



# CITY COMMISSION SPECIAL MEETING MINUTES

Tuesday, September 17, 2024 at 5:30 PM

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

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**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, III, City Manager Dale L. Martin, City Planner Lupita McClenning and City Clerk Penny Overstreet.

1. **Call the meeting to order:** Chairman 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:** Vice-Chair Sherman led the pledge.

Chair Spradley reviewed the process of tonight's meeting. Commissioner Sherman asked Attorney Smith to explain the review process and how there are a number of hearings. Commissioner Sherman suggested holding a workshop for the public. Commissioner Cooley asked about the timing of the approval process. Attorney Smith responded the Land Use Ordinance requires a 30-day review period by the Department of Community Affairs in Tallahassee. Commissioner Cooley expressed concern that this hearing is an approval. Attorney Smith advised it is not an approval of the final documents, this is first reading and amendments can be made/negotiated. Commissioner Mealy inquired about previous agreements. Attorney Smith advised when we get to the Zoning ordinance attached to it is the Master Plan Development Agreement, it is an amended and restated agreement. The former agreement had areas that were not determined. In this agreement those areas are determined. Commissioner Belhumeur spoke of the number of emails expressing opinions that the documents were too much to review in the time period allotted. Commissioner Belhumeur stated this process has been going on for a while, and he wants the public to be aware this is not something we just started. These documents have been available to the public and on the website since late last month.

William Whitson, on behalf of the Flagler County School District, spoke about School Concurrency. The process is outlined in the Interlocal Agreement (ILA). There is a working group that includes City staff and the Policy Oversight Committee includes two Commissioners (Mealy and Sherman). Mr. Whitson stated he is coming forward and offering assistance if needed, to get through the process. He advised one of the terms of the ILA is to have an ex-officio member on the Planning & Architectural Review Board, he requested the meeting notices be copied to him. Mr. Whitson advised the next Oversight Committee meeting is scheduled next June.

Flagler County Attorney Al Hadeed requested the City take over management and maintenance of the portion of John Anderson that is in the annexation area. Sean Moylan, Deputy County Attorney, advised this could be done with a simple Interlocal Agreement.

Attorney Smith requested the Officials disclose their ex-parte communications: Commissioners Belhumeur, Sherman, Spradley, Mealy and Cooley disclosed their communications with the developer, City staff, residents, and the Developers legal counsel, and all affirmed the conversations were for the perspective to obtain a rounded understanding of the project, and that they would be able to make an unbiased decision.

Lupita McClenning, City Planner reviewed a presentation which included. Mrs. McClenning recommended the following amendments to the Master Plan Development Agreement (MPA), in addition to any

considerations the Commission may have.

- Include existing buffers along Bulow Creek of 75' and the Swamp.
- Include existing buffer of 25' min and 50' average along John Anderson Highway.
- Include that the City reviews site plans, preliminary plats, and final plats in accordance with Section 6 of the Land Development Regulations.
- Include small-scale (or large scale) land use amendments shall be submitted in accordance with state regulations.
- Include development is not exempt from Land Development Regulations for Section 4 (Environmental & Resource Protection) and Section 7 (Signage).
- State that improvements prescribed in the Transportation Impact Study be included to minimize impacts to existing road infrastructure.
- Veranda Bay consider utilizing the City's Design Guidelines.
- Veranda Bay consider designating areas for short-term rentals.
- Veranda Bay utilize best practices for prescribed burning including tools provided by DEP and FL Agriculture and Consumer Services for wind direction and burn size to indicate potential smoke plume direction and density.

Mr. Belshe and his counsel Attorney Michael Chiumento reviewed Power Point Presentations on the Veranda Bay/Summertown Development and Voluntary Annexation. Attorney Chiumento advised of amendments and concessions made since the Planning and Architectural Review Board Hearing which included.

- 25" minimum 75" average on buffer the western side of the property that abuts the County Property, and as it abuts Bulow Creek it would be a 75" foot buffer.
- No private wells will be permitted.
- The Community Development District (CDD) will drill a master well for landscaping for use until the re-use water lines are installed and operational.
- The trigger for construction of the spine road will occur when the 600<sup>th</sup> Single Family Residential home is issued a building permit.
- The development will occur consistently with the availability of water and sewer.
- Working with Staff on the burn regulations.

The Commission posed questions related to the development which included. The breakdown of the residential units: 975 single family homes, 1,132 condo units, town homes and apartments totaling 2,785 units, opposition to burning as there are alternatives, addition of a city park open to the public, relocation of the fire station site, due to response times, the spine road, density appropriate to the Comprehensive Plan, and water and wastewater demand and capacity.

Chair Spradley recessed the meeting at 7:22 p.m.

Chair Spradley resumed the meeting at 7:40 p.m.

### **3. Public Hearings**

- a. Ordinance 2024-17, an Ordinance of the City Commission of the City of Flagler Beach, Florida, to annex property to be included within the Corporate Area and City Limits of the City of Flagler Beach; providing for the annexation of approximately 899.09 acres of property described in Exhibit "A" to this Ordinance and lying in the areas proximate to the existing City Limits of the City of Flagler Beach, Flagler County, Florida; providing for annexation in accordance with the voluntary annexation provisions of Section 171.044, Florida Statutes; providing for annexation of real property/amendment of Corporate/City Limits; providing for rights and privileges resulting from annexation upon land uses; providing for effect on ad valorem taxes; providing for effect on businesses and occupations; providing for effect on businesses and occupations; providing for conflicts, severability and an effective date - first reading. Attorney Smith read the title of the ordinance into the record. A review of the Annexation agreement ensued and included discussion

on the following. Page 5 and 6: Developers commitment to 40% open space at the request of the City, in response the developer is requesting a waiver of the tree ordinance for Pine Trees. Attorney Smith advised the tree protection code allows for a waiver, and does not require replacement of those trees in the footprint of a building, as a compromise, to do a tree survey of those specimen trees that should be preserved the true specimen trees such as oaks. The Commission questioned a portion of the agreement that states "Future phase not required to comply with stormwater management plan." Planner McClenning responded the developer would be responsible for their own system if its private, any and all will be permitted by St. Johns River Water Management District (SJRWMD), and the water will be retained on the property. Page 6, Item I. Fee waivers: Commissioner Cooley asked Mr. Belshe to explain the statement "that we ask that the city participate in fees". Mr. Belshe responded most of these fees have already been paid; i.e., Annex application, Comprehensive Plan/Future Land Use amendment, rezoning request, Comp Plan amendment, Rezoning, and the Master Plan application fees.

Page 7 M: Mr. Belshe asked for statement about special event triggers. Attorney Smith advised adding a new sentence "Nothing provided herein shall exempt the developer of the special events code."

Page 8 Section E: The Commission inquired about the homes already permitted by Flagler County Building Department. Attorney Smith advised they have entitlements they received from the County, we cannot take them away, if they have permits issued by the County, going forward they would come to the City for the inspections and for regulatory control.

Page 10: Section 13. Attorney Smith requested removal of the indemnification clause.

Attorney Smith requested the addition of Witness address blocks at the end of the document.

An inquiry about the buffer was made to the Planner. Mrs. McClenning responded it is okay, it just needs to be translated in the pre-annexation agreement and incorporated into the Master Plan Development Agreement. Al Hadeed, Flagler County Attorney stated the County has reached an agreement with the developer on the buffers. Average has to be 75' buffer to Bulow Creek but in some areas, it will be 25' feet, some areas it would be larger than 75' feet to maintain the 75' foot average.

Chair Spradley opened the public hearing. Jessica Hathaway, Pam Hathaway and Caleb Hathaway spoke in opposition to the density proposed. Paul Mykytka inquired if the developments other roadways will be the responsibility of Flagler Beach as well "the spine road", and added they should not be excluded from our tree requirements. Ken Bryan concerned about paving and ability to maintain. Vicki Martin and Dave Dell spoke in opposition to the annexation. Chair Spradley closed the public hearing.

Sean Moylan, Deputy County Attorney: reiterated, the County Administrator added incentive that the boat ramp area dedicated to County would be dedicated to the City if the City takes John Anderson in the development area.

Chair Spradley requested Attorney Chiumento to respond to the comments: All roads inside the community will be developed and maintained by the CCD. The spine road will be dedicated to the city but the developer will maintain the landscaping. Flagler Beach code allows stormwater ponds to be counted as open space, those ponds will be privately maintained but ultimate outflow will be to Bulow and the Intracoastal. Commissioner Cooley asked the applicant if there was a way to reduce the dwelling unit count. Mr. Belshe responded this plan, and the number of units is financially feasible, we believe we can build a tastefully done development.

Motion by Commissioner Belhumeur that we approve Ordinance 2024-17. Commissioner Sherman seconded the motion. Discussion ensued; the Commission reached a consensus to schedule a Town Hall/ Workshop on September 24<sup>th</sup> at 5:30 p.m. The motion carried four to one, with Commissioner Cooley voting no.

The agenda moved to Item 3 c.

- b. Ordinance 2024-18, an Ordinance of the City Commission of the City of Flagler Beach, Florida, amending the Official Zoning Map designation for approximately 899.09 acres of certain real property; providing for severability; providing for conflicts; and providing for an effective date - first reading. Attorney Smith read the title of the Ordinance into the record. The officials reviewed items of concern with the Planner, the following were discussion items. Retaining the hardwood heritage trees that are not in a building footprint. Concern with the size of the monument signs. Short term rentals following our code and permitted in Commercial areas only. The buffer areas, will the trees that are there now be retained or will they be removed and replanted. No open burning should be permitted. Will there be any public parks on the west side of John Anderson Hwy.? Will there be bulkheads or seawalls on the Intracoastal. What is their definition of a dry slip? Request for a City public park in the project. Require three (3) shade trees vs. two (2), increase the accessory use set back to five (5) feet. Why the request to be exempt from the marina regulations in the Land Development Regulations? Lower boundary fence to six (6) feet in height. Request for no fee for reuse water, and placement of “guardrails”/minimum description of the intended landscaping.

Motion by Commissioner Belhumeur to table Ordinance 2024-18 to the September 26, Regular Meeting, beginning at 5:30 p.m. and the public hearings to begin at 6:00 p.m. or soon thereafter. Commissioner Mealy seconded the motion. The motion carried unanimously, after a roll call vote.

The agenda moved to Item 3 D.

- c. Ordinance 2024-19, an Ordinance of the City Commission of the City of Flagler Beach, Florida, amending the Comprehensive Plan Future Land Use Map designation for approximately 899.09 acres of certain real property; providing for severability; providing for conflicts; and providing for an effective date - first reading. Attorney Smith read the title of the Ordinance into the record. The officials reviewed items of concern with the Planner, the following were discussion items. Construction responsibility for recommended turn lanes on John Anderson Hwy. Attorney Smith responded development driven impacts are the developer’s responsibility. Archeological Site evaluation, what has been done. Mr. Belshe responded; it was relocated to the conservation area. Chair Spradley opened the public hearing. Matt Hathaway suggested the workshop geared towards public comments. Pam Hathaway asked for the information to be on the website. Paul Matykta felt the development should be held to our standards. Chair Spradley closed the public hearing.

Motion by Commissioner Mealy that we approve Ordinance 2024-19. Commissioner Belhumeur seconded the motion. The motion carried four to one, with Commissioner Cooley voting no.

The agenda moved to Item 3 B.

- d. Ordinance 2024-20, an Ordinance by the City of Flagler Beach, Florida, amending the Comprehensive Plan to add a Property Rights Element; providing for conflicts, severability, and an effective date - first reading. Attorney Smith read the title of the Ordinance into the record. Motion by Commissioner Belhumeur to approve Ordinance 2024- 20. Commissioner Mealy seconded the motion. Chair Spradley opened the public hearing. No comments were offered. Chair Spradley closed the public hearing. The motion carried unanimously, after a roll call vote.

- e. **Adjournment.** Commissioner Mealy put forth a motion to adjourn the meeting at 9:51 p.m.

Attest:

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Scott Spradley, Chair

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Penny Overstreet, City Clerk