

- E. Change Order No. 1, Final Payment and Release of Retainage County Road 512 Resurfacing from 125<sup>th</sup> Avenue to I-95, IRC Project No. 1304 (memorandum dated June 10, 2016) 69-86  
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**Approved Change Order No. 1 and payment of Ranger Construction Industries, Inc. Pay Application No. 4 (Final) for final payment and release of retainage in the amount of \$133,167.14.**
- F. Change Order No. 1 and Release of Retainage Aviation Boulevard / 20<sup>th</sup> Avenue Intersection Improvements (memorandum dated June 8, 2016) 87-120  
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**Approved Change Order No. 1 and payment of Guettler Brothers Construction, LLC Contractor's Pay Application No. 6 (Final) for release of retainage in the amount of \$26,505.47.**
- G. Approval of Children's Services Advisory Committee's Funding allocations for Fiscal Year 2016-17 (memorandum dated June 14, 2016) 121-122  
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**Approved the Children's Services Advisory Committee's funding recommendations for Fiscal Year 2016-2017.**

9. **CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES**

None

10. **PUBLIC ITEMS**

11:31  
a.m.

A. **PUBLIC HEARINGS**

1. Consideration of Proposed Vacation Rental Ordinance Establishing a Local License Requirement and Vacation Rental Regulations (memorandum dated June 6, 2016) 123-233  
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**Legislative**

**Proof of Publication of Advertisement for Hearing is on file in the Office of the Clerk to the Board**

**Community Development Director Stan Boling, in his PowerPoint Presentation, gave a comprehensive review of short-term vacation rentals (rentals) in the County. He discussed the need to establish regulations to address unlicensed units, noise, excess parking, and other issues that have been brought to the County's attention by nearby residents. He spoke about Ordinance 2015-013, prohibiting commercial events in residential areas, and Ordinance 2015-014, regulating parking at residences, and stated that the Short Term Vacation Rental Advisory Committee (STVRAC) was established (with a sunset provision) to consider additional regulations. Director Boling thereafter summarized the proposed Ordinance, as**

recommended by staff and the Planning & Zoning Commission (P&Z).

Discussion ensued, and the Board received input from Emergency Services Director John King and Fire Marshal John Duran, regarding the proposed fire safety regulations.

Director Boling spoke on two clauses, a Compliance Timeframe Provision, and a No Impairment of Contracts Provision, that were included in the proposed Ordinance.

Discussion ensued about identifying rentals to make sure owners are complying with the appropriate regulations.

Director Boling informed the Board that staff is considering hiring a consultant who would provide specific addresses of short-term rental units.

The Board CONSENSUS was that it would be worthwhile to hire the consultant discussed by Director Boling.

Director Boling replied that staff would report back to the Board regarding the consultant.

In response to questions posed by the Board and a citizen, Clerk of Circuit Court and Comptroller Jeffrey R. Smith discussed the collection of the Tourist Development Tax on the rental units.

Deliberations ensued regarding the proposed local license fee, frequency of inspections, and various other aspects of the local license.

Commissioner O'Bryan elaborated on his suggestions to have a three-year local license and inspection; require an updated State rental license annually; set a maximum cap of ten people per vacation rental; to grandfather in any rental home that is currently licensed based upon the number of bedrooms listed today for two occupants per bedroom, plus two additional persons; and rewrite the entire noise regulation section.

County Attorney Dylan Reingold asserted that the idea of grandfathering the existing larger-capacity units to a two plus two occupancy cap would be beneficial for assisting the County in terms of potential liability.

The Chairman called a recess at 12:37 p.m., and reconvened the meeting at 1:08 p.m., with all members present.

### The Chairman opened the Public Hearing

George Lamborn, Vice President, South Beach Property Owners Association (SBPOA), read a statement (copy on file) urging the Board to pass regulations to restore peace and order to residential neighborhoods.

Joseph Paladin, 6450 Tropical Way, President of Black Swan Consulting, and a member of the Short Term Vacation Rental Advisory Committee, supported a one-year local license; a triennial inspection; a maximum cap of ten individuals per unit; and a dedicated section on noise regulations in the final Ordinance. He also advocated a ban on outside amplification of speakers.

Glen Powell, 12845 Bay Street, STVRAC Member and Vacation Rental Owner, talked about having stronger noise regulations for all residences. He also advocated for owners of existing licensed rentals to have the use of their rental unit grandfathered and portable.

Commissioner Davis stressed that there is a huge difference between a home and a short term vacation rental, and that he was not in favor of a blanket prohibition of amplified devices.

Vice Chairman Flescher preferred to leave the noise regulations broad-scale and applicable to all residences.

Carter Taylor, 2235 Silver Sands Court, advocated for an annual County license and a three-year inspection; a temporary ban on outdoor amplified sound; and a maximum of two persons per bedroom, with a cap of ten occupants per unit.

A brief discussion ensued regarding the possibility of a Bert J. Harris claim from licensed owners who are marketing their units as having a large number of bedrooms.

Mark Mendelsohn, 665 Reef Road, commented on collecting taxes from the rental unit owners. He also expressed concerns about the Code Enforcement Division's ability to address code infractions, which often occur at night or on weekends.

Staff provided detailed information on code violation procedures and policies of the Code Enforcement Division and the Sheriff's Office.

Bill Walker, St. Christopher Lane, commented on County Code Chapter 912, Single Family Development, and stated that he would support the maximum cap of ten persons per unit.

Bronica Jenkins, 1017 Casseekey Lane, expressed concerns about the potential impact of a ten-cap occupancy limit on licensed owners who have customarily accommodated over ten persons in their rental units. She wanted to make sure that as a licensed owner, the usage of her rental units would be grandfathered.

Colleen Rosenbaum, 1005 River Wind Circle, owner of a vacation rental, spoke on her positive experiences with the persons who have rented her unit, and the economic benefits of tourist dollars.

Tuck Ferrell, 12546 North Highway A1A, representing the North Beach Civic Association, stated that there have been detrimental impacts on his neighborhood due to renters overdoing activities or having large groups of people. He asked the Board to help create a situation where individuals can have quiet enjoyment of their homes and neighborhood.

Barry Siegel, Esquire, 3096 Cardinal Drive, stated that his client, Mitchell Dudek, would agree to the cap of two persons plus two additional persons, as long as his property is given grandfather status with portability. Attorney Siegel cautioned that the County might be exposing itself to Bert Harris claims if a cap is imposed without the grandfather provision.

Commissioner Zorc stressed the need to establish a fixed cap of ten in order to send a clear message to developers who are building "mega-mansions."

The Chairman called a recess at 2:56 p.m., and reconvened the meeting at 3:04 p.m., with all members present.

Miles Conway, 2340 South Highway A1A, President South Beach Property Owners Association (SBPOA), gave a slide presentation (copy on file), in which he referred to County Ordinances 2015-013 and 2015-014; Chapter 974 of the County Code -Noise Ordinance Requirements; Ordinances adopted by the City of Anna Maria in Manatee County, and Monroe County; Florida Statute 509.032 (Public Lodging); proximity restrictions established in San Luis Obispo County, California; and other data to stress the need for stringent rental regulations. He stressed that a short-term rental which

operates as a business, is very different than a traditional residence, and that any more than ten persons constitutes an event. Mr. Conway also noted that it would be unlikely for a rental owner to file a Bert Harris claim.

Mr. Conway read into the record remarks from homeowners Walter H. Forman, M.D., Thomas P. Gillman, DDS, and Dr. Leigh Hoppe, M.D. who have experienced the short term renter and noise issues, and he played a short audio clip of music blaring from a nearby vacation rental at 9:21 a.m. on a Sunday morning. He urged the Board to pass regulations that would restore peace, tranquility, and harmony to residential neighborhoods, through adoption of an occupancy cap of ten persons, no grandfather clause, and a prohibition on outdoor speakers. Mr. Conway also suggested that the Board consider, in the future, making a tangible personal property tax certificate part of the local license requirement.

MOTION WAS MADE by Vice Chairman Flescher to direct the County Attorney's office to meet with the Sheriff's Department about how best to enforce the current noise violation standards as written in Chapter 974 of County Code, and report back to the Board. Motion DIED for lack of a second.

Additional discussion ensued on what standards might be added to the proposed Ordinance to deal with noise violations at the rentals.

ON MOTION by Commissioner O'Bryan, SECONDED by Commissioner Davis, the Board unanimously approved to add to the proposed Ordinance, language banning the amplification of audio or visual sound devices (outdoors or directed outdoors) in rental units; and for staff to return with an update on the noise regulations governing rentals.

MOTION WAS MADE by Commissioner O'Bryan, SECONDED by Commissioner Davis, to adopt Ordinance 2016-006, concerning amendments to its Land Development Regulations (LDRS); establishing requirements for a County Vacation Rental License and other Vacation Rental Regulations by creating Zoning Code Section 911.15(9); and providing for repeal of conflicting provisions; codification; severability; and effective date, with the following amendments:

*ESTABLISH* an occupancy cap, for units served by public sewer, of two occupants per bedroom, plus two additional persons for a maximum limit of ten people per vacation rental;

***ESTABLISH*** an occupancy cap, for units served by a septic system, of two occupants per bedroom plus two additional persons, or the number of persons accommodated by the system as determined by the health department, whichever number of persons is less, with the maximum limit of ten people per vacation rental;

***GRANDFATHER*** the use of any existing State licensed vacation rental home, based upon the number of bedrooms as listed in the Property Appraiser's office, allowing two occupants per bedroom, plus two additional persons with no cap, (or the number of persons accommodated by the septic system as determined by the Health Department), with that use being transferrable with the house; the grandfather clause would dissolve after one year, if a new owner does not utilize the property as a rental.

Director Boling advised that an approved building permit plan is the most accurate means to determine the number of bedrooms.

It was clarified that any rentals which are grandfathered must have a State license as of today's date (June 21, 2016), and their occupancy cap will be based on the number of bedrooms on the building plan.

**MOTION WAS AMENDED** by Commissioner O'Bryan, **SECONDED** by Commissioner Davis, to require that any owner who seeks the grandfather provision must hold a State rental license as of June 21, 2016, the occupancy limits will be based on the number of bedrooms depicted in the unit's approved building permit plan as of June 21, 2016 (unless the septic capacity is less).

Attorney Reingold recapped the changes requested thus far to the draft rental Ordinance.

Mr. Conway suggested that for the grandfathered units, the Board freeze the septic tank capacity as it currently stands with the unit.

**AMENDED MOTION WAS REVISED** by Commissioner O'Bryan, **SECONDED** by Commissioner Davis, to freeze the capacity (the number of persons that the septic tank will accommodate as determined by the Health Department) of the septic tanks for the vacation rental units that will be

grandfathered in.

Commissioners Davis and Solari stressed that the intention is not to impact any single family home or longer term rental; the regulations are targeted to the homes that are being operated as businesses.

Commissioner O'Bryan wanted a cut-off date added to the Claim of Contract clause, stating that an owner who asserts impairment of his or her rental unit must have a contract effective on or before the date the Ordinance is adopted.

A brief discussion ensued with Attorney DeBaal, after which the Board CONSENSUS was to direct staff to add language in the Claim of Contract Impairment Clause in the proposed Ordinance for "...an owner who asserts the enacted ordinance amendment impairs an existing short term vacation rental contract in existence as of the date of this Ordinance, June 21, 2016..."

The Chairman CALLED THE QUESTION, and the Amended Motions carried unanimously. The Board adopted Ordinance 2016-006 as amended.

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board unanimously approved, Resolution 2016-056, amending the schedule of penalties and notification time frames for code violations set forth in Resolution No. 92-59, as amended by Resolution Nos. 95-62 and 2013-089, to include the enforcement of vacation rental and commercial event at residence regulations.

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board unanimously directed staff to prepare and present a "progress report" on the vacation rental ordinance one year after adoption of the vacation rental ordinance.

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner O'Bryan, the Board unanimously approved Resolution 2016-057, establishing an application fee for a County Vacation Rental License.