



## PLANNING AND ARCHITECTURAL REVIEW BOARD MEETING MINUTES

Tuesday, September 03, 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.**

**1. Call the meeting to order**

Chairman Joseph Pozzuoli called the meeting to order at 5:30pm.

**2. Pledge of Allegiance**

Lisa Smith led the Pledge of Allegiance.

**3. Roll Call / Determination of Quorum**

Present: Chairman Joseph Pozzuoli, Vice-Chairman Marshall Shupe, Brenda Wotherspoon, Lisa Smith, Joann Soman, Scott Chappuis, Paul Chestnut

Absent: None

Staff Present: City Attorney Drew Smith, City Planner Lupita McClenning, City Clerk Penny Overstreet and Secretary Michele Ficocello

**4. Approval of Meeting Minutes**

a. August 6, 2024

Joann Soman indicated on page 5 and page 6 that the verbiage "made a motion to approve" is incorrect and should be changed to "made a motion to recommend approval." Joann Soman made a motion to approve meeting minutes as amended. Brenda Wotherspoon seconded. Motion passed unanimously.

**5. Deletions and changes to the agenda**

Agenda item 7c. was moved before item 7a.

**6. Old Business - NONE**

**7. New Business**

a. **Ordinance 2024-20:** An Ordinance of the City of Flagler Beach, Florida, amending the Comprehensive Plan to add a Property Rights Element; providing for conflicts, severability, and an effective date.

City Attorney presented item. There were no comments from the Board. There were no comments from the public. Joann Soman made a motion to recommend approval. Vice-Chairman Marshall Shupe seconded. Motion passed unanimously.

b. **Application OE-24-09-01** Request for Annual Outdoor Entertainment Permit - The Cajun Beach -1112 S. Ocean Shore Boulevard - Applicant - Patrick McKinney.

Brenda Wotherspoon stated her voting conflict for the record, provided a Form 8B and excused herself from the dais. City Clerk Penny Overstreet presented the item. City Clerk provided aerial photographs to the Board for a parking requirement overview. The applicant was not present. The City Clerk stated the applicant was mailed notification which was returned and the Deputy Clerk spoke to the applicant in person last Friday confirming application was on the agenda for today's meeting. Discussion ensued on whether or not to table item due to the applicant's absence. Joann Soman made a motion to table the item. Vice-Chairman Marshall Shupe seconded. Motion passed unanimously. Brenda Wotherspoon returned to the dais and inquired if the applicant were to show up, would the item be heard as members of the public had shown up to speak. Discussion ensued. It was determined, by the will of the Board, to table the item until the next meeting.

- c. **Application PFS24-0002:** Conceptual Site Development Plan - The proposed project will consist of an expansion of the existing parking lot, construction of a new clubhouse and re-grading of the existing Ocean Palms Golf Course.

**Parcel ID No.:** 29-12-32-0000-01010-0000 & 29-12-32-0000-01010-0010

**Zoning District:** REC (Recreation) & MDR (Medium Density Residential)

**FLUM:** Golf Course & High Density

**Owner:** City of Flagler Beach (Dale Martin, City Manager)

**Applicant:** Jeff Ryan (Owner), 12 Bishop Lane, Palm Coast, FL 32137; Regina Brachna, Representative  
City Planner Lupita McClenning presented the item along with a power point presentation. City Planner stated Staff recommends approval of application. Board comments began and discussion ensued. Board discussion included habitable spaces, parking, use of sidewalk in regards to FDOT letter, increase in number of playing holes, elevation, drainage, clubhouse location, hours of operation, event space and zoning. Chairman Joseph Pozzuoli asked the applicant to come forward and speak. Applicant stated name, Jeff Ryan, for the record. Applicant spoke and provided responses to the Board's comments. Public comment was opened. Ken Bryan, 406 Palm Drive, spoke. Public comment included lease with City. Public comment was closed. No formal action required for a conceptual site plan application.

- d. **Application PAN24-0002:** Application for Voluntary Annexation

**Parcel ID No.:** Multiple parcels +/- 899 acres

**Zoning District:** Existing Planned Unit Development (PUD), Unincorporated Flagler County

**FLUM:** Existing Planned Unit Development (PUD), Unincorporated Flagler County

**Owner:** Palm Coast Intracoastal, LLC, Veranda Bay Investments, LLC, Highway 100 Commercial, LLC

**Applicant:** Palm Coast Intracoastal, LLC, Veranda Bay Investments, LLC, Highway 100 Commercial, LLC

**Representative:** Michael D. Chiumento III, Esq., Chiumento Law

The City Attorney gave an overview of next agenda items 7d., 7e., 7f., 7g., 7h. and 7i. as they are all connected. Representatives from the Flagler County Government were present and gave a presentation. A power point presentation was provided to the Board and displayed for the public. Sean Moylan, Deputy County Attorney on behalf of the Flagler County Board of Commissioners, gave a presentation before the Board. Adam Mengal, Flagler County Growth Management Director, was also in attendance. Flagler County is not opposed to the annexation, but did put forth some concerns and/or ideas for consideration including wetland buffers, buffers along John Anderson Highway, John Anderson Highway being made into a City road, access to State Road

100, fire station site, public access to Bulow Creek, Mosquito Control District helipad, no wells on residential parcels, commercial lands remain commercial, building height limits, wastewater capacity and school district notification. City Planner Lupita McClenning provided a power point presentation. Staff made recommendation to approve the application for voluntary annexation. Representative for applicant, Michael Chiumento, gave an overall power point presentation to include agenda items 7d., 7f. and 7h. The representative for all applicants, Ken Belshe, provided a power point presentation to include agenda items 7d., 7f. and 7h. Board comments opened and included the golf course no longer being an option, public safety, impact fees, how the development will be paid for, who is responsible for maintenance of infrastructure, clearing land by way of burning, transportation safety concerns at Colbert Lane, Community Development District (CDD) definition, landscape/maintenance easement for Colbert Lane connector road, making John Anderson Highway pedestrian friendly and density/intensity of PUD.

A member of the public spoke out asking about signage to announce annexation. The City Attorney addressed the concern stating, per the City's Code, the City is not required to post signs.

City Planner Lupita McClenning presented a power point presentation on agenda items 7d., 7f. and 7h. The City Engineer provided a document to the Board outlining impacts to infrastructure and capacity. The City Planner expressed concerns over impacts to the City's infrastructure, capacity, exemptions from section four of the land development code, vested property rights as it relates to zoning and public facilities which will need to be addressed.

City Attorney summarized the concerns on agenda items 7d., 7f. and 7h. as follows; Bulow Creek buffer concerns raised by Flagler County, environmental concerns where waivers are being given, transportation, fire station site, Mosquito Control site, City Code exemptions, no wells on residential properties, refining exhibit G, engineering concerns, water/wastewater capacity, school capacity, using burning to clear land, transportation as it relates to accident data, are the Community Development District (CDD) provisions specific enough and when to trigger the construction of a spine road as development is phased in.

Public comment was opened for agenda item 7d. Ken Bryan, 406 Palm Drive, spoke and comments included the annexation being good for the City, concerns over burning and access from development to Palm Drive. Marjorie Morehouse, 418 Palm Drive, spoke and comments included competition with Palm Coast for this annexation. Carol Caposa, Joyce Street, spoke and comments included not being able to visualize commercial development portion and does not think it will fit. No further public comments received.

Motion to recommend approval of application PAN24-0002 and Ordinance 2024-17 made by Lisa Smith. Seconded by Joann Soman.

Roll Call: Paul Chestnut: Yea, Brenda Wotherspoon: Yea, Vice-Chairman Marshall Shupe: Yea, Chairman Joseph Pozzuoli: Yea, Lisa Smith: Yea, Joann Soman: Yea, Scott Chappuis: Yea

Motion passed unanimously.

- e. **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.

See item 7d.

- f. Application PFLUMA-0001:** Application to amend the Future Land Use Map and Comprehensive Plan  
**Parcel ID No.:** Multiple parcels +/- 899 acres  
**FLUM:** Existing Planned Unit Development (PUD), Unincorporated Flagler County  
**Proposed FLUM:** Low Density Residential (LDR) and General Commercial (GC), City of Flagler Beach  
**Owner:** Palm Coast Intracoastal, LLC, Veranda Bay Investments, LLC, Highway 100 Commercial, LLC  
**Applicant:** Palm Coast Intracoastal, LLC, Veranda Bay Investments, LLC, Highway 100 Commercial, LLC  
**Representative:** Michael D. Chiumento III, Esq., Chiumento Law

After presentations, staff reports and Board comments, public comment was opened. Theresa Supa, 420 Palm Drive, spoke and comments included preserving greenspaces. No further public comments received.

Motion to recommend approval of application PFLUMA24-0001 and Ordinance 2024-19 made by Vice-Chairman Marshall Shupe. Seconded by Joann Soman.

Roll Call: Brenda Wotherspoon: Yea, Vice-Chairman Marshall Shupe: Yea, Lisa Smith: Yea, Joann Soman: Yea, Scott Chappuis: Yea, Paul Chestnut: Yea, Chairman Joseph Pozzuoli: Yea

Motion passed unanimously.

- g. 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.

See item 7f.

- h. Application PRZ24-0002:** Application for Master Planned Development District (MPD)

**Parcel ID No.:** Multiple parcels +/- 899 acres

**Zoning District:** Existing Planned Unit Development (PUD), Unincorporated Flagler County

**Proposed Zoning District:** Master Planned Development District (MPD), City of Flagler Beach

**Owner:** Palm Coast Intracoastal, LLC, Veranda Bay Investments, LLC, Highway 100 Commercial, LLC

**Applicant:** Palm Coast Intracoastal, LLC, Veranda Bay Investments, LLC, Highway 100 Commercial, LLC

**Representative:** Michael D. Chiumento III, Esq., Chiumento Law

City Attorney clarified City Staff did not make a recommendation for the Board to recommend approval of this agenda item due to the concerns outlined in item 7d. Discussion ensued to include the applicant and City Staff coming back to the table to discuss concerns of impacts to infrastructure, utilities and burning. The applicant expressed willingness to work with City Staff. Jody Sisk with Atlantic Ecological Services spoke about wetland buffers. The City Planner quoted the letter provided by the City Engineer. The City Planner's recommendation is to address the concerns and come to terms with the developer on demands placed on the City's infrastructure along with verbiage in the Master Plan Development Agreement. The City Planner advised a technical review with key City Staff to address concerns.

Board comments included a path forward and discussion ensued. Comments included the City Planner and City Attorney to address concerns with the developer.

Joann Soman made a motion to recommend approval of application PRZ24-0002 and Ordinance 2024-18 dependent upon the City Planner and other key City Staff addressing concerns raised during the discussion and summarized by the City Attorney in agenda item 7d. Motion seconded by Lisa Smith.

Roll Call: Vice-Chairman Marshall Shupe: Yea, Lisa Smith: Yea, Joann Soman: Yea, Scott Chappuis: Yea, Paul Chestnut: Yea, Brenda Wotherspoon: Yea, Chairman Joseph Pozzuoli: Yea

Motion passed unanimously.

- i. **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.

See item 7h.

**8. Other Business**

None

**9. City Planner Report**

City Planner Lupita McClenning provided an update on the Gridics Software.

**10. Board Comments**

None

**11. Adjournment**

Joann Soman made a motion to adjourn the meeting. Motion seconded by Brenda Wotherspoon.

Chairman Pozzuoli adjourned the meeting at 8:16pm.



## City of Flagler Beach

800 South Daytona Avenue  
Flagler Beach, Florida 32136  
Phone 386-517-2000 Ext. 230  
Cell 386-276-1007

### Office of the City Engineer

September 3, 2024

Subject: Water and Waste-water capacity

Lupita McClenning:

After reviewing our Consumptive User permit from St. Johns River Water Management District, we have a maximum daily allowance of 0.912 MGD. This has been reduced by 10% since the city has had more than 10% of unaccounted water in 2019. Based on our latest reports from Jim Ramer, we are averaging 0.610 MGD for the month of August. This gives the City of Flagler beach the ability to increase our use approximately 23% before we will be required to apply for a new Consumptive use permit. Keep in mind, this does not tank into account any committed flows, already permitted, but not completed yet. The current water plant has a maximum design capacity of 1.5 MGD. In order to set our water plant up for future growth, we will need to start acquiring property for new wells and begin discussions with SJRWMD to increase our consumptive use permit. We have acquired well sites #17 and #18, however wells #10 and #11 may be approaching the end of their useful life, therefore the new wells may not provide the city with additional capacity. We will then need to plan for increasing the capacity of our water treatment plant to at least 2.0 MGD.

The Waste Water Treatment plant currently has a design capacity of 1.0 MGD. We are currently in design, to replace the existing WWTP. The new WWTP will increase our design capacity from 1.0 MGD to 1.5 MGD, with the ability to expand it to 2.0 MGD in the future, if needed. If the city of Flagler Beach intends to grow beyond the 2.0 MGD design capacity, we may need to make sure we have the room for additional expansion at the existing site.

Sincerely,

*William Freeman*

William H. Freeman, P.E.

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

LAST NAME—FIRST NAME—MIDDLE NAME WITHERSPON BRENDA KAY		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE PAR Board	
MAILING ADDRESS B. WITHERSPON @ B. WITHERSPON		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY Flagler Beach		<input checked="" type="checkbox"/> CITY	<input type="checkbox"/> COUNTY
COUNTY Flagler		<input type="checkbox"/> OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED		NAME OF POLITICAL SUBDIVISION:	
		MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" 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, Brenda Witherspoon, hereby disclose that on Sept. 3, 2024:

(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:

Live within 200 feet of business.

Sept. 3, 2024  
Brenda Witherspoon  
Date Filed

Brenda Witherspoon  
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.