BOARD OF COUNTY COMMISSIONERS AGENDA

FINAL AGENDA
2/20/2017 1:30:00 PM

SPECIAL MEETING
MARTIN COUNTY COMMISSION CHAMBERS
2401 SE MONTEREY ROAD, STUART, FLORIDA 34996

COUNTY COMMISSIONERS
Doug Smith, Chairman
Edward V. Ciampi, Vice Chairman
Ed Fielding
Harold E. Jenkins II
Sarah Heard

Taryn Kryzda, County Administrator
Sarah W. Woods, Acting County Attorney
Carolyn Timmann, Clerk of the Circuit Court and Comptroller

PRESETS

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<tr>
<td>3A</td>
<td>Public</td>
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<tr>
<td>8A1</td>
<td>Request for Private Attorney-Client Session Concerning the Case of Lake Point Phase I, LLC and Lake Point Phase II, LLC v. South Florida Water Management District, Martin County and Maggy Hurchalla, Case No. 2013-CA-1321</td>
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<td>11</td>
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1. CALL TO ORDER
   A. INVOCATION - Moment of Silence
   B. PLEDGE OF ALLEGIANCE
   C. ADDITIONAL ITEMS
   D. APPROVAL OF AGENDA
   E. APPROVAL OF CONSENT AGENDA

2. PROCLAMATIONS, SPECIAL PRESENTATIONS, AND LEGISLATIVE AFFAIRS - None at this time.

3. COMMENTS
   A. PUBLIC - PLEASE LIMIT COMMENTS TO THREE MINUTES.
   B. COMMISSIONERS
   C. COUNTY ADMINISTRATOR

4. CONSENT - None at this time.
5. BOARD AND COMMITTEE APPOINTMENTS - None at this time.
6. PUBLIC HEARINGS - None at this time.
7. REQUESTS AND PRESENTATIONS - None at this time.

8. DEPARTMENTAL
   A. County Attorney
      1. REQUEST FOR PRIVATE ATTORNEY-CLIENT SESSION CONCERNING THE CASE OF LAKE POINT PHASE I, LLC AND LAKE POINT PHASE II, LLC V. SOUTH FLORIDA WATER MANAGEMENT DISTRICT, MARTIN COUNTY AND MAGGY HURCHALLA, CASE NO. 2013-CA-1321
         Estimated staff presentation:  1 hour.  The County Attorney desires to meet with the Board of County Commissioners and the County Administrator in a private attorney-client session, in accordance with Section 286.011(8), Florida Statutes, to obtain advice about settlement negotiations and/or strategy related to litigation expenditures in the case of Lake Point Phase I, LLC and Lake Point Phase II, LLC v. South Florida Water Management District, Martin County, and Maggy Hurchalla, Case No. 2013-CA-1321.
         AGENDA ITEM: 808580c3

     2. DISCUSSION REGARDING THE CASE OF LAKE POINT PHASE I, LLC AND LAKE POINT PHASE II, LLC V. SOUTH FLORIDA WATER MANAGEMENT DISTRICT, MARTIN COUNTY AND MAGGY HURCHALLA, CASE NO. 2013-CA-1321
         Estimated staff presentation:  5 minutes.  The County Attorney is requesting direction from the Board of County Commissioners following an overview and discussion in the public forum in the case of Lake Point Phase I, LLC and Lake Point Phase II, LLC v. South Florida Water Management District, Martin County, and Maggy Hurchalla, Case No. 2013-CA-1321.
         AGENDA ITEM: 808580c2

   B. Department of Administration
      1. EXECUTIVE SESSION – IAFF NEGOTIATIONS
         Estimated staff presentation:  1 hour.  Staff is requesting an executive session to discuss labor negotiations with the IAFF Union.
         AGENDA ITEM: 8085c7f7

9. WORKSHOP - None at this time.
10. COMMISSIONERS - None at this time.
11. PUBLIC - PLEASE LIMIT COMMENTS TO THREE MINUTES.
12. ADJOURN
BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

PLACEMENT: DEPARTMENTAL
PRESET: 1:30 PM

TITLE: REQUEST FOR PRIVATE ATTORNEY-CLIENT SESSION CONCERNING THE CASE OF LAKE POINT PHASE I, LLC AND LAKE POINT PHASE II, LLC V. SOUTH FLORIDA WATER MANAGEMENT DISTRICT, MARTIN COUNTY AND MAGGY HURCHALLA, CASE NO. 2013-CA-1321

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<th>COMPLETED DATE:</th>
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<td>2/8/2017</td>
<td>2/5/2017</td>
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REQUESTED BY: DEPARTMENT: PREPARED BY:

<table>
<thead>
<tr>
<th>Name: Sarah W. Woods, Acting County Attorney</th>
<th>County Attorney</th>
<th>David J. D’Agata</th>
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<tbody>
<tr>
<td>Name:</td>
<td>Senior Assistant County Attorney</td>
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Procedures: None

EXECUTIVE SUMMARY:

Estimated staff presentation: 1 hour. The County Attorney desires to meet with the Board of County Commissioners and the County Administrator in a private attorney-client session, in accordance with Section 286.011(8), Florida Statutes, to obtain advice about settlement negotiations and/or strategy related to litigation expenditures in the case of Lake Point Phase I, LLC and Lake Point Phase II, LLC v. South Florida Water Management District, Martin County, and Maggy Hurchalla, Case No. 2013-CA-1321.

APPROVAL:

CA
BACKGROUND/RELATED STRATEGIC GOAL:

Background

In February 2013, Lake Point sued the County and the South Florida Water Management District (“the District”) for breaching purported contractual obligations owed to Lake Point under a Land Acquisition and Development Agreement and an Interlocal Agreement which generally concern Lake Point’s operation of mining activities and use of land located in Martin County. Lake Point also sued the County and Ms. Maggy Hurchalla for alleged interference with its “contract.”

In 2014, Lake Point amended its Complaint to add two counts for violation of the Public Records Act, alleging that the County failed to produce certain records responsive to four public record requests attached to the Complaint. Among other relief, Lake Point requested the entry of judgment requiring the production of such records in their original format.

In 2016, the Court granted motions for partial summary judgment filed by the County and the District finding that neither the Development Agreement nor the Interlocal Agreement allowed for Lake Point’s operation of a private water supply business. Consequently, the water supply “claim” – which was purportedly valued at $26 million – was denied and rejected by the Court. By separate order, the Court also rejected the claim that the County “tortuously interfered” with the Development Agreement. Although the remaining contract claims were set for trial in September 2016, they likely will not be tried until later this year due to “counterclaims” recently asserted by the District.

The Public Records claims were “severed” from all other claims and eventually tried in 2015. After conducting a “trial”/final hearing on the claims, the Court entered an Order on September 3, 2015, finding that the County did not violate the Public Records Act. In March 2016, pursuant to a public records request dated February 24, 2016, Lake Point obtained several e-mail messages from a previously unidentified private email account belonging to a former Commissioner. Based on these previously unidentified emails, Lake Point obtained a Court Order re-opening the Public Records claims. The “retrial” of those claims is currently scheduled for February 21, 22 and 23, 2017. On January 4, 2017, the Court issued an Order referring the Public Records claims to non-binding arbitration before Arbitrator Howard Googe, Esq., which must be completed by February 17, 2017. The arbitration is set to take place on February 8 and 9, 2017.

ISSUES:

N/A

LEGAL SUFFICIENCY REVIEW:

This item has been reviewed for legal sufficiency to determine whether it is consistent with applicable law, has identified and addressed legal risks, and has developed strategies for legal defensibility.
RECOMMENDED ACTION:

RECOMMENDATION
Move that the Board agree to meet with Taryn Kryzda, County Administrator; Sarah S. Woods, Acting County Attorney; David D’Agata, Senior Assistant County Attorney; and Edward de la Parte, Special Counsel; in a private attorney-client session for approximately one hour, or less, in accordance with Section 286.011(8), Florida Statutes, in order to provide advice about settlement negotiations and/or strategy related to litigation expenditures concerning the case of Lake Point Phase I, LLC and Lake Point Phase II, LLC v. South Florida Water Management District, Martin County, and Maggy Hurchalla, Case No. 2013-CA-1321.

ALTERNATIVE RECOMMENDATIONS
Recommend that the Board declines to meet in private attorney-client session.

FISCAL IMPACT:

RECOMMENDATION
n/a

ALTERNATIVE RECOMMENDATIONS
To be determined based on future direction given by the Board.

DOCUMENT(S) REQUIRING ACTION:

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<th>Budget Transfer / Amendment</th>
<th>Chair Letter</th>
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ROUTING:

ADM  BLD  CDD  COM  ENG  FRD  GMD
GSD  ITS  LIB  MCA  MPO  PRD  USD
CA  ACA  LEG
BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

PLACEMENT: DEPARTMENTAL
PRESET:
TITLE: DISCUSSION REGARDING THE CASE OF LAKE POINT PHASE I, LLC AND LAKE POINT PHASE II, LLC V. SOUTH FLORIDA WATER MANAGEMENT DISTRICT, MARTIN COUNTY AND MAGGY HURCHALLA, CASE NO. 2013-CA-1321

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REQUESTED BY: Name: Sarah W. Woods, Acting County Attorney
DEPARTMENT: County Attorney
PREPARED BY: David J. D’Agata

REQUESTED BY: Name: 
DEPARTMENT: 
PREPARED BY: Senior Assistant County Attorney

Procedures: None

EXECUTIVE SUMMARY:

Estimated staff presentation: 5 minutes. The County Attorney is requesting direction from the Board of County Commissioners following an overview and discussion in the public forum in the case of Lake Point Phase I, LLC and Lake Point Phase II, LLC v. South Florida Water Management District, Martin County, and Maggy Hurchalla, Case No. 2013-CA-1321.

APPROVAL:
CA

BACKGROUND/RELATED STRATEGIC GOAL:
Background

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ISSUES:

N/A

LEGAL SUFFICIENCY REVIEW:

This item has been reviewed for legal sufficiency to determine whether it is consistent with applicable law, has identified and addressed legal risks, and has developed strategies for legal defensibility.

RECOMMENDED ACTION:

RECOMMENDATION
Move that the Board agree to hear an overview and update regarding the case in the public forum in order to provide advice about settlement negotiations and/or strategy related to litigation expenditures concerning the case of Lake Point Phase I, LLC and Lake Point Phase II, LLC v. South Florida Water Management District, Martin County and Maggy Hurchalla, Case No. 2013-CA-1321.

ALTERNATIVE RECOMMENDATIONS
Decline to hear overview and update.

FISCAL IMPACT:

RECOMMENDATION
n/a

ALTERNATIVE RECOMMENDATIONS
To be determined based on future direction given by the Board.

DOCUMENT(S) REQUIRING ACTION:

- Budget Transfer / Amendment
- Chair Letter
- Contract / Agreement
- Grant / Application
- Notice
- Ordinance
- Resolution
- Other:

ROUTING:

- ADM
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- CDD
- COM
- ENG
- FRD
- GMD
- GSD
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- LIB
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- LEG
EXECUTIVE SESSION – IAFF NEGOTIATIONS

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REQUESTED BY:  
Name: Board of County Commissioners

DEPARTMENT:  
Department of Administration

PREPARED BY:  
Donna Gordon  
Executive Aide

Procedures: None

EXECUTIVE SUMMARY:

Estimated staff presentation: 1 hour. Staff is requesting an executive session to discuss labor negotiations with the IAFF Union.

APPROVAL:
LEG  
CA

BACKGROUND/RELATED STRATEGIC GOAL:

The Board of County Commissioners has a limited exemption from public meetings and record law, which allows the Board to meet in executive session to discuss collective bargaining issues. This exemption is covered under Florida Statute 447.605.
This session will be attended by each of the five County Commissioners plus negotiations Management Team Members.

**ISSUES:**

None.

**LEGAL SUFFICIENCY REVIEW:**

This item has been reviewed for legal sufficiency to determine whether it is consistent with applicable law, has identified and addressed legal risks, and has developed strategies for legal defensibility.

**RECOMMENDED ACTION:**

**RECOMMENDATION**

Discuss negotiations in an executive session.

**ALTERNATIVE RECOMMENDATIONS**

None.

**FISCAL IMPACT:**

**RECOMMENDATION**

None.

**ALTERNATIVE RECOMMENDATIONS**

None.

**DOCUMENT(S) REQUIRING ACTION:**

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