



# CITY COMMISSION REGULAR MEETING MINUTES

Thursday, October 17, 2024 at 5:30 PM

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

**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:** Commissioner Spradley called 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. Proclamation recognizing October as Downs Syndrome Awareness Month. Mayor King read the proclamation into the record, then presented the proclamation to Marie Dowling and Terri Baker from Cedar Bridge Foundation.
  - b. Receive an update from the Centennial Committee - Roland Clee. Mr. Clee spoke of the year-round events the Committee is planning. Gail Wadsworth stated they will have a big monthly event and the grand finale will be in December 2025, with the recreation of the Cabbage Ball. Bree Kunoff was present as well and she is leading the communications team. The website for the centennial celebration is [Flaglerbeachcelebrates@gmail.com](mailto:Flaglerbeachcelebrates@gmail.com).
4. **Deletions and changes to the agenda:** Commissioner Sherman requested that the agenda move 8a to the top of the agenda and move item 7c after 8 a. The commission reached a consensus to move the items.
5. **Public comments regarding items not on the agenda:** Kim Carney spoke about the Flagler County's Beach Management Plan and the discussion regarding maintenance and funding for the beach in the future. She reported there is a Workshop on Friday at 1:00 p.m. (Kim Carney corrected her statement later in the meeting to Monday at 1:00 p.m.) Public comment was closed.
6. **Consent Agenda:**
  - a. Approve the minutes of the Regular Meeting of September 12, 2024, and the Special Meetings of September 12, 17 and 26, 2024, the Workshop Meeting of September 24, 2024, and the Emergency Meeting of October 07, 2024. Motion by Commissioner Sherman, seconded by Commissioner Belhumeur to approve the consent agenda. Public comment was opened. No comments were received. Public Comment was closed. The motion carried unanimously.

**The agenda moved to Item 8a.**

7. **General Business:**
  - a. Resolution 2024-24, a Resolution by the City of Flagler Beach, Florida, approving easement agreements between the City of Flagler Beach and DCB Orchid to construct infrastructure within the City of Flagler Beach and utilize the associated property for the purposes of leasing the infrastructure, providing for conflict and effective date. Attorney Smith read the title of the resolution into the record. Chairman Spradley outlined the location of the easement agreement. Public comment was opened. No comments were offered. Public comment was closed. Motion by Commissioner Sherman, seconded by

Commissioner Cooley to approve Resolution 2024-24. The motion carried unanimously, after a roll call vote.

- b. Resolution 2024-57, a Resolution by the City of Flagler Beach approving McKim & Creed Phase II Stormwater Planning and Improvements; providing for conflict and an effective date. Attorney Smith read the title of the resolution into the record. Mr. Martin reviewed the history of the item. Commissioner Cooley felt strongly the work that can be done now should start as soon as possible. Public comment was opened. No comments were received. Public comment was closed. Motion by Commissioner Sherman, seconded by Commissioner Cooley to approve Resolution 2024-57. The motion carried unanimously after a roll call vote.

**The agenda moved to Item 7d.**

- c. Application OE-24-09-01 Request for Annual Outdoor Entertainment Permit - The Cajun Beach - 1112 S. Ocean Shore Boulevard - Applicant - Patrick McKinney. The City Clerk and Attorney Smith reviewed the recommendation from the PAR Board. It was made clear to the applicant they could not have any outdoor entertainment until their permit was approved. City Clerk Overstreet reported the establishment was playing music this afternoon. The police were called and the music was shutdown. Again, they started playing music after the police had shut them down. Chairman Spradley passed the gavel to Vice Chairman Sherman by recusing himself from the item because Chairman Spradley has represented the co-owner in a case. The owner stated the radio station was booked months ago for a hot dog eating contest. He reported the music was not loud. Public comment was opened. The following people came forward to give their concerns, opinions and suggestions: Brenda Montgomery, Joseph Aspesi, Calvin Montgomery, Elizabeth Texzra, Karen Sprad, Derrick Hodavance and Heather Hodavance. Public comment was closed. Attorney Smith reminded the Commission this is a quasi-judicial item. He asked the Commission to review the criteria and base their motion on the criteria provided. Commissioner Cooley reported there are no documented violations, primarily because of the misuse of a decibel meter by the Police. He reviewed their diagram and saw nothing in the plans for sound abatement. Commissioner Cooley reported that they are playing music today without a permit, after they were shut down earlier in the afternoon; they were playing when he came to the meeting and they are continuing to play at the break. Commissioner Cooley does not see Cajun Beach meeting criteria 2, 5 7 and 10. Commissioner Belhumeur had concerns about the parking, criteria number 5. He explained when they play music they bring in more people above and beyond their parking. Motion by Commissioner Mealy, seconded by Commissioner Belhumeur to deny the permit based upon criteria number five. The motion carried four to zero, with Commissioner Spradley recusing himself from the vote and filed a Form 8b.

Commissioners Mealy and Belhumeur left the meeting at 9:29 p.m.

**The agenda moved to Item 7a**

- d. Annual City Manager evaluation review. It was the consensus to table until all officials are present.
- e. Legislative Priority Recommendations for the 2025 Legislative Session and North East Florida Regional Council. Mr. Martin asked the officials to think about what priorities they want to request and send them to him. Senior staff is meeting with Mr. Fernandez next week. Commissioner Sherman asked about the redundant water loop line. Mr. Martin responded; Mr. Fernandez is trying to bring that to the legislators but the project does not fit nicely into a grant program. This item will be coming back to the Commission in November.
- f. Resolution 2024-61, a Resolution by the City Commission of the City of Flagler Beach, Florida, extending Resolution 2024-58 which enacted a Declaration of Emergency for the City of Flagler Beach, and enacted the powers of Chapter 14, Article III, Emergency Management, providing for conflict and an effective date. Attorney Smith read title into the record. Ms. Overstreet explained the need for the motion. Motion by Commissioner Sherman, seconded by Commissioner Cooley, approve Resolution 2024-61.

Public comment was opened. No comments were received. Public comment was closed. The motion carried unanimously, after a roll call vote.

**The agenda moved to item 9.**

**8. Public Hearings:**

- a. 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. Attorney Michael Chiumento reviewed the amendments/concessions the applicant has made at the request of the Planning Board and City Commission. Mr. Chiumento reviewed the changes and clarification made to the agreement. He reviewed the responsibilities of a CDD. Ms. Lupita McClenning, City Planner, referenced the sign height which is not consistent with City code and advised the Department of Economic Opportunity (DEO) has a 60-day review period for the Future Land Use Map (FLUM) which will be received, at the earliest, on December 7<sup>th</sup>.

Chairman Spradley opened the public hearing. The following individuals come forward to express their concerns, opinions and suggestions: Sean Moylan Flagler County Assistant Attorney, Robby Robert, Kim Carney, Linda Birch, Caleb Hathaway, Linda Birch, Greg Almer, Ralph Santori, Candy Stephens, Matt Hathaway, Alicia Hutchins, Barbara Revels, Sandra Schulteiss, John Tanner, Andy Dance, Jay Garner, Gail Wadsworth, Deb Barnes, Deb Barnes, Vicky Taylor, Conner Hughes, John Noble, Johnny Lulgjuraj, Rick Vaders, Scott Fox, Ladawn Lynch, Ray Lynch, Shari Murriello. The public hearing was closed.

Chairman Spradley thanked all for their comments and attendance.

Commissioner Cooley asked everyone to stay focused on the topic of the Ordinance. He suggested reviewing the ordinance page by page.

Commissioner Mealy would like the spine road to be created while the land is being developed and not wait for the homes to be built. She would like the road to be used for the trucks working on the development of the land and homes. Commissioner Cooley agrees for the developer to put the spine road in first. He was concerned the design for the road was going to be done by the applicant without input from the City. Commissioner Sherman agrees with Commissioners Cooley and Mealy to get the spine road put in now. Commissioner Sherman questioned the cost in resurfacing John Anderson when the road still belongs to the County and the County approves the development. Assistant County Attorney Sean Moylan was referring to the day when it needs to be redone. Commissioner Cooley Section 9, Subsection B, and referred to transportation impact fees. Attorney Smith reported the City does not have transportation impact fees and perhaps, the impact fees can go to the County so they can maintain the road. Chairman Spradley and Attorney Smith clarified the purpose of the meeting for the Commission is to express their concerns, make suggestion but not necessarily negotiate all points with the developer. The developer needs to speak to his investors and confer with his counsel. Staff will confer before you see it again on second reading.

The Commission reviewed the document page by page of the redline document.

Page 1: No change.

Page 2: No change.

Page 3: No change.

Page 4: No change.

Page 5: Commissioner Cooley would like to see more open space designation of conservation. He felt the residential unit count is too high.

Commissioner Mealy also agreed on the issue of open space and would like a definition of open space and for the developer to provide more specifics on the breakdown. Commissioner Cooley asked for quality-of-life amenities. Ms. McClenning, reported the breakdown of the uses approved by the Commission for the FLUM included seven acres active recreation, 92 acres of conservation, 45 acres of landscape wetland buffers, 65 acres open common space, six acres of recreation and 153 acres of dedicated waterfront. The Commission asked for the breakdown to be incorporated into the development agreement.

Page 6: Commissioner Cooley referred to Section 4, Subsection E referring to the word “ongoing” referring to the dates of the project. He hoped to get an expiration date. Ms. McClenning reported the City did provide to the State a Phasing Level, also had to provide that to the School Board, so we know when that development will happen and 2044 was the date submitted to the state as an expiration. Attorney Smith suggested that could be an item for discussion with the developer put an expiration date of 20 years and he has seen other jurisdiction use 20 years and the development can come before the Commission and ask for an extension if needed.

Page 7: Commissioner Cooley referred to Section 4 Subsection F and his concern was there would be safety net this so that this previously dedicated land from the County will not be developed. Attorney Smith advised the Commission could either deny or approve any decision to be made in the future on this agreement. Developer will make amendments to clarify the issue raised.

Page 8: Commissioner Cooley would like to limit docks on Bulow Creek head waters. Sean Moylan reported the developer does not own any water front on the property on the creek. The developer reported the county and developer discussed having a public park and creating a community dock. There is need to clarify the language in the agreement.

Page 9: No change.

Page 10: No change.

Page 11: No change.

Page 12: No change.

Page 13: The spine road being built after the 600<sup>th</sup> house addressed earlier in the meeting and will be presented as a topic during negotiations. Commissioner Belhumeur was disappointed with the number of proposed parks. Commissioner Cooley referred to line 13 regarding stormwater would like to ensure the development is built to the new requirements.

Page 14: No change.

Page 15: Mayor King address the common areas. Line 24 wastewater reuse fees are not addressed. She would like to see a sunset period of free reuse water for the common areas.

Page 16: No change.

Page 17: Commissioner Cooley spoke of the larger trees on site that are 36-inch trees or more. Attorney Smith reported this request was brought up at a previous meeting when the developer asked not to have to do a full-blown tree survey, but the Commission wanted to do go in and preserve trees of a certain age. It was the consensus of the Commission this topic be addressed during negotiations.

Page 18: Mayor King referred to the proposed eight-foot-high perimeter fence. Commissioner Mealy was in agreement and was not sure the code allows for eight-foot fence. She would prefer natural vegetation, trees, but if there has to be a wall or fence it be a maximum of six feet. Commissioner Mealy questioned “average” buffer on line 21. The buffer would never be less than 25.

Page 19: Mayor King referred line 4 regarding low level lighting. She asked if the agreement could be changed from “encouraged” to “required.”

Page 20: Mayor King brought up signage. She asked that the height and the square footage be addressed and reduced. Commissioner Cooley Line 2 – change from 25 ft to 50 minimum and 75 average buffer to Bulow Creek area. It was the consensus of the Commission to bring this forward.

Page 21: No change.

Page 22: Mayor King asked if there is a proposal for dry slips on site. Mr. Belshe responded in a short answer no but in a marina, there are times boats need to be pulled from the water. There was never an idea to have a facility with dry slips, but to operate a marina successfully you have to have the ability to pull a boat. Attorney Smith suggested the following language, to the extent there are dry-slips, there be screenage and no large buildings to house dry slip boats.

Page 23: No change.

Page 24: No change.

Page 25: No change.

Page 26: No change.

Page 27: Commissioner Mealy asked for clarification open burning shall not be permitted to take place during development. Attorney Smith suggested the following language be included: all other non-development burning shall be subject to the Flagler Beach Code.

Page 28: No change.

Page 29: No change.

Page 30: No change.

Page 31: No change.

Page 32: No change.

Page 33: No change.

Page 34: No change.

Discussion included the number of residential units (2765) and if there is any flexibility in that number; if it is a hard no, why; density vs. unit count; Flagler Beach's density of 6.6. units per acre; development being much less than the City's current code.

Mr. Chimento needed clarification on the City's process. Attorney Smith asked if the Commission would consider approving the ordinance on first reading and to schedule a workshop. Mayor King liked the idea of a workshop.

Motion by Commissioner Belhumeur, seconded by Commissioner Mealy, seconded by Commissioner Mealy to approve on 1<sup>st</sup> reading (Ordinance 2024-18) subject to scheduling a workshop between now and 2<sup>nd</sup> reading. The motion carried four to one, after a roll call, with Commissioner Cooley voting no.

Commissioner Spradley recessed the meeting at 8:00 PM.

Commissioner Spradley reconvened the meeting at 8:14 PM.

**The agenda moved to Item 7c.**

## **9. Staff Reports**

Mr. Martin referred to the budget book handed out to the Commission. He asked for them to review and if they would like to make any changes to please let him or Ms. Monroy know what changes need to be

done. He thanked staff for all efforts during Hurricane Milton. Mr. Martin spoke about the height of the sand fencing and the cost for cutting them from three feet to two feet.

Deputy Chief Blanchette reported the shooter from October 5 was found in Palm Coast L Section but upon arrival, the suspect committed suicide in the home

It was the consensus to waive commission comments.

**10. Commission Comments**

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

Mayor King thanked the City Manager and City Staff for their work during the storm.

- b. Public comments regarding items not on the agenda. Citizens are encouraged to speak. However, comments should be limited to three minutes.

The following citizen came forward to give his concerns, opinions and suggestions: Charlie Morrow.

**11. Adjournment**

Motion by Commissioner Sherman to adjourn the meeting at 9:48 p.m.

Attest:

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Scott Spradley, Chair

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Penny Overstreet, City Clerk



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

LAST NAME—FIRST NAME—MIDDLE NAME <b>Spindley Scott W</b>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <b>Flagler Beach City Commission</b>
MAILING ADDRESS <b>PO BOX 3 Flagler Beach, Flagler</b>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY <b>Flagler Beach</b>	NAME OF POLITICAL SUBDIVISION: <b>Flagler Beach</b>
DATE ON WHICH VOTE OCCURRED <b>10/17/2024</b>	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

## 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 Oct 17, 20 24:

(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:

I provided legal representation to a prior business owner of the same place of business as the Applicant, with common ownership

10/17/2024



Date Filed

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.