERENDA

- Indian River County BCC **OPPOSES** legislation that requires a 60% threshold for passage of a local tax referenda during a general election.

## 9. CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY (COPCN) FOR LIFE SUPPORT OR AIR AMBULANCE SERVICE

- Indian River County BCC **OPPOSES** legislation relating to COPCNs which would negatively impact the County's fire rescue district's ability to provide services.

## 10. FIREFIGHTERS

- Indian River County BCC **OPPOSES** legislation that creates a presumption that a full-time employed firefighter with a condition caused by multiple myeloma, non-Hodgkin's lymphoma, prostate cancer or testicular cancer, and which results in total or partial disability or death, is caused by his or her employment, unless the contrary is shown by competent evidence.

## 11. TOURIST DEVELOPMENT TAX

- Indian River County BCC **OPPOSES** legislation that mandates tourist development funds be diverted away from local communities.

## 12. DERELICT VESSELS

- Indian River County BCC **SUPPORTS** legislation that would stream line the process to remove derelict vessels from the waterways of the State of Florida.

## 13. FRACKING

- Indian River County BCC **OPPOSES** state preemption of fracking activities; **OPPOSES** any legislation which would create a public records exemption for proprietary information provided by drilling companies to the Florida Department of Environmental Protection ("FDEP") through FDEP's online chemical disclosure registry; and **SUPPORTS** a moratorium on all new well stimulation activities, including hydraulic fracturing and acidization, until an independent and comprehensive Florida-specific study has been completed and peer-reviewed.

## 14. SEPTIC TO SEWER

- Indian River County BCC **SUPPORTS** the expansion of Governor Scott's proposed Indian River Lagoon and Caloosahatchee River 50/50 grant matching program in support of septic to sewer conversions to include all of the communities along the Indian River Lagoon.