

CITY COMMISSION REGULAR MEETING MINUTES

Thursday, January 09, 2025, at 5:30 PM

City Commission Chambers - 105 S. 2ND Street, Flagler Beach, FL 32136



ALL MEETING ITEMS WILL BE CONTINUED UNTIL MEETING IS COMPLETE

Present: Mayor Patti King, Chair Scott Spradley, Vice-Chair James Sherman, Commissioners Rick Belhumeur, Eric Cooley and Jane Mealy, City Attorney D. Andrew Smith, 111, City Manager Dale L. Martin, and City Clerk Penny Overstreet.

1. **Call the meeting to order:** Chair Spradley called the meeting to order at 5:30 p.m.
2. **Pledge of Allegiance followed by a moment of silence to honor our Veterans, members of the Armed Forces and First Responders:** Commissioner Sherman led the pledge to the flag.
3. **Proclamations and Awards**
 - a. **Certificates of Appreciation:** Beachfront Grille, Jamie Bourdeau and Dudley Shaw, in appreciation of their generous donation of prepared food for our less fortunate residents on Thanksgiving and Christmas, and Flagler Strong, Tracy Callahan-Hennessey, in appreciation for the donation of plates, cutlery, cups and napkins for the Christmas Pot-Luck Dinner. Mayor King read the certificates into the record. Jamie Bourdeau accepted and thanked the city for serving the residents. Mrs. Hennessey was not present, the Mayor will deliver the certificate to her.
 - b. **Proclamation Recognizing the month of January 2025 as Human Trafficking Awareness Month.** Mayor King read the proclamation into the record. Tracy Dowling and other representatives from the Family Life Center, and Victim Advocates from Flagler Beach, Flagler County and Bunnell Offices were present to accept.
 - c. **Proclamation recognizing the month of January as National Stalking Awareness Month.** Mayor King read the proclamation into the record. Representatives from the Family Life Center, and Victim Advocates from Flagler Beach, Flagler County and Bunnell Offices were present to accept.
 - d. **Election Proclamation.** Mayor King read the proclamation into the record.
4. **Deletions and changes to the agenda:** None.
5. **Public comments regarding items not on the agenda:** Heather Hodavance inquired about FEMA Maps that were discussed at the Planning Board meeting. Darryl Reynolds spoke about the accumulation of litter and cigarette butts around the city. He is working on a "Keep Flagler Beach Beautiful" Grant. Mr. Reynolds reported he has spoken to the City Manager about a few different grants that are available. City Planner Lupita McClenning stated the discussion was not about the Flood Insurance Rate Maps (FIRM) it was a discussion regarding the technical side of the Land Development Regulations regarding Flood Plain Management. Mrs. McClenning offered the requester to stop by the office if they wish to view the FIRM Maps.
6. **Consent Agenda**
 - a. Approve the regular meeting minutes of December 12, 2024. Commissioner Mealy requested an amendment to the minutes on Item 7 h. to change the word "Once" to "As". Motion by Commissioner Mealy that we approve the minutes as amended.

Commissioner Sherman seconded the motion. The motion carried unanimously.

7. General Business

a. Application OE-25-01-01 Request for an Annual Outdoor Entertainment Permit- The Cajun Beach - 1112 Ocean Shore Blvd. -Applicant - Patrick McKinney. Represented by Attorney Hunter Berdard. Commissioner Spradley filed a Form 8B Memorandum of Voting Conflict with the Clerk. The nature of the conflicting interest is Commissioner Spradley's law firm represented the predecessor (Majority Partner) in a going out of business bankruptcy in federal court and the applicant was a minority shareholder of my firm's prior client. Therefore, I am declaring a voting conflict to avoid appearance of partiality. Chair Spradley passed the gavel to Vice-Chair Sherman. Mr. Berdard reviewed his client's request and said the criteria cited by the Planning Board does not apply. Commissioner Belhumeur asked if the applicant has an agreement with the hotel/spa for shared parking. Mr. McKinney responded not in writing, but they spoke with each other. Mr. McKinney explained the radio remote was scheduled and delayed by Hurricane Milton, as was his public hearings for the application, so they both came later, he assumed he would have the permit by the date of the remote broadcast, and he did not think he was breaking rules. Mr. McKinney admitted calls to the police were made and none of them resulted in a citation being issued. Commissioner Cooley inquired to Attorney Smith regarding the Police Reports that were included in the packets. Attorney Smith responded to the complaint about having music without a permit yes, they were in violation, but no noise violations have been cited. Vice-Chair Sherman opened public comments. Tom Wotherspoon spoke in opposition of the request, citing conversations with the Police and the radio station who did the live remote that the applicant spoke of. Brenda Wotherspoon spoke in opposition of the request. She spoke of a text conversation with the hotel/spa owner who says they do not share their parking. Brenda Montgomery spoke in opposition of the application, referring to noise complaints made to the police. Brent King spoke in support of the application and spoke of other restaurants that have less parking. Alyssa Troxel spoke in support of the application; she feels the denial is due to racism. Heather Hodavance, former owner of the hotel and spa, spoke of her past experience with the businesses that operated in the location, she also spoke of her experience as a resident when live music was played. Paul Matykta commented both for and against the request. Vice-Chair Sherman closed public comments. Rebuttal: Mr. McKinney stated the music is for the customers at the bar. Commission comments. Mayor King voiced concern that the hotel/spa owners are being quoted, by both sides, but they are not here to acknowledge it. Commissioner Cooley felt the comments about the hotel/spa owners are hearsay. Commissioner Cooley stated the last permit with the former business had conditions. Attorney Smith clarified those conditions were offered by the applicant and not imposed by the City. Commissioner Cooley spoke of the previous issues with the former Johnny D's location, they constructed the walls of the stage out further to mitigate the sound. He feels if you combined time restrictions and music style and additional mitigation with the stage it may satisfy all parties. Mr. McKinney stated the speakers are at back of the stage and no live music will be played after 10:00 PM, as far as getting our own equipment he cannot do that, but he can make the entertainment push the speakers to the back of the stage. The Clerk read the conditions of the previous owner's permit: *Outdoor Entertainment between the hours of 11:00 a.m. and 9:45 p.m., No Karaoke, Open Mic., Rock Bands or Bingo.* The applicant agreed to all except the open mic and agreed to move the speakers back. Commissioner Belhumeur wanted to remain consistent. Suggested the applicant go back and refine the application by addressing the concerns discussed. Commissioner Sherman asked Chief Doughney about the status of the decibel readers. Chief Doughney responded that the department has

two meters and instructions to use the meters are in the cases. He has been off for two months so cannot provide the state of the equipment at this time. Attorney Smith advised the Officials the applicant has asked for an up or down vote tonight. Commissioner Cooley stated there was movement from the applicant for the mitigation. Commissioner Belhumeur expressed concern that the application does not comply with Criteria #2 and #7. Commissioner Belhumeur wants evidence of more soundproofing. Discussion of tabling the item and allowing the applicant to return with additional evidence of sound mitigation. Attorney Smith restated you may table but the applicant is asking for an up or down vote tonight. Commissioner Mealy urged the applicant to waive the vote and return to show mitigation of the noise. Commissioner Cooley feels the stage needs to be deeper with roof coverage. Attorney Smith advised the Officials; if you haven't seen competent substantial evidence that the criteria have been met, a bunch of lay people sitting here designing a sound stage doesn't get us there. Attorney Smith asked the applicant "do you want to pursue getting the sound engineer and evidence of improvement." The applicants Attorney responded a process is in place and the permit should be granted and then the applicant can go through the process if in violation. Motion by Commissioner Belhumeur to deny for the reason of criteria item 7, the permit would have an adverse effect and would unreasonably infringe on the rights of property owners within 200 feet of the subject property line, adding he has not heard competent substantial evidence that the violations would not occur. Commissioner Mealy seconded the motion. The motion carried unanimously, with Commissioner Spradley abstaining from voting and filed a Form 8B, Memorandum of Voting Conflict.

Vice-Chair Sherman passed the gavel to Chair Spradley. Chair Spradley recessed the meeting at 7:18 p.m. Chair Spradley reconvened the meeting at 7:26 p.m.

- b. Resolution 2025-01. A Resolution by the City Commission of the City of Flagler Beach, to award Bid No. FB-24-1021 Project# 570 City of Flagler Beach South Central Water Main Replacement to All State Civil Construction, Inc. in an amount not to exceed \$610,409.00; providing for conflict and an effective date. Attorney Smith read the title of the resolution into the record. Motion by Commissioner Belhumeur to approve Resolution 2025-01. Commissioner Sherman seconded the motion. Chair Spradley opened public comments. No comments were offered and Chair Spradley closed public comments. The motion carried unanimously, after a roll call vote.
- c. Resolution 2025-03. A Resolution by the City of Flagler Beach, Florida approving a Professional Services Task Order from McKim & Creed in an amount not to exceed \$99,060.00 for the design and other services summarized in Attachment "A" of a 1.0-million-gallon (MG) storage tank at the Water Treatment Facility, providing for conflict and an effective date. Attorney Smith read the title of the resolution into the record. Commissioner Belhumeur questioned possible amendments. City Manager Martin reported the resolution states the amount is not to exceed \$99,060, and any amount higher would come back to you as an addendum to the Task Order. Motion by Commissioner Mealy to approve Resolution 2025-03. Commissioner Cooley seconded the

motion. Chair Spradley opened public comments. No comments were offered. Chair Spradley closed public comments. The motion carried unanimously, after a roll call vote.

- d. Resolution 2025-05. A Resolution by the City of Flagler Beach, Florida, designating Municipal Emergency Services (MES) as a Sole Source Vendor for the purchase of fire support equipment, in an amount not to exceed \$145,428.26; providing for conflict and an

effective date. Attorney Smith read the title of the resolution into the record. Motion by Commissioner Mealy to approve Resolution 2025-05. Commissioner Cooley seconded the motion. Chair Spradley opened public comments. None were offered and Chair Spradley closed public comments. The motion carried unanimously, after a roll call vote.

7. Public Hearings

- a. Ordinance 2024-23, and Ordinance of the City of Flagler Beach, Florida, amending the City of Flagler Beach Code of Ordinances, Appendix "A" "Land Development Regulations, Article V, "Development Design Standards" relating to certain fees and charges related to water service; providing for severability; providing for codification, conflicts and effective date - final reading. Attorney Smith read the title of the Ordinance into the record. Commissioner Cooley expressed his opinion that pools are a luxury, and the one-time waiver should not be allowed. Attorney Smith recommended an addition to add to the end of the sentence on line 73. Motion by Commissioner Belhumeur to approve as amended. Commissioner Sherman seconded the motion. (Amendment is on line 73 after the word fixture add, "except as otherwise set forth herein.") Chair Spradley opened public comment. No comments were offered. Chair Spradley closed public comments. The motion carried unanimously, after a roll call vote.
- b. Consider Application PFS24-0001: Final Site Plan Approval - Legacy Pointe Cottages; Parcel ID No.: 11- 12- 31-0650-000D0-0050; Owner: ALT Homes LLC, T.J. McNitt; Applicant: ALT Homes LLC, Katie Crooke, Representative. City Planner Lupita McClenning reviewed the request. Commissioner Mealy questioned the use of a well for irrigation. Mrs. McClenning advised they will utilize the stormwater pond instead of a well for irrigation of the common space. Commissioner Belhumeur and Mealy questioned the use of an outsource company for solid waste services. TJ McNitt and Harry Newkirk addressed the sanitation questions. City Manager Martin suggested the applicant work with the Sanitation Director to ensure the service can be provided. Mrs. McClenning added to ensure the fire service vehicles can access if dumpster location is moved. Commissioner Cooley asked what type of dwelling this is, a multi or single-family. The applicant stated it is a new design. Attorney Smith advised it's a multifamily designed to look like a single-family. Commissioner Cooley inquired about the multifamily and recreation standards. Mrs. McClenning responded the standard is 500 Sq. ft. minimum, these are 700 sq. ft. The recreation requirement is 4,400 sq. ft., they are providing 9,735 sq. ft. Commissioner Cooley asked is dry and wet retention counted as a part of that. Mrs. McClenning stated they are counting the conservation area if you subtracted that you would still be well above 4,400 square feet. Commissioner Belhumeur asked if there is a deed restriction or an easement for the apartments to have access in perpetuity. The applicant stated they would give cross-access easement, and access to Joyce Street. Motion by Commissioner Mealy that we approve application PFS24-0001 to Legacy Point Cottages, to include the conditions cited by staff. Commissioner Belhumeur seconded the motion. Chair Spradley opened public comments. No comments were offered. Chair Spradley closed public comments. The motion carried unanimously, after a roll call vote.

8. Staff Reports

- a. City Attorney: Mr. Smith asked the Commission if they wished to pull the Veranda Bay annexation items from the January 23rd agenda. The Officials responded yes and asked for social media posts to inform those following the issue. Attorney Smith reported on

another separate issue with the development, the transfer of ownership of the reclaim water pipe (infrastructure) that has already been installed needs to be transferred to the City. The Commission provided direction for the City Attorney to work with the Developer's Attorney for the infrastructure transfer.

- b. City Manager: Mr. Martin advised the city was in receipt of correspondence from the Veranda Bay Developer requesting the annexation application be tabled. Mr. Martin spoke of past events and ones coming forward. Bill Clemence and Chief Pace's retirement. Mr. Martin advised there would be a luncheon for Bill and formal ceremony for Chief Pace at Santa Maria Del Mar Catholic Church. Mr. Martin reported he had shared a \$140K proposal with the City Commission for a Mobility Plan Impact Fee. He has been reviewing with the City Attorney to determine if we can use infrastructure surtax monies. He requested direction, if interested in moving forward, he would have a proposal on the February 13th agenda. The Commission reached a consensus for the item to move forward. Mr. Martin reported the draft Annual Report was distributed to the officials for their review. The Parks Committee met with the Park Consultant, a public outreach event will be at the February First Friday event and at the March First Friday we will ask people to use red and green dots to see what is wanted and what is not. Mayor King asked what about nonresidents. Mr. Martin advised what is being considered and they will have some type of criteria in place. Mr. Martin advised he is beginning the planning for the annual Visioning Session and is looking at March or April. Mr. Martin inquired if the officials were satisfied with last year's facilitator. Commissioner Cooley requested the plan address more than one year, ideally a 1, 2, 5, and 10-year plan.
- c. City Clerk: Thanked the Commission for the opportunity to attend a Florida Association of City Clerk's conference. Clerk Overstreet confirmed the Joint Cities/County Meeting is scheduled for Wednesday, February 5th at 5:30 at the Flagler County Board of County Commissioners Chamber. Clerk Overstreet reported the items that had been submitted for inclusion on the agenda and inquired if the Commission had any additions. No additional items were added.
- d. City Planner: Mrs. McClenning reported the Code Enforcement Officers are attending Soil Erosion training in Maitland next week.

9. Commission Comments

- a. Commission comments, including reports from meetings attended.

Mayor King: Thanked staff for the New Years event. Mayor King reported several social clubs that want to participate in Centennial.

Commissioner Belhumeur: Spoke of the Centennial banners. Requested a direct link to Building Permit Portal on the web site.

Commissioner Sherman: Requested staff look to improve the unpaved one-way road/alleys the garbage truck has to back in on. Mr. Martin reported staff is looking at what access is available. Commissioner Sherman inquired why Veterans Park has not been cleaned up and asked for a status update on the bid package that was distributed. Mr. Martin responded the bids are being looked at by

staff, but other projects have taken priority. Mr. Martin will address the issue with the supervisor.

Commissioner Mealy: Reported the Women's Club held a recognition for Chief Pace's retirement.

Commissioner Cooley: Commented on the letter from staff addressing the condition of the City Hall building. Commissioner Cooley suggested an air quality assessment be performed. City Manager Martin responded he would prepare a bid spec for the air quality check.

Commissioner Spradley: echoed the comments on the holiday events.

10. Public comments regarding items not on the agenda. Citizens are encouraged to speak. However, comments should be limited to three minutes. None.

11. Adjournment. Commissioner Sherman put forth a motion to adjourn the meeting at 8:53 p.m.

Scott Spradley, Chair

Attest:

Penny Overstreet, City Clerk

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Spradley Scott		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE City Commission, Flagler Beach	
MAILING ADDRESS PO Box 3		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY Flagler Beach	COUNTY Flagler	☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED 1/9/2025		NAME OF POLITICAL SUBDIVISION: Flagler Beach	
		MY POSITION IS: ☒ ELECTIVE ☐ APPOINTEE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Scott Spradley, hereby disclose that on January 9, 2025:

(a) A measure came or will come before my agency which (check one)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

My law firm represented the predecessor tenant in a going out of business bankruptcy in federal court. The majority partner of applicant was a minority shareholder of my firm's prior client. I declare a voting conflict to avoid the appearance of partiality.

1/9/2025

Date Filed

[Signature]

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.