



Office of  
**INDIAN RIVER COUNTY  
ATTORNEY**

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Dylan Reingold, County Attorney  
William K. DeBral, Deputy County Attorney  
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**MEMORANDUM**

**TO:** Board of County Commissioners  
**FROM:** Dylan Reingold, County Attorney  
**DATE:** September 28, 2020  
**SUBJECT:** City of Vero Beach Water, Wastewater and Reclaimed Water Franchise Agreement

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**BACKGROUND.**

In April 2011, the Indian River County Board of County Commissioners (the "Board") gave notice to the City of Vero Beach (the "City") of its intention not to renew the water or wastewater franchises that were set to expire on March 4, 2017. Since that time the City has continued to serve those unincorporated areas of Indian River County that were served by the City prior to the expiration of the franchises. Several years ago, the City began charging Indian River County rates to those customers in the unincorporated areas of Indian River County. The City has been charging Indian River County rates to the customers in the Town of Indian River Shores (the "Town") per the franchise agreement between the two entities, dated October 1, 2012.

On September 15, 2020, the City sent to County staff a proposed 30 year franchise agreement, which is attached. County staff has reviewed the proposed franchise agreement and plans to offer formal comments to the City. However, there were two larger issues that County staff wanted to present to the Board before responding to the City, 1) the charging of City rates, and 2) the elimination of the sections proposed by County staff concerning additional customers and boundary changes.

The County Administrator, County Attorney and County Utility Director had a conference call with the City Manager, City Attorney, City Utility Director and City's outside counsel on September 24, 2020, to discuss these two key issues. During the discussion, City representatives stated that they could not agree to impact the City's ability to set rates in the future. Moving forward, the City was planning on building a new wastewater plant and that the City could not be locked into the County rate system, which generates roughly the same revenue. They also noted that they may need to increase rates due to requirements of the new Clean Waterways Act. City representatives expressed concerns with the need for potential projects addressing older parts of the system, such as the lines serving the Moorings.

County staff noted the inequity of the City charging County rates to those in the Town, while less affluent customers in other parts of the County would be paying possible higher City rates. City representatives stated that the City was justified in charging a different rate in the Town, as the Town owned the facilities within the municipal boundaries. It should be noted that the ownership of facilities in the unincorporated areas is not a settled issue. The City deleted such proposed language in its draft franchise agreement.

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With respect to the boundary change issue, City staff did clarify that the intent of the language in the proposed franchise agreement was to maintain the existing boundaries of the City franchise service area as set forth in the 1989 agreements referenced in the recitals.

**RECOMMENDATION.**

The County Attorney's Office recommends the Indian River County Board of County Commissioners discuss the proposed agreement and provide direction to staff on the rate structure being proposed by the City of Vero Beach.

**ATTACHMENTS**

City of Vero Beach Proposed Water, Wastewater and Reclaimed water franchise agreement