

ORDINANCE 2016- 15

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CALLING A COUNTYWIDE SAVE OUR INDIAN RIVER LAGOON ½ CENT SALES TAX REFERENDUM ELECTION ON NOVEMBER 8, 2016 WITHIN THE TERRITORIAL LIMITS OF BREVARD COUNTY ON THE QUESTION AS TO WHETHER THE BOARD OF COUNTY COMMISSIONERS SHOULD LEVY A ½ CENT INFRASTRUCTURE SALES TAX FOR FINANCING THE COUNTY’S SHARE OF THE COST FOR THE SAVE OUR INDIAN RIVER LAGOON PROJECT PLAN; PROVIDING FOR FINDINGS; CALLING A REFERENDUM; PROVIDING FOR NOTICE OF THE REFERENDUM; PROVIDING FOR BALLOT LANGUAGE; APPROVAL OF SAVE OUR INDIAN RIVER LAGOON PROJECT PLAN; PROVIDING FOR LEVY OF THE ½ CENT SALES TAX FOR RESTORATION OF THE INDIAN RIVER LAGOON; CREATING A SAVE OUR INDIAN RIVER LAGOON PROJECT TRUST FUND; SAVE OUR INDIAN RIVER LAGOON OVERSIGHT COMMITTEE; PROVIDING FOR SEVERABILITY; REPEALER; AND AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:**

SECTION 1. AUTHORITY FOR ORDINANCE. This Ordinance is adopted pursuant to Sections 212.055(2), Florida Statutes; Chapter 125, Florida Statutes, Section 101.161, Florida Statutes and all other applicable provisions of law, including Florida election laws.

SECTION 2. FINDINGS The County Commission hereby finds and determines as follows:

A. That section 212.055, Florida Statutes grants the Board of County Commissioners the discretionary authority to pass an ordinance calling a referendum on the issue as to whether a ½ cent sales tax should be approved to finance, plan, and construct infrastructure, as that term is defined in subsection (d)1. of section 212.055, Florida Statutes, and for the acquisition of any interest in land for public recreation, conservation, or protection of natural resources;

B. That section 212.055(2)(d)1. defines “infrastructure” to mean “[a]ny fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years, any related land acquisition, land improvement, design, and engineering costs, and all other professional and related costs required to bring the public facilities into service. For purposes of this sub-paragraph, the term “public facilities” means facilities as defined in s. 163.3164(38),

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s. 163.3221(13), or s. 189.012(5), regardless of whether the facilities are owned by the local taxing authority or another governmental entity.

C. Sections 163.3164(38), 163.3221(13), and 189.012(5), Florida Statutes all define the term “public facilities” to include parks and recreational facilities.

D. Chapter 163.3177 requires every county to include a recreation and open space element in their comprehensive plan. The relevant section of that statute reads as follows: Fla. Stat. § 163.3177: (6)(e) A recreation and open space element indicating a comprehensive system of public and private sites for recreation, including, but not limited to, natural reservations, parks and playgrounds, parkways, beaches and public access to beaches, open spaces, waterways, and other recreational facilities.

E. In the Brevard County comprehensive plan, the term “open space” and “recreation” are defined as follows:

1. **Open Space** - lands and *water* not covered by structures including agriculture, which are *suitable for passive recreation or conservation* use.
2. **Recreation** - the pursuit of leisure time activities occurring in an indoor or *outdoor* setting.

F. In turn, the term “passive recreation” is defined as: “

1. **Passive Recreation** - recreation uses where very minimum alteration of vegetation, topography or other native feature is necessary, for the enjoyment of the site amenities. Activities which are considered passive include, but are not limited to, hiking, bicycling, nature observation, camping, non-motorized boating, rowing, swimming, picnicking, archaeological or historic preservation.

G. As defined in the Comprehensive Plan Glossary, the term “passive recreation” includes activities such as sailing, rowing, swimming, nature observation and, though not listed, would also include sailboarding and non-motorized recreational fishing—all of which are activities commonly undertaken on the Indian River Lagoon, and all of which depend upon a swimmable and fishable quality of water <sup>1</sup> allowing the lagoon to function as a natural “passive recreation” “open space”, “public recreational facility” and a “public site for recreation.”

H. The recognition of the Lagoon’s availability and contemplated use for passive recreation is found in the Coastal Management element of the comprehensive plan in Policy 11.9 which reads:

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<sup>1</sup> <http://www.dep.state.fl.us/water/wqssp/classes.htm>

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1. “Brevard County shall investigate the feasibility of acquiring narrow strips of land along the Indian River Lagoon, where such areas could provide visual access or provide parking for passive recreation within the Lagoon.”

I. As an open water body, the Indian River Lagoon also falls within the scope of numerous goals, policies and objectives found in the recreation and open space element of the plan relating to passive recreation.<sup>2</sup>

J. “The U.S. Environmental Protection Agency (EPA) designated the lagoon as “an estuary of national significance” in April 1990 and included the lagoon in the National Estuary Program. The Indian River Lagoon National Estuary Program is a partnership whose members work to improve the water quality and ecological integrity of the 156-mile-long estuary on Florida’s east coast. The St. Johns River and South Florida water management districts, the five counties that border the lagoon — Brevard, Indian River, Martin, St. Lucie and Volusia — and

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<sup>2</sup> Recreation And Open Space Element

**GOAL 1**

PROVIDE A PARK AND OPEN SPACE SYSTEM WHICH OFFERS OPPORTUNITIES FOR A VARIETY OF PASSIVE AND ACTIVE RECREATION, PROMOTES VISUAL APPEAL AND PROVIDES RELIEF FROM EXPANSES OF DEVELOPMENT.

**Parks and Open Space System**

**Objective 1**

Provide a system of parks and open space to meet the recreational needs of the public.

**Policy 1.6**

Develop and enhance existing parks and open space sites to provide additional recreational facilities based on the recreational needs of the public and as funding become available.

**GOAL 2**

PROVIDE A COMPREHENSIVE PROGRAM OF ACTIVE AND PASSIVE RECREATION THAT MEETS THE NEEDS OF THE PUBLIC.

**Objective 1**

To ensure that Brevard’s waterways are a publicly-accessible local system of waterways linked to a larger regional system that contributes to the greatest possible recreational and commercial access to the navigable waters of the State of Florida in a manner that does not jeopardize their environmental values.

**Policy 1.1**

By 2011, the County shall identify, inventory and characterize its system of waterways in terms of use, capacity and relationship to recreational and commercial working waterfronts.

**Public and Private Partnerships**

**Objective 4**

Coordinate public and private resources to meet recreational demands.

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representatives of state, federal and regional governments and agencies make up the Indian River Lagoon Advisory Board, charged with guiding and overseeing the lagoon's protection and restoration." <http://www.cakex.org/directory/organizations/indian-river-lagoon-national-estuary-program>

K. With regard to the function and restoration of water quality in the Indian River Lagoon, the Florida Legislature has made the following findings:

1. The Indian River Lagoon system has been targeted by the state as a priority water body for restoration and preservation since the 1987 Surface Water Improvement and Management Act;
2. Coastal lagoon activities relating to saltwater fishing account for a multibillion dollar economic base;
3. The St. Johns River and South Florida Water Management Districts have jointly developed a management plan that includes water quality improvement, habitat restoration, and public awareness and education; and
4. The Legislature supports the restoration efforts of the water management districts.<sup>3</sup>

L. Based upon the above statutory and county comprehensive plan provisions, EPA designation, and findings by the Florida Legislature, the Board of County Commissioners concludes that the Indian River Lagoon is a "public facility" as that term is defined in section 212.055(2), Florida Statutes.

M. Because the Indian River Lagoon meets the definition of a "public facility," section 212.055(2), Florida Statutes, authorizes the use of the ½ cent discretionary local government infrastructure sales tax for capital improvement projects, which include capital maintenance such as muck removal, and projects with a life span of 5 years or longer such as projects to reduce primary sources of pollution (including excess fertilizer, septic systems, nutrient rich reclaimed water, and stormwater); to remove historical pollution that is now accumulated in muck deposits that smother seagrass, cloud the water column, release nutrients and deplete oxygen; and to restore natural stabilization and filtration systems (including oyster bars and living shorelines).

N. The population of Brevard County exceeds 75,000 people and for the tax year 2016, the taxable value of real property is less than 60 percent of the just value of real property for ad valorem tax purposes, as determined by the Brevard County Property Appraiser's Office.

O. Based on the data provided by the Brevard County Property Appraiser's Office, section 212.055(2)(g), Florida Statutes applies within Brevard County, which statute provides as follows:

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3 Fla. Stat. §320.08058(a)

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(g) Notwithstanding paragraph (d), a county having a population greater than 75,000 in which the taxable value of real property is less than 60 percent of the just value of real property for ad valorem tax purposes for the tax year in which an infrastructure surtax referendum is placed before the voters, and the municipalities within such a county, *may use the proceeds and interest of the surtax for operation and maintenance of parks and recreation programs* and facilities established with the proceeds of the surtax throughout the duration of the surtax levy or while interest earnings accruing from the proceeds of the surtax are available for such use, whichever period is longer.

P. In 1996 the Florida Advisory Council on Intergovernmental Relations, assisted by the State of Florida Department of Revenue, interpreted the uses for “operation and maintenance of parks and recreation programs *and* facilities established with the proceeds of the surtax” to authorize use of the infrastructure surtax for the “operation and maintenance of parks and recreation programs, as well as facilities originally established with surtax proceeds”<sup>4</sup>.

Q. The Board of County Commissioners finds that the Save Our Indian River Lagoon Project Plan presented with this Ordinance, along with the Indian River Lagoon Comprehensive Conservation and Management Plan<sup>5</sup> referenced in the Surface Water Management Element of the Brevard County Comprehensive Plan, constitute a recreation program within the meaning of section 212.055(2)(g), Florida Statutes based upon the goals, objectives and policies in each respective plan, as set forth in the following subparagraph R:

R. **Brevard County Comprehensive Plan: Surface Water Management Element: Policy 1.3:** The Natural Resources Management Office shall be the lead agency for the development and implementation of the Master Stormwater Management Plan and shall coordinate its efforts with the St. John's River Water Management District on the **Indian River Lagoon Comprehensive Conservation and Management Plan (CCMP)**, Total Maximum Daily Loads (TMDL's) and the National Pollution Discharge Elimination System (NPDES) permit schedule and requirements.

**Indian River Lagoon Comprehensive Conservation and Management Plan:**

As part of the effort to coordinate and compliment the IRL SWIM and IRL CCMP plans, the IRL NEP adopted the three IRL SWIM goals:

**Goal 1:** To attain and maintain water and sediment of sufficient quality to support a healthy estuarine lagoon ecosystem;

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<sup>4</sup> Local Government Financial Information Handbook, July 1996, *Florida Advisory Council on Intergovernmental Relations, with the assistance of the Department of Revenue and its Division of Economic and Demographic Research, Joint Legislative Management Committee, Florida Legislature*; p. 185;  
<http://edr.state.fl.us/Content/local-government/reports/lgfi96.pdf>

<sup>5</sup> [https://www.epa.gov/sites/production/files/2015-09/documents/ccmp\\_update\\_2008\\_final.pdf](https://www.epa.gov/sites/production/files/2015-09/documents/ccmp_update_2008_final.pdf)

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**Goal 2:** To attain and maintain a functioning, healthy ecosystem which supports endangered and threatened species, fisheries, commerce and **recreation**;

**Goal 3:** To achieve heightened public awareness and coordinated interagency management of the Indian River Lagoon ecosystem.

The IRL NEP added one additional goal to the CCMP relating to the identification of long term funding resources for implementation of the CCMP's recommendations:

**Goal 4:** To identify and develop long-term funding sources for prioritized projects and programs to preserve, protect, restore and enhance the Indian River Lagoon system.

**Objective:** Develop and implement a coordinated scientific conservation and management strategy to preserve, protect and restore biodiversity in the Indian River Lagoon.

#### **Point Source Discharges Action Plan**

**Objective:** To ensure compliance with the Indian River Lagoon Act and to reduce or eliminate, where possible, industrial and domestic wastewater discharges to the Indian River Lagoon

PS-1 Ensure compliance with the **Indian River Lagoon Act, Chapter 90-262, also known as the Indian River Lagoon Act.**

PS-3 Reduce or eliminate industrial discharges to the Indian River Lagoon.

#### **On-Site Sewage Treatment and Disposal Systems Action Plan**

**Objective:** Determine the impacts on on-site sewage treatment and disposal systems (OSTDS) on the resources of the Indian River Lagoon and to develop and implement strategies to address these impacts.

**OSDS-4:** Promote the connection of areas served by OSTDS to central sewer service or, where connection to central sewer is not feasible, promote the development and use of alternative or advanced OSTDS technologies offering improved treatment in areas identified in the IRL SWIM studies as "problem" or "potential problem" for OSTDS. Identify and publicize potential funding sources that could be used to connect areas served by OSTDS to central sewer or support the development and use of alternative or advanced OSTDS technologies.

#### **Fresh and Storm Water Discharges Action Plan**

**Objective:** To develop and implement strategies to address the impacts of freshwater and stormwater discharges on the resources of the Indian River Lagoon.

**FSD-4** Develop and implement best management practices (BMPs) for the management of stormwater, agricultural and fresh water discharges.

**FSD-6** Reduce the impacts of muck on the Indian River Lagoon.

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**FSD-10** Encourage the proper use of fertilizers, herbicides, pesticides and reuse water.

**FSD-11** Educate residents and property owners about the impacts of freshwater and stormwater discharges on the Indian River Lagoon and what they can do to reduce these impacts.

**FSD-12** Continue reviews of plans of reclamation for water control districts and the standard operating procedures and project works of each large drainage system and agricultural drainage system. Develop and implement strategies to reduce discharges and pollutant loadings to the Indian River Lagoon from these sources.

**FSD-13** Upgrade existing urban and agricultural stormwater systems to reduce pollutant loadings to the Indian River Lagoon.

**FSD-14** Develop and implement appropriate mechanisms to fund and undertake the operation, maintenance and improvement of urban and agricultural stormwater management systems to reduce pollutant loadings

#### **Seagrass Protection, Restoration And Management Action Plan**

**Objective:** To protect and restore seagrass integrity and functionality in the Indian River Lagoon by reducing anthropogenic impacts and attaining and maintaining water quality capable of supporting a healthy, productive and sustainable submerged aquatic vegetation community meeting the seagrass coverage and depth targets developed by the water management districts for the Indian River Lagoon.

**SG-1** Implement a program of protection, restoration and management activities needed to maintain, protect and restore the seagrass/SAV community of the Indian River Lagoon.

#### **Wetlands Action Plan**

**Objective:** Preserve, protect, restore and enhance the wetland resources of the Indian River Lagoon region.

**W-5** Continue the restoration and rehabilitation of impacted or impounded coastal wetlands.

#### **Fisheries Action Plan**

**Objective:** Conserve, protect, and restore the fin and shellfish resources of the Indian River Lagoon

**F-1** Conserve, protect, restore and manage the finfish and shellfish resources in the Indian River Lagoon region.

#### **Public Involvement and Education Action Plan**

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**Objective:** Facilitate implementation of the Indian River Lagoon (IRL) Comprehensive Conservation and Management Plan (CCMP) through public involvement and education.

**PIE-1** Implement and expand public involvement and education projects or programs.

**PIE-4** Increase public and governmental involvement in activities designed to protect and restore the resources of the Indian River Lagoon.

**PIE-5** Strategically prioritize and implement public education programs based on pollution potential, perceived likelihood for behavior change, resource availability, and opportunities that arise.

**Brevard County Comprehensive Plan: Surface Water Management Element:**

**Policy 1.7** Brevard County should continue the public information program on the value of stormwater management. The County should continue to coordinate this program with Natural Resource Conservation Service (NRCS), the Indian River Lagoon National Estuary Program and other appropriate agencies.

**Policy 4.11** Brevard County will continue to identify and map point and nonpoint sources of pollution within the Indian River Lagoon system and watershed to identify and reduce point and nonpoint sources of pollution. This program shall be coordinated with other federal, state and local agencies.

**Conservation Element**

**Policy 3.3** Brevard County shall continue to make efforts to prevent negative impacts of development in and adjacent to the Indian River Lagoon and its tributaries designated as Class II waters, Aquatic Preserves and Outstanding Florida Waters by implementing and revising as necessary, the Surface Water Protection Ordinance...

**Policy 3.4** Brevard County shall continue to prevent negative impacts of development in and adjacent to Class III waters (except Outstanding Florida Waters and Aquatic Preserves) along the St. Johns River and Indian River Lagoon and its tributaries by implementing and revising as necessary, the Surface Water Protection Ordinance...

**Policy 3.8** When deemed necessary to meet State-mandated water quality standards, Brevard County may establish setbacks from the shoreline of the Indian River Lagoon for septic tanks and drainfields. Such setbacks shall at a minimum, be in accordance with F.S. 381.0065(4), as may be amended. In those cases where there is insufficient lot depth to meet County-established setbacks more stringent than those established by State statute, septic tanks and drainfields shall be located in accordance with F.S. 381.0065(4), as may be amended.

**Policy 3.10** Brevard County shall continue to work with the St. Johns River Water Management District (SJRWMD), FDEP, and Indian River Lagoon Program (IRLP) and other appropriate agencies in developing appropriate water quality standards for estuarine waters within the Indian River Lagoon.

**Policy 3.11** Brevard County shall continue to support programs for plugging free-flowing artesian wells, with highest priority being given to those adjacent to the Lagoon.



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**Policy 3.13** Brevard County strongly supports the designation of the Indian River Lagoon from SR 405 north to the County line as an Aquatic Preserve.

**Policy 3.15** By 2013, the County shall establish appropriate protective measures along conveyance systems and tributaries of the St. Johns River and Indian River Lagoon to meet State and Federal water quality standards.

S. In January through March 2016, Brevard County residents endured the most extensive and intensive algal bloom ever recorded in the Indian River system during winter/spring months. The collapse of this bloom in March resulted in one of the most extensive fish kills ever recorded in the county. The winter/spring 2016 bloom followed an algal super bloom that occurred in 2011, brown tides that followed in 2012, 2013 and 2015, and unusual mortality events for dolphins, manatees and pelicans.

T. On March 29, 2016 the Board of County Commissioners voted to send a letter to the Governor requesting assistance. The Governor sent the leadership of multiple state agencies to assess the fish kill and meet with County staff and members of the Legislative delegation to discuss solutions and resource needs. The County was advised to develop a project plan to include a comprehensive list of projects to restore lagoon health, estimate the funding needs for those projects and determine a timetable for implementation. With such a plan, the County would be in a better position to seek dedicated cost-share from the FL Legislature.

U. On April 7, 2016 the County Commission directed staff to develop a Save Our Lagoon Project Plan to restore health to the lagoon and explore dedicated funding mechanisms to fund the entire plan or provide the local match needed to leverage State appropriations and other grants.

V. The proposed Save Our Lagoon Project Plan includes a portfolio of projects to **Reduce** primary sources of pollution (including excess fertilizer, septic systems, nutrient rich reclaimed water, and stormwater); **Remove** historical pollution that is now accumulated in muck deposits that smother seagrass, cloud the water column, release nutrients and deplete oxygen; **Restore** natural stabilization and filtration systems (including oyster bars and living shorelines); and a process to monitor project implementation, efficiency, and cost-effectiveness with a volunteer citizen oversight committee to **Respond** to monitoring data, new technology, changing conditions, alternative project proposals and recommend plan revisions to the County Commission annually. The projected cost of the proposed plan is \$302,881,000.

SECTION 3. REFERENDUM. A referendum election is hereby called and ordered to be held in Brevard County at the time of the next general election to be held on November 8, 2016 to determine whether the board of county commissioners should levy a ½ cent sales tax for financing the county's share of the cost for the Save Our Lagoon project plan.

SECTION 4. NOTICE OF REFERENDUM. This Ordinance shall be published twice in full as part of the Notice or the Referendum Election, together with a notice in substantially the form attached hereto as Exhibit "A" in *Florida Today*, a newspaper of general circulation in the County. The publications shall occur once in the fifth week and once in the third week prior to the week which includes November 8, 2016.

SECTION 5. NOTICE TO SUPERVISOR OF ELECTIONS. Upon adoption of this ordinance, notice of the calling of the referendum election provided for in this Ordinance shall be delivered to the Supervisor of Elections. This Ordinance shall not be implemented unless the Supervisor of Elections provides her consent to a date when the registration books can be available pursuant to Section 100.151, Florida Statutes.

SECTION 6. PLACES OF VOTING, INSPECTORS, CLERKS. The polls will be open at the voting places on the date of the referendum during the times prescribed by law. All qualified electors residing within the County shall be entitled and permitted to vote at the referendum on the proposition set forth below. The places of voting and the inspectors and clerk for the referendum shall be those designated by the Supervisor or Elections of Brevard County.

SECTION 7. OFFICIAL BALLOT. Ballots to be used in the referendum shall contain a statement of the description of the proposed issue on economic development ad valorem tax exemptions and shall be in substantially the following form:

BALLOT  
Brevard County, Florida

**Caption: Save Our Indian River Lagoon ½ Cent Sales Tax Referendum**

To restore the Indian River Lagoon through financing, planning, constructing, maintaining, and operating capital improvements and capital maintenance projects and programs designed to improve water quality, fish, wildlife and marine habitat, remove muck and reduce pollution, shall an ordinance be approved levying a ½ cent sales tax for ten years and requiring deposit of all revenue to a Save Our Lagoon Trust Fund solely for such projects, with citizen committee oversight and annual independent audits?

\_\_\_ YES For the ½ cent sales tax

\_\_\_ NO Against the ½ cent sales tax

SECTION 8. ABSENTEE VOTING. The form of ballots to be used in such referendum for absentee voters shall be the same as used at the polling places for said referendum or such other form as may be prescribed by law.

SECTION 9. PRINTING OF BALLOTS. The Supervisor or Elections for Brevard County is hereby authorized and requested to (a) have sample ballots printed and to deliver such sample ballots to the inspectors and clerks on or before the date and time for opening of the polls for such referendum and (b) have official ballots for use in such referendum printed and delivered in accordance with law.

SECTION 10. PAYMENT OF REFERENDUM EXPENSES. The County Manager is hereby authorized and directed to approve the payment of lawful expenses associated with conducting the referendum election and the Clerk of the Board of County Commissioners is hereby authorized and directed to disburse the funds necessary to pay such expenses.

SECTION 11. VOTER REGISTRATION BOOKS. The Supervisor of Elections for Brevard County is hereby authorized and requested to furnish the poll workers, inspectors and clerks required at each place where the votes are to be cast in such referendum, as well as applicable portions of the registration books or certified copies thereof showing the names of the qualified electors residing in the County.

SECTION 12. ELECTION PROCEDURE. The referendum shall be held and conducted in the manner prescribed by law and shall, as soon as practicable, be returned and canvassed in the manner prescribed by law. The result shall show the number of qualified electors who voted at such referendum and the number of votes cast respectively for and against approval of the proposition. Upon certification in the manner prescribed by law, the results shall be recorded in the minutes of the Board of County Commissioners.

SECTION 13. ELECTION RESULTS. If the majority of the votes cast at such a referendum shall vote for the proposition, the Ordinance shall take effect and be implemented and administered by the Board of County Commissioners through its County Manager and designees.

#### SECTION 14. APPROVAL OF SAVE OUR INDIAN RIVER LAGOON PROJECT PLAN

The Save Our Indian River Lagoon Project Plan (SOIRLPP), as presented to the Board of County Commissioners on August 23, 2016, is hereby approved and adopted. The implementation and amending of the SOIRLPP shall be undertaken by the Brevard County Board of County Commissioners through and under the supervision of the County Manager or his designee, with Indian River Lagoon Oversight Committee input and coordination with the Indian River Lagoon Council and all state and federal agencies participating in the implementation of the SOIRLPP. For the purposes of this Ordinance, the term "Indian River Lagoon" means the Indian River Lagoon National Estuary, inclusive of the Indian River, Banana River, Mosquito Lagoon and their tributaries within Brevard County.

#### SECTION 15. LEVY OF ½ CENT SALES TAX FOR INDIAN RIVER LAGOON RESTORATION

As authorized under section 2121.055(2), Florida Statutes, upon the effective date of this ordinance there is hereby levied for a period of ten years a ½ cent infrastructure sales surtax to be collected, deposited and expended for Indian River Lagoon improvements, projects and programs, as specified in this ordinance which implements the Save Our Indian River Lagoon Project Plan.

#### SECTION 16. SAVE OUR INDIAN RIVER LAGOON PROJECT TRUST FUND.

If the county electorate approves the ½ cent infrastructure sales surtax provided for in this ordinance, the County Manager, or his designee in cooperation with the Board Finance division of the Office of the Clerk of the Circuit Court, shall create a Trust Fund reserved solely for the deposit of revenues derived from the approved tax and any other funds received for purposes of implementing the Save Our Indian River Lagoon Project Plan. Thereafter, all revenues collected from the tax and any other funds received for purposes of implementing the Save Our Indian River Lagoon Project Plan shall be deposited into the Trust Fund and shall be distributed in the manner provided for in the interlocal agreement required under section 212.055(c)1., Florida Statutes. Trust Fund expenditures shall be restricted to :

1. reasonable and necessary capital improvement, capital maintenance and other projects and programs implementing
  - a. a) the Save Our Indian River Lagoon Project Plan, as adopted hereunder or as amended from time to time;
  - b. b) in the Indian River Lagoon Conservation and Management plan, as amended from time to time and incorporated into the Save Our Indian River Lagoon Project Plan and/or
  - c. c) with the approval of the Board of County Commissioners, the costs of any lagoon restoration project or program identified and pursued in accordance with any future plan, as amended from time to time and incorporated into the Save Our Indian River Lagoon Project Plan enacted by the Indian River Lagoon Council created pursuant to the Indian River Lagoon National Estuary Program Interlocal Agreement dated February 19, 2015. Such reasonable and necessary expenses may include lagoon restoration project permitting costs and the costs experts used in obtaining or consulting on the acquisition of such permits;
2. Costs of issuing bonds, including financial advisor fees; bond counsel fees; and bond validation attorneys and expert witness fees, if any are utilized;
3. lagoon restoration project related costs, if any, contemplated by the interlocal agreement required by section 212.055(2), Florida Statutes;
4. any reasonable lagoon restoration related project or expense approved by the Board of County Commissioners, at its discretion, upon recommendation by the Save Our Indian River Lagoon Oversight Committee established hereunder;
5. Save Our Indian River Lagoon Project Plan restoration project related operation and maintenance expenses;
6. Save Our Lagoon Project Plan education and community awareness initiatives or programs;

7. any membership dues payable to the Indian River Lagoon Council.

Such expenditures shall be made in accordance with established county contract, bidding and authorized administrative expense limitations, as set forth in Board policies and County Manager Administrative Orders.

Such expenditures may include use for grant matching funds for federal, state or private contributions pledged for paying expenses or costs related to lagoon restoration projects, or repayment of bonds, if any, issued for financing the cost of capital improvement or capital maintenance projects related to the restoration of the Indian River Lagoon.

#### SECTION 17. SAVE OUR INDIAN RIVER LAGOON OVERSIGHT COMMITTEE

There is hereby created an Save Our Indian River Lagoon Oversight Committee which shall consist of seven members. The intent of this volunteer oversight committee of diversely skilled citizens would be to recommend updates of the Save Our Lagoon Project Plan to the Board of County Commissioners annually and to provide public oversight and a transparent process that not only allows, but fosters, development and implementation of better, less costly and/or more timely tools and techniques for restoration of the Indian River Lagoon.

##### A. STRUCTURE:

Membership shall consist of seven representatives and seven alternates. Committee members shall represent a diversity of demonstrated expertise and experience to annually update and improve the Save Our Lagoon Project Plan. Each member and alternate shall represent at least one of the following fields of expertise: science, technology, economics/finance, real estate, education/outreach, tourism, and lagoon advocacy. A good working knowledge of lagoon water quality issues and sources of pollution is highly desirable. A Chair and Co-Chair shall be elected by a majority vote of the Oversight Committee members.

##### B. APPOINTMENT PROCESS:

The County Commissioners shall call for interested volunteers to submit their qualifications to the Natural Resources Management Department prior to October 1, 2016. ONRM Department staff will review the applications and provide a qualified list of applicants to the League of Cities and to the County Commission to ensure that municipal and County interests are represented. The League will nominate members for three fields of expertise and nominate alternates for the remaining four fields of expertise. Each Commissioner will review the qualifications of the remaining applicants and score them from 1 to 3. Department staff will tabulate the ranking scores to select members for the remaining four fields of expertise and alternates for the remaining three fields of expertise. The County Commission will appoint the League of City nominees to the Oversight Committee and fill the remaining seats with candidates with the highest County Commission ranking. Appointments will be for two year terms, after which time members and alternates may be considered for reappointment or replacement. If replacement members or alternates are required, the entity who selected that member can upgrade the alternate to the member seat, choose a replacement from the existing pool of applicants, or request a new call for qualified citizen volunteers.

##### C. RESPONSIBILITIES:

1. Although Save Our Lagoon plan was developed with the best information

available in 2016, verifying the sources of water quality pollution and keeping up with technological advancements is important for maximizing timely and cost-effective solutions. In order to review and adapt to better information and opportunities through time, monitoring is necessary. As projects from this plan are implemented, the actual costs and nutrient reduction benefits will be tracked.

2. Brevard County staff will provide project monitoring reports to the Oversight Committee and will work with them to recommend adjusting the planned projects, as needed. An adaptive management process shall be utilized to allow alternative projects to be submitted by municipalities and other community or lagoon focused partners for review by the Oversight Committee for inclusion in the next annual update to this plan.

3. The role of the Oversight Committee will be to review monitoring data on timeliness of project delivery, actual and updated project costs, and actual nutrient removal effectiveness, review new literature and local studies on the types of projects included in the plan and potential alternative project types, evaluate alternative project proposals received from the community, and recommend annual adjustments to the plan including Table 46, the Timeline for Funding Needs.

4. The Committee's recommendations will be presented annually by the Committee Chair, working with Department staff, to the Board of County Commissioners for their inclusion; modification and inclusion; or non-inclusion in the Save Our Lagoon plan. The Board shall not take action on the plan recommendation/s any sooner than 15 days after receipt and posting of the plan on the County's or Save Our Indian River Lagoon Project Plan Committee's websites.

5. Upon County Commission approval, a project or projects that deliver comparable nutrient removal benefits may be added to listed Save Our Lagoon projects or substituted for the funding allocated to one or more other Save Our Lagoon projects in the same sub-lagoon. Unless otherwise agreed to by the County Commission, if a substituted project costs more than the project listed in the Save Our Lagoon plan, the requesting partner must provide the balance of the costs.

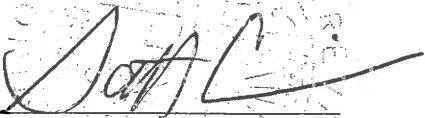
SECTION 18. SEVERABILITY. In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, sentence or paragraph hereof.

SECTION 19. REPEALING CLAUSE. All ordinances or other actions of the County which are in conflict herewith are hereby repealed to the extent of such conflict or inconsistency.

SECTION 20. EFFECTIVE DATE. This Ordinance shall take effect upon November 8, 2016 if the ½ cent sales tax is approved by a majority of the electors of the county voting in the referendum on that date. However, the Ordinance shall not be implemented until such time as a) the Supervisor of Elections has consented to obtaining and making registration books available in accordance with Section 100.151, Florida Statutes; b) election results demonstrate an affirmative vote of the majority of the electors has approved the Save Our Indian River Lagoon ½ cent sales tax and c) prior to November 8, 2016 the governing bodies representing at least 50% of the municipal population in Brevard County have approved an interlocal agreement consistent with the distribution of all proceeds to the trust fund created by this ordinance.

**DONE AND ADOPTED** in Regular Session of the Board of County Commissioners of Brevard County, Florida this 23rd day of August, 2016.

ATTEST:

  
\_\_\_\_\_  
Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

By:   
\_\_\_\_\_  
Jim Barfield, Chair  
(as approved by the Board on August 23, 2016)

STATE OF FLORIDA  
COUNTY OF BREVARD  
This is to certify that the foregoing  
is a true and current copy of Ordinance  
2016-13 witness my hand  
and official seal this 24 day of  
August 2016  
SCOTT ELLIS, Clerk of Circuit Court  
BY Deborah Kreus D.C.

Exhibit "A"

**NOTICE OF SAVE OUR SAVE OUR INDIAN RIVER LAGOON ½ CENT SALES TAX  
REFERENDUM**

Pursuant to the provisions of Section 100.342, Florida Statutes, notice is hereby given that a referendum election shall be held on Tuesday, November 8, 2016, to determine whether the Brevard County Board of County Commissioners should levy a ½ cent infrastructure sales tax for financing the county's share of the cost for the Save Our Indian River Lagoon Project Plan as described in the following Ordinance number 2016- 15 adopted by the Board of County Commissioners of Brevard County, Florida on August 23, , 2016:

As Approved by Board 8/23/16

(Set forth adopted Ordinance here)