

REGULAR MEETING OF THE FLAGLER BEACH CITY COMMISSION THURSDAY, OCTOBER 13, 2011
AT 5:30 P.M. AND TO BE CONTINUED UNTIL ITEMS ARE COMPLETE.

AGENDA

1. Call the meeting to order.
2. Pledge of Allegiance followed by a moment of silence to recognize the members of the Armed Forces.
3. Proclamations and awards.
 - a. Proclamation supporting the Trap Neuter Return program and recognizing National Feral Cat Day.
4. Deletions and Changes to the Agenda.
5. Comments regarding items not on the agenda. Citizens are encouraged to speak. However, comments should be limited to three minutes.

CONSENT AGENDA

(All items are to be approved by one motion, unless pulled from the Consent Agenda.)

6. Approve the minutes of the regular meeting of September 22, 2011, the special meetings of August 31, 2011, September 27, 2011 and September 29, 2011.
7. Approve a request for an Outdoor Entertainment Permit, "Village Shops – GOLA.
8. Consider a request for Co-Sponsorship of "Holiday at the Beach" – Joseph Pozzuoli, Chairman Flagler Beach Chamber.
9. Approve two (2) Purchase Requisition's for annual blanket purchase order to Workers Temporary Staffing, Inc. in the amount of \$110,000 and Volusia County Landfill in the amount of \$114, 327 for FY 2011-2012.

GENERAL BUSINESS

10. Provide direction regarding recommendation to include Coastal PCX in the Shore Protection Study – Bruce Campbell, Acting City Manager.
11. Provide direction regarding FDOT proposal to encapsulate S.R. A1A Seawall – Bruce Campbell, Acting City Manager.
12. Provide direction regarding implementing an ordinance regulating Pain Management Clinics – Bruce Campbell, Acting City Manager.
13. Consider appointing Bruce Campbell as City Manager – John Feind, Chairman.

COMMISSION COMMENTS

14. Commission comments, including reports from meetings attended.

PUBLIC HEARINGS, TO BEGIN NO EARLIER THAN 6:30 P.M.

15. Ordinance 2010-15, creating Section 5-31 "City of Flagler Beach Dog Friendly Dining Program"; providing for allowance of patrons' dogs at certain outdoor seating areas of restaurants; providing definitions; providing restrictions and requirements related to allowance of dogs at outdoor seating areas; providing for enforcement; providing for codification; providing for severability; and providing for an effective date – first reading.
16. Ordinance 2011-01, amending Section 2.06.08.4.1 of the Land Development Regulations regarding temporary placement of temporary structures and parking and storage of utility trailers and recreational vehicles; amending Sections 2.02.00 and 5.02.01 of the Land Development Regulations to provide definitions; removing certain regulations related to storage of boats; providing for compliance assistance; providing for codification, severability, and repeal of conflict ordinances, and establishing an effective date – second and final reading.
17. Ordinance 2011-16, amending the City of Flagler Beach Code of Ordinances, Chapter 9 Fire Prevention and Protection; Section 9-20, providing restrictions on the permitting of campfires on the beach during sea turtle nesting season; providing for codification, conflict, severability, and an effective date – second and final reading.

STAFF REPORTS

18. Staff Reports.
19. Adjournment.

RECORD REQUIRED TO APPEAL: In accordance with Florida Statute 286.0105 if you should decide to appeal any decision the Commission makes about any matter at this meeting, you will need a record of the proceedings. You are responsible for providing this record. You may hire a court reporter to make a verbatim transcript, or you may buy a CD of the meeting for \$3.00 at the City Clerk's office. Copies of CDs are only made upon request. The City is not responsible for any mechanical failure of the recording equipment.

In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk at (386) 517-2000 ext 235 at least 72 hours prior to the meeting.

The City Commission reserves the right to request that all written material be on file with the City Clerk when the agenda item is submitted.

PROCLAMATION

DECLARING

October 16, 2011

AS "NATIONAL FERAL CAT DAY"

WHEREAS, October 16th is National Feral Cat Day, a day dedicated to educating communities about Trap-Neuter-Return (TNR), the humane method of care for outdoor cats; and

WHEREAS, Trap-Neuter-Return improves the cats lives. The stresses and behaviors associated with breeding, such as yowling and fighting, stop. Trap-Neuter-Return is recognized throughout the United States and other countries as a humane and responsible way to manage feral cats.

NOW THEREFORE, I, Alice M. Baker, Mayor of the City of Flagler Beach, Florida do hereby proclaim:

Sunday, October 16, 2011 as
National Ferial Cat Day

In and for the City of Flagler Beach and encourage all citizens to support Trap-Neuter-Return as a responsible and humane method of care for feral cat populations..

WITNESS by my hand and the Seal of the City of Flagler Beach, Florida on this 13th day of October 2011.

CITY OF FLAGLER BEACH,
FLORIDA

Alice M. Baker, Mayor

ATTEST:

Penny Overstreet, City Clerk

seal

WORKSHOP OF THE FLAGLER BEACH CITY COMMISSION, 5:30 P.M. ON WEDNESDAY, AUGUST 31, 2011, 5:30 P.M.

PRESENT: Mayor Alice M. Baker; Chairman John Feind, Vice-Chairman Jane Mealy, Commissioners Kim Carney, Steve Settle and Marshall Shupe, Acting City Manager Bruce Campbell and City Clerk Penny Overstreet.

1. CALL THE MEETING TO ORDER: Commissioner Feind called the meeting to order at 5:31 p.m.

2. PLEDGE OF ALLEGIANCE: Mayor Baker led the pledge.

3. DISCUSSION AND POSSIBLE ACTION REGARDING THE CONSIDERATION OF A SETTLEMENT AGREEMENT REGARDING 110 HOLLY AVE. CORPORATION VS. THE CITY OF FLAGLER BEACH CASE NO.: 2010-CA-000456: Commissioner Feind opened the floor to the public. The following citizens came forward to express their concerns, opinions and suggestions: Patty Ellis, Joseph Pozzuoli, Flagler Beach Chamber; Doug Baxter, Flagler County Chamber, George Ellis, Ted Johnson, Charlie Faulkner and John Darrow. Commissioner Feind clarified the marina could open today as it is, and that the issue has not gone before a judge four times. The only time it has gone to court was for the code enforcement issue. Discussion centered on the vested rights of the marina and the City's and owner's interpretation of those rights at the time the structures were assembled. Mr. Livingston, lawyer for the plaintiff, presented a rendering of what the marina would look like and as the Commission requested the need for a site plan or a visual of the intent of the plaintiff. He spoke of the difference between an assembly plant and a facility to construct houseboats that will be moored at the marina. Mr. Livingston presented the attempt by the plaintiff to compromise the use of assembling to five houseboats per year. He spoke of the limitations of the DEP permit and the limiting the number of transient vessels for manatee protection. In his opinion, in order for the marina to be successful, there is the need to fill some of the boat slips with houseboats because of the limitations. He spoke with the marina operator in Marineland and despite their successful grand opening; currently there are not that many boats in the marina right now. The marina was built due in large part of public funds. Mr. Livingston stressed the houseboats were simply an answer to the limitations to the permit. He spoke of the guidelines involved in fiberglassing a boat. Commissioner Settle inquired how many days it would take to fiber glass the structures. Mr. Livingston reported two to three days. Commissioner Settle confirmed if the agreement is for five to be built in a year there would be 15 total days of fiberglassing for the neighborhood. The attorneys discussed how the plaintiff intends to mitigate the situation. Mr. Livingston reported on the impact fees that have been paid by the plaintiff for utility use. Commissioner Feind clarify his concern was whether the marina would be charged a base fee for each houseboat or one base fee for the marina. Mr. Livingston reported there are 51 parking spaces and the handicap spaces are in addition to the 51 spaces. Discussion then turned to the differences between assembling and manufacturing. Mr. Livingston hoped one day the building of a boat could be opened to the public. Commissioner Mealy expressed frustration regarding the amount of time spent defining vessels, floating structures and houseboats and now they are being referred to as houseboats in the proposed settlement. Types of vessels were discussed at length. The next generation of

the structures at the marina will have a bow. Commissioner Mealy questioned if there would be a need for a development plan if the structures were used as a family residence. Attorney Smith spoke of the use of a special exception. But if the structures were to be defined as a vessel, the marina would dictate where the houseboat residence would be located. The City would have the right to ask for a development plan should the marina want to build on the uplands of the property. Commissioner Shupe asked if the City had jurisdiction over the structures in the water. Attorney Smith indicated if they are "floating structures," they would be under the City's jurisdiction but if they are "vessels," it is a disputed point between the City and the plaintiff. He clarified, if it is a vessel, it is subject to coast guard requirements. If it is a "structure," it is subject to Florida building code. Commissioner Mealy and Attorney Livingston argued over whether the odor from the fiberglass work would be more or less if the marina was used as a "boat yard" or if there were to be five boat house fiberglassed in a year. Commissioner Feind spoke to the amount of fiberglass use and the hesitation he has over the boat building aspect for the public to watch in the agreement. Again, the issue of how the structures are defined "floating structure" or "vessel" was discussed. Mr. Livingston indicated that could be resolved at the Commission level or a judge would need to decide how to define the structures. Parking was discussed. Commissioner Feind could not resolve the difference between assembling and manufacturing and the number of the total number of structures. He wanted to know what the plaintiff believes are his vested rights. Mr. Livingston felt the most important vested right is prior to the code change live-a-boards were not restricted in marinas. There was ambiguous code language "if permitted." He felt ambiguities are always going to err on the side of the land owner. Both Attorneys Smith and Livingston felt the settlement agreement should be clear as to what is allowed and not allowed at the marina. Neither the City nor the plaintiff want to have to come back to the table in a year or so to discuss what is allowed and what is not. Attorney Smith summarized his understand of what the plaintiff perceives as his vested rights: liveaboards vessels being allowed without the special exception process and parking requirements. Mr. Livingston felt it comes down to what is permitted at the marina in the code and is there a level of comfort there for the City so there is a level of certainty for the plaintiff. Commissioner Settle hoped the City would avoid significant costs regarding litigation and what is in the best interest of the vitality of the City's commerce. He commended both attorneys for their work on the settlement agreement and he hoped the City would work toward a resolution of the agreement. Otherwise, Commissioner Settle felt and Attorney Smith agreed that the parties would be issued a court order to settle the issue. Mr. Livingston felt if litigation were to go forward, he would not be doing his job if he did not seek damages for the plaintiff. Attorney Smith tried to clarify the definition of "vested" or how and why rights are "vested." Mr. Livingston suggested adding wording regarding assembly to include "for marina specific use only." Commissioner Feind felt the City was talking about changing something so the land owner can make more money and he could not see passed what he felt was manufacturing. Commissioner Settle urged for the Commission to seek a middle ground. Commissioner Feind felt there was not enough give from the side of the land owner. Discussion centered on the definitions be well defined to a particular use, avoiding litigation and having a vital part of the City in operation. Commissioner Carney felt the limit to the amount of structures produced speaks to the lack of manufacturing. There was discussion concerning the wording regarding when a houseboat can be assembled per year. The maximum number of those assembled will be five per year. Attorney Smith asked for a few

minutes before proceeding with the Special Meeting in order for him to have a brief discussion with Mr. Livingston.

4. ADJOURNMENT: **Motion** by Commissioner Shupe, seconded by Commissioner Mealy, to adjourn the meeting at 7:44 p.m. The **motion** carried unanimously.

John Feind, Chairman

Penny Overstreet, City Clerk

#6

SPECIAL MEETING OF THE FLAGLER BEACH CITY COMMISSION, WEDNESDAY, AUGUST 31, 2011 IMMEDIATELY FOLLOWING THE WORKSHOP AT 5:30 P.M

PRESENT: Mayor Alice M. Baker, Chairman John Feind, Vice-Chair Jane Mealy, Commissioners Kim Carney, Steve Settle and Marshall Shupe, Acting City Manager Bruce Campbell and City Clerk Penny Overstreet.

1. CALL THE MEETING TO ORDER: Commissioner Feind called the meeting to order at 7:59 p.m.
2. PLEDGE OF ALLEGIANCE: This item was not addressed.
3. DISCUSSION AND POSSIBLE ACTION REGARDING THE CONSIDERATION OF A SETTLEMENT AGREEMENT REGARDING 110 HOLLY AVE. CORPORATION VS. THE CITY OF FLAGLER BEACH CASE NO.: 2010-CA-000456: Attorney Smith reported if the Commission was interested in pursuing the settlement agreement, he would like to ask for direction on several items that came up at the workshop. Attorney Smith proceeded with the list:
 - Handicap Parking – are in addition to the 51 parking spots.
 - The Wood Boats are removed.
 - There will be a statement worked in that the uses are based on are site specific, use specific, as well as, history specific.
 - Language recognizing these uses are recognized as currently permitted use.
 - One per year with five as the cap to build regardless of whether or not one moves out.
 - One per year will be clarified to one built within twelve months of the time it moves out.
 - Assembly or construction use will be limited to certain times of the day.
 - Fiberglassing to be limited to a maximum number of days in a year.
 - Water based fee question – based on the number of sites hooked up or potentially hooked up or is one. They are will to discuss for each residential type use.

Commissioner Settle asked if there could be a discussion regarding the accommodations for air borne contaminants. Mr. Livingston said he would look into the issue. Commissioners Feind and Mealy asked the terms assembly vs. manufacturing. Commissioner Shupe asked they discuss the option of building in an enclosure of some kind.

It was the consensus of the Commission for Attorney Smith to proceed with the Settlement Agreement and to pursue the items discussed.

4. ADJOURNMENT: **Motion** by Commissioner Shupe, seconded by Commission Settle to adjourn the meeting at 8:06 p.m.

John Feind, Chairman

Penny Overstreet, City Clerk

#6

REGULAR MEETING OF THE FLAGLER BEACH CITY COMMISSION THURSDAY, SEPTEMBER 22, 2011 AT 5:30 P.M., AND TO BE CONTINUED UNTIL ITEMS ARE COMPLETE

PRESENT: Mayor Alice M. Baker, Vice-Chairman Jane Mealy, Commissioners, Kim Carney, Steve Settle, Marshall Shupe, City Attorney Drew Smith, Acting City Manager Bruce Campbell, and City Clerk Penny Overstreet.

ABSENT: Commissioner John Feind.

1. CALL THE MEETING TO ORDER: Commissioner Mealy called the meeting to order at 5:30 p.m.
2. PLEDGE OF ALLEGIANCE FOLLOWED BY A MOMENT OF SILENCE TO RECOGNIZE THE MEMBERS OF THE ARMED FORCES: Mayor Baker led the pledge to the flag followed by a moment of silence.
3. PROCLAMATIONS AND AWARDS: There were no proclamations or awards given.
4. DELETIONS AND CHANGES TO THE AGENDA: Items 8 and 12 were pulled for discussion from the consent agenda.
5. COMMENTS REGARDING ITEMS NOT ON THE AGENDA. CITIZENS ARE ENCOURAGED TO SPEAK. HOWEVER, COMMENTS SHOULD BE LIMITED TO THREE MINUTES: Jim Cox expressed his concerns regarding the marina and reported his progress regarding a petition. Bob Chase took offense toward another citizen speaking on the behalf of all the citizens in Flagler Beach.

CONSENT AGENDA

6. APPROVE THE MINUTES OF THE REGULAR MEETINGS OF AUGUST 25 AND SEPTEMBER 8, 2011, AND THE SPECIAL MEETING OF SEPTEMBER 7, 2011:
7. APPROVE A CONTRACT WITH JAMES MOORE AND COMPANY FOR COMPLETE CARE MANAGED SERVICES:
8. APPROVE AN INTERLOCAL AGREEMENT WITH THE CITY OF PALM COAST FOR BUILDING INSPECTION AND PLAN REVIEW SERVICES ON A CONTINGENCY BASIS:
9. APPROVE AN AGREEMENT BETWEEN THE STATE OF FLORIDA, THE ATTORNEY GENERAL AND THE CITY OF FLAGLER BEACH POLICE DEPARTMENT FOR VOCA GRANT V11020 FOR THE 2011-2012 BUDGET YEAR, AND AUTHORIZE THE MAYOR TO SIGN:
10. APPROVE PROPOSED WORK ASSIGNMENT FOR ENGINEERING SERVICES FROM QUENTIN L. HAMPTON ASSOCIATES, INC. FOR THE DESIGN PHASE SERVICES FOR THE POTABLE WATER PUMP STATION PUMP IMPROVEMENTS IN THE AMOUNT OF \$6,800:
11. APPROVE APPOINTMENTS TO THE ECONOMIC DEVELOPMENT TASK FORCE:

12. APPROVE SITE PLAN AND ARCHITECTURAL DESIGN OF A PROPOSED COMMERCIAL BUSINESS, "THE OCEAN CANTINA" - NICHOLAS KIMBALL, AUTHORIZED REPRESENTATIVE BURRITOS WORKS, INC.:

13. APPROVE ANNUAL OUTDOOR ENTERTAINMENT PERMITS FOR FINN'S, GOLDEN LION AND HURRICANE PATTY'S:

Motion by Commissioner Settle, seconded by Commissioner Carney, that we approve items 6, 7, 9, 10, 11 and 13 on the Consent Agenda. The **motion** carried unanimously.

ITEM 8: Acting City Manager reported on Palm Coast and Flagler County's interlocal agreements regarding a contingency for the City's building inspection services. He recommended to the Commission, if they were to choose one agreement and not both, to choose the County. The County's agreement is a little better than Palm Coast's agreement financially. The County has done this service in the past. Discussion ensued and included entering into both agreements in order to maximize our options; setting up the City's fund was an option and not a reflection on the County's work; defining contingency for the public and the Commission. **Motion** by Commissioner Carney, seconded by Commissioner Shupe, to approve the Interlocal Agreements with the City of Palm Coast and the County for building inspection and plan review services on a contingency basis. The **motion** and the **second** were **amended** to include the wording "the priority to Flagler County." The **amended motion** carried unanimously.

ITEM 12: Commissioner Mealy asked for Nick Kimball or a representative to come forward. She reported the site plan is for a deck to be added to the building. Commissioner Shupe needed clarification as to what was approved by the PAR Board. Mr. Lingenfelter explained the appropriate uses for the property. Mayor Baker felt strongly if the property is in the area of the coastal construction line, the applicant should have all necessary permitting completed before the Commission's approval. He explained the City and Mr. Kimball are trying to do permitting and approvals concurrently. Mr. Lingenfelter explained that Mr. Kimball will not receive a City permit until all permitting is completed. Discussion ensued and included staff's recommendation; the change in the application for bar/restaurant to bar/package store; the past LBTR having lapsed; the parking ratio needed for either use; the approval of being just for the deck and not the ultimate use of the building. Mr. Kimball indicated he would comply with what is allowed in General Commercial. Commissioner Mealy read Commissioner Feind's memorandum into the record. **Motion** by Commissioner Shupe, seconded by Commissioner Settle, that we approve the site plan and architectural design for proposed commercial building business, based on the plans for the deck that were submitted for PAR Board on 09/06/11. The **motion** carried unanimously.

GENERAL BUSINESS

14. PRESENTATION REGARDING THE THIRD ANNUAL "FEED FLAGLER" – FLAGLER COUNTY COMMISSIONER MILISSA HOLLAND: Commissioner Holland spoke to the history of the event.

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She hoped to continue to have the Feed Flagler Challenge and to feed more than 4,000 people. The event is to be held on November 23, 2011 from 3:00 – 6:00 p.m.

15. RECONSIDER ORDINANCE 2011-15 (DOG FRIENDLY DINING)-KATHLEEN STARKE, DANITA MUNDY AND TAMMY DRAKE: Commissioner Mealy explained the item is just to reconsider the ordinance; the ordinance itself is not going to be voting on at this meeting. Commissioner Shupe reported on the City's responsibilities and the restriction the State has put forth on the City. He spoke of compensation for the City's time and efforts. Commissioner Settle felt the market should dictate how many restaurants will actually have this service available. He had no problem reconsidering it. Mayor Baker agreed with Commissioner Settle. Commissioner Carney reviewed the issues she was not comfortable with when the ordinance came before the Commission. She would like reconsider the ordinance. Commissioner Mealy agreed that she would like the opportunity to reconsider the ordinance. The following citizens gave their concerns, suggestions and opinions: Mort Duggan, Carol Fisher, Phyllis Carmel, Denita Mundy, Kathleen Stark, Gail Holt, David Massey, Bob Chase and Annette Massey. **Motion** by Commissioner Settle, seconded by Commissioner Shupe, that we reconsider Ordinance 2011-15 – dog friendly dining at our next regularly scheduled meeting. The **motion** carried unanimously. The ordinance will be presented on October 15, 2011.

16. CONSIDER REQUEST TO APPLY SEWER CREDIT TOWARDS SEWER IMPACT AND CONNECTION FEE'S – JOHN HOCKENBERRY: City Clerk Overstreet reviewed a memo she had distributed to the Commission with the base fees at the time of the building of his home. She estimated the amount owed to Mr. Hockenberry would be \$3,164.71. Mr. Hockenberry thanked the Commission for the opportunity. He explained he has been paying sewer fees but has not been connected to the City since the purchase of his property. He felt the amount that was listed in the back up documentation for his item was less than he had anticipated. Although his neighbor had a similar situation, he thought it was unreasonable for the City to expect him to keep his receipts for twenty years. City Clerk Overstreet reviewed the State's record retention policy. Mr. Hockenberry reviewed a spreadsheet of his account. Commissioner Settle asked what the City's policy has been and hoped that it would be followed consistently. Mayor Baker felt Mr. Hockenberry has not impacted the system. She felt strongly that the City should hook the Hockenberry's up to sewer. Both Commissioners Carney and Shupe had difficulty in understanding how they could be using a septic tank and never have had it cleaned since 1992. Commissioner Mealy agreed with the Mayor and felt the City should pay for the impact fees and the actual hook up to the house. Mr. Hockenberry felt that would be acceptable. The following citizens expressed their concerns, opinions and suggestions: Phyllis Carmel, Andy Miklos. **Motion** by Commissioner Settle, seconded Commissioner Shupe, to waive the impact fees and pay for the connection. The **motion** and **second** were **amended** to include "not to exceed \$1,000 for the connect cost." The motion is based on both the documentary evidence provided by the City and the evidence testimony of Mr. Hockenberry. The **amended motion** carried unanimously. Commissioner Mealy recessed the meeting at 7:38 p.m. The meeting reconvened at 7:54 p.m.

17. RESOLUTION 2011-42, ADOPTING A FEE SCHEDULE FOR THE BUILDING PERMIT AND INSPECTION FEES AS OUTLINED IN EXHIBIT "A", PROVIDING FOR CONFLICT, AND AN EFFECTIVE

DATE: Attorney Smith read the title of the resolution into the record. Commissioner Mealy reported on the need for the resolution. The following citizens came forward to give their concerns, opinions and suggestions: Bob Chase, Phyllis Carmel. **Motion** by Commissioner Shupe, seconded by Commissioner Carney, we approve Resolution 2011-42 which adopts a fee schedule for building permit and inspections as outlined in Exhibit A. The **motion** carried unanimously, after a roll call vote.

18. RESOLUTION 2011-43, AMENDING THE RATE SCHEDULES FOR WATER AND SEWER SERVICES TO INCREASE THE WATER RATES BY 1.18% PER ORDINANCE 2008-01; PROVIDING FOR CONFLICT AND PROVIDING AN EFFECTIVE DATE: Attorney Smith read the title of the resolution into the record. Commissioner Mealy referred to page 3 of the resolution; she felt there should be reference to Ordinance 2010-09 which refers to extra deposits for delinquent accounts. The following citizens gave their concerns, opinions and suggestions: Bob Chase, Phyllis Carmel. **Motion** by Commissioner Carney, seconded by Commissioner Shupe, we accept Resolution 2011-43 amending the rate schedule for water and sewer services to increase the water by 1.18% per ordinance 2008-01, with the suggested amendment to include the Section 5.0322 under the water delinquency bills and penalty Section W10. The **motion** carried unanimously, after a roll call vote.

19. RESOLUTION 2011-44, AMENDING THE FEE SCHEDULE FOR SOLID WASTE COLLECTION PER CHAPTER 11, SECTIONS 11-3 AND 11-15 OF THE CODE OF ORDINANCE; PROVIDING FOR CONFLICT AND PROVIDING AN EFFECTIVE DATE: Attorney Smith read the title of the resolution into the record. Commissioner Mealy hoped the Commission would consider not raising the rates for solid waste. She realized the ordinance dictates they increase the rate. Acting City Manager reported what the increase would mean to the City. **Motion** by Commissioner Settle, seconded by Commissioner Shupe, that we pass Resolution 2011-44. The **motion** carried unanimously, after a roll call vote.

20. RESOLUTION 2011-45, ADOPTING THE CITY'S FLOOD PLAIN MANAGEMENT PLAN IN ACCORDANCE WITH THE COMMUNITY RATING SYSTEM OF THE NATIONAL FLOOD INSURANCE PROGRAM; PROVIDING FOR CONFLICT AND PROVIDING AN EFFECTIVE DATE: Attorney Smith read the title of the resolution into the record. Commissioner Mealy reported the need for the resolution and explained how it keeps the resident's homeowner's insurance down. **Motion** by Commissioner Carney, seconded by Commissioner Shupe, to approve Resolution 2011-45. The **motion** carried unanimously, after a roll call vote.

21. RESOLUTION 2011-46, AMENDING RESOLUTION 2010-50 WHICH ADOPTED THE FY 10/11 BUDGET, TO REFLECT A BUDGET AMENDMENT TO SHOW GRANT REVENUE AND TO TRANSFER RESTRICTED FUNDS FOR EQUIPMENT PURCHASES IN THE POLICE DEPARTMENT, PROVIDING FOR CONFLICT AND PROVIDING AN EFFECTIVE DATE: Attorney Smith read the title of the resolution into the record. Commissioner Mealy explained the need for the resolution. **Motion** by Commissioner Shupe, seconded by Commissioner Settle, to approve Resolution 2011-46 amending Resolution 2010-50. The **motion** carried unanimously, after a roll call vote.

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22. RESOLUTION 2011-47, DECLARING CERTAIN PROPERTY TO BE SURPLUS AND PROVIDING AN EFFECTIVE DATE: Attorney Smith read the title of the resolution into the record. The following citizen express her concern, opinion and/or suggestions: Phyllis Carmel. **Motion** by Commissioner Settle, seconded by Commissioner Carney, we pass Resolution 2011-47. The **motion** carried unanimously, after a roll call vote.

23. RESOLUTION 2011-48, ADOPTING A SALARY SCHEDULE FOR FISCAL YEAR 2011/2012, AS REQUIRED BY CHAPTER 2, ARTICLE VII, PERSONNEL CODE SECTION 2-289.6; AND ESTABLISHING THE ANNUAL SALARY INCREASE CAP AS REQUIRED BY CHAPTER 2, ARTICLE VII PERSONNEL CODE SECTION 2-289-4; PROVIDING FOR CONFLICT AND PROVIDING AN EFFECTIVE DATE: Attorney Smith read the title of the resolution into the record. **Motion** by Commissioner Shupe, seconded by Commissioner Settle, we approve Resolution 2011-48. The **motion** carried unanimously, after roll vote.

COMMISSION COMMENTS

24. COMMISSION COMMENTS: Commissioner Carney attended the Economic Development Task Force meeting, Firefighter Appreciation Dinner, the Museum Gala, the Town Hall meeting and the first planning meeting for Holiday at the Beach. Commissioner Carney felt strongly the cost of the feasibility study and the sand needed to fill the beach will be very costly to the residents of the City of Flagler Beach. Commissioner Shupe directed traffic for the motorcycle run on 9/11/2011. He attended the Economic Development Task Force and the Town Hall meeting. Commissioner Shupe thanked Commissioner Settle for moderating. He has checked in on the pier bathrooms and reported they are coming along nicely. Commissioner Settle spoke of the Town Hall meeting and looked forward to talking about the next steps. He attended the Firefighters Appreciation Dinner. Commissioner Settle reported on the TDC Meeting. Commissioner Mealy thanked the Acting City Manager for closing the pier for the 9/11 Memorial Service. She attended the Museum Gala, Enterprise Flagler and reported the last meeting is coming up and the County will be moving forward to take over the role. Commissioner Mealy reported on attending the N.E. Florida League of Cities Meeting in Palatka. She reported they have City owned golf course and it was making money for the City of Palatka. Commissioner Mealy reported on a meeting of Energy and Environmental Quality Committee. She and the Mayor would like to honor Helen Williamson's memory with a pier plank and if anyone would like to donate funds, they would be welcomed. Commissioner Mealy spoke of the invitation to attend the Legislative Delegation with Senator Thrasher. She completed an application and a copy of the application was distributed before the meeting. Commissioner Mealy thanked Commissioner Settle and staff for their efforts for the Town Hall meeting. She hoped to have another meeting with those companies that could not attend as well as one she has heard from recently. Commissioner Mealy thought it would be beneficial to the public and the Commission. She clarified she did not want the government agencies to be there again. Commissioner Mealy asked the Commission if they would sign a letter to Governor Scott expressing her concern regarding the agencies not working together toward one cause. She attended the Grand Opening for Sammy J's Restaurant and the Chamber Meeting. Commissioner Mealy inquired about the Flagler League of Cities and commended the Fire Department for the fundraising efforts for Muscular Dystrophy.

PUBLIC HEARING

25. ORDINANCE 2011-17, RECOGNIZING STATE PREEMPTION IN THE FIELD OF FIREARMS REGULATION, AND AMENDING SECTION 14-4, SECTION 14-44, SECTION 2-270 OF THE CODE OF ORDINANCES AND ARTICLE IV OF APPENDIX "A" OF THE CODE OF ORDINANCES TO AVOID ANY POTENTIAL CITY ACTION THAT MAY CONFLICT WITH THE STATE'S REGULATION OF FIREARM SALES; PROVIDING FOR SEVERABILITY AND SETTING AN EFFECTIVE DATE – SECOND AND FINAL READING: Attorney Smith read the title of the ordinance into the record. Commissioner Shupe asked that all references to the masculine pronoun be changed to he/she, his/her, etc. The public hearing was opened. No comments were received. The public hearing was closed. **Motion** by Commissioner Shupe, seconded by Commissioner Settle, we approve Ordinance 2011-17 on second reading, as amended. The **motion** carried unanimously, after a roll call vote.

STAFF REPORTS

26. STAFF REPORTS: City Attorney reported the marina settlement agreement is still continuing negotiations. He asked for a special meeting to be scheduled. Acting City Manager spoke of an accident regarding an un-tethered surfboard. He reported on the ordinances in place. Mr. Campbell asked the Recreation Director to post signs informing the public. He updated the Commission on the pier restrooms. Twenty-six employees attended the Customer Service Training. He reported on the success of the Pier Bait shop. The revenue to date 47,000.00 in bait and sundries. Mr. Campbell reviewed the finances. He reported to the Commission the difficulty Chief Roberts has had in taking a vacation. Chief Roberts has rolled over his vacation once already and would like to get paid out for the vacation. **Motion** by Commissioner Shupe, seconded by Commissioner Carney, to buy down Chief Martin Roberts' vacation hours to 96 hours. The **motion** carried unanimously. City Clerk reported she would be bringing back the ordinances to consider for updating of the fees back for their review in October. He reported Channel 199's Tom Hansen and Jason Giraulo won national awards, a "Telly" and two communication awards

27. ADJOURNMENT: **Motion** by Commissioner Carney, seconded by Commissioner Settle, to adjourn at 9:33 p.m. The **motion** carried unanimously.

Jane Mealy, Vice Chairman

Penny Overstreet, City Clerk

#6

SPECIAL MEETING OF THE FLAGLER BEACH CITY COMMISSION, WEDNESDAY, SEPTEMBER 27, 2011 IMMEDIATELY FOLLOWING THE WORKSHOP AT 5:30 P.M

PRESENT: Mayor Alice M. Baker, Vice-Chair Jane Mealy, Commissioners Kim Carney, Steve Settle and Marshall Shupe, Acting City Manager Bruce Campbell and City Clerk Penny Overstreet.

ABSENT: Commissioner John Feind.

1. CALL THE MEETING TO ORDER: Commissioner Mealy called the meeting to order at 5:30 p.m.
2. PLEDGE OF ALLEGIANCE: Mayor Baker led the pledge.
3. POWER POINT PRESENTATION TO REVIEW CHANGES FROM 1ST PUBLIC HEARING – ACTING CITY MANAGER CABBELL: Mr. Campbell made a presentation with the purpose of outlining to the Commission challenges the City continues to face; some of the highlights completed by staff, define the bottom line outcome to our City’s taxpayers and finally, how our City’s milage rate compares to others nearby. He reported on the items that have been increasing throughout the years such as a variety of insurances, as well as, office supplies and paper products. He reviewed the cuts that have been made and the amount that will be put into reserves this year. Mr. Campbell was happy to report that the City would be adding to reserves. The millage rate proposal is at 4.8500 which is 4.9% below the roll back rate. Mr. Campbell commended staff’s efforts over the last six years. He reported the City of Flagler Beach is the 7th lowest in proposed millage rate compared to the surrounding cities. Mr. Campbell outlined how the proposed millage rate would affect the citizens of Flagler Beach by comparing two properties within the City, one homesteaded and one that was not. The Commission thanked staff for their hard work on the budget and hoped the citizens would appreciate their effort. Mayor Baker inquired about the amount of money the County is contributing to the lifeguard program. Kathleen Doyle, Finance Director, explained the difference in service that the City is providing and the County has capped the amount of funds toward the program. Commissioner Carney asked Ms. Doyle about the decrease in the Utility Fund. Ms. Doyle explained there were funds budgeted in previous years for the new Water Treatment Plant.
4. SECOND PUBLIC HEARING/COMMENTS ON THE 2011/2012 FISCAL YEAR BUDGETS: The public hearing was opened. No comments were received. The public hearing was closed.
5. RESOLUTION 2011-39, LEVYING THE AD VALOREM PROPERTY TAX MILLAGE RATE FOR MUNICIPAL PURPOSES ON ALL TAXABLE PROPERTY WITHIN THE CITY FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2011 AND ENDING SEPTEMBER 30, 2012, STATING THE MILLAGE TO BE LEVIED DOES NOT EXCEED THE ROLLED-BACK RATE IN FLAGLER COUNTY AND DOES NOT EXCEED THE ROLLED-BACK RATE IN VOLUSIA COUNTY; AND PROVIDING AN EFFECTIVE DATE,

SECOND AND FINAL READING: City Clerk Overstreet read the entire resolution into the record. Mayor Baker felt staff and Mr. Campbell did a great job. The public hearing was opened. Mr. Bob Chase and Danielle Anderson gave their comments, opinions and suggestions. The public hearing was closed. **Motion** by Commissioner Shupe, seconded by Commissioner Settle, we approve Resolution 2011-39. The **motion** carried unanimously, after a roll call vote.

6. RESOLUTION 2011-40, ADOPTING BUDGETS FOR THE GENERAL FUND, UTILITY FUND, UTILITY CAPITAL FUND, SANITATION FUND, STORMWATER FUND, CRA FUND AND BUILDING CODE INSPECTION FUND FOR THE FISCAL YEAR 2011/2012, FIXING APPROPRIATIONS THEREIN; PROPOSING EXPENDITURES THEREUNDER; AND DETERMINING THE AMOUNT OF MONEY TO BE RAISED BY TAXATION AND PROVIDING AN EFFECTIVE DATE HEREOF; SECOND AND FINAL READING: City Clerk Overstreet read the title of the resolution into the record. The public hearing was opened. No comments were received. The public hearing was closed. **Motion** by Commissioner Carney, seconded by Commissioner Settle, to adopt Resolution 2011-40. The **motion** carried unanimously, after a roll call vote.

7. ADJOURNMENT: **Motion** by Commissioner Shupe, seconded by Commission Settle to adjourn the meeting at 6:14 p.m.

Jane Mealy, Vice Chairman

Penny Overstreet, City Clerk

SPECIAL MEETING OF THE FLAGLER BEACH CITY COMMISSION, THURSDAY, SEPTEMBER 29,
2011 AT 5:30 P.M.

MINUTES

PRESENT: Vice Chair Jane Mealy, Commissioners, Kim Carney, Steve Settle and Marshall Shupe, Mayor Alice M. Baker, Acting City Manager Bruce Campbell and City Clerk Penny Overstreet.

ABSENT: Chairman John Feind.

1. CALL THE MEETING TO ORDER: Vice Chair Mealy called the meeting to order at 5:30 p.m.
2. PLEDGE OF ALLEGIANCE: Mayor Baker led the pledge to the flag.
3. DISCUSSION AND NECESSARY ACTION REGARDING THE LEGISLATIVE PRIORITY REQUEST – MEETING ON OCTOBER 12, 2011: Vice-Chair Mealy turned the floor over to Commissioner Settle as he requested the meeting. Commissioner Settle began by stating he felt the legislative request does not reflect current policy; he thought they all agreed we would develop a strategic plan to respond to beach erosion, and he thought it had culminated last Thursday. He continued stating what the City send's is very important. He does not want it perceived that we have breached a promise. Commissioner Settle added strategic plans help deal with uncertainty, our uncertainty is funding. Commissioner Shupe stated he wasn't sure we had pinpointed bits of money for particular operations; he was also confused "are we saying we want concrete encapsulation?" Commissioner Mealy inquired to Commissioner Settle if he disagreed with both legislative requests. Commissioner Settle responded he felt, in total, it does not reflect our policy. The Commission had never had a public meeting regarding the encapsulation and received input on that. Commissioner Settle didn't know the City was advocating this. The Commission instructed lobbyist Marlowe that the City wanted a million dollars to keep the study. His concern was the application as presented is not about that. Commissioner Settle did not recall a meeting where we changed our instructions to Marlowe. Commissioner Shupe was under the impression we were trying to generate local concern to help us rectify the problem, we are looking to solve the problem that as of yet has not had a good solution. Commissioner Mealy indicated she reviewed the list of legislative items the County would be presenting to the legislation, nowhere on the list was Flagler Beach. Acting City Manager indicated Flagler County Administrator Coffey requested the items sooner than the cut off for the agenda items, as the County develops a comprehensive listing of the legislative request for the entire county. Acting City Manager Campbell reviewed his breakdown of the funding in the request. Commissioner Settle felt the bottom line is talking about alternative processes that require a lot of money. By making this policy, it is determining what the City's position is. He was of the opinion, if the City continues to request piece meal asking funding, when the City does have an alternative/experimental method, and we wish to move forward; they may

respond you have already been given your money. Commissioner Mealy disagreed adding she felt all this request is asking is for the State to repair the existing seawall. Commissioner Carney spoke of her conversation with an Aide from Senator Thrasher's office and the information he provided to her. Commissioner Carney spoke of the appearance request, and the City not responding in time last year, so she understood the feeling of urgency to submit. However, she is not in favor of a feasibility study at all. We did say we needed help with the current seawall as it is flaking and there are a lot of complaints from the residents. Commissioner Carney does not believe we have a policy on this, and feels if we are going to part of the Flagler County Legislative packet that there is not enough information on what was submitted. She felt we have not provided the information of what makes this a priority and feels we should not rush to misinform. Commissioner Mealy indicated she is not in favor of another seawall, but we have one now and it is falling apart. It could take a very long time to have another program in place. Commissioner Settle reiterated the urgency to have a strategic plan in place. Commissioner Mealy opened the meeting to public comments. The following persons spoke: Jackie Mulligan, Coralee Leon, Terry Potter, Val Sanson, Ruth Hellerman, Phyllis Schlemer Carmel, Phil Ponte, Dick Ricardi, Nancy Scarci, Fran Moore and Jo Anne Ricardi. Mayor Baker stated it is not easy to get these permits, these agencies work together. We all want to fix the beach but there is a lot more to it than voting for something. Commissioner Mealy does not want the public to think she is in favor of seawalls and dredging and sand, but practically, she believes the Army Corps will continue with the Feasibility Study whether we want it or not. Commissioner Mealy suggested a change to the first legislative priority request: Although the Army Corps of Engineers is completing a Feasibility Study, Flagler Beach is interested in attempting an alternative method. We ask for support in the form of money and permitting for which ever method the residents and the Commission of Flagler Beach determined will be best for Flagler County beaches. Flagler Beach stands ready to talk to the County, the State, and the Federal Government and work with all parties to make sure we are adequately funded. **Motion** by Commissioner Settle, seconded by Commissioner Shupe, that that's our policy because, that going forward then, that's something that's written that's on record, so we can't drop it. The **motion** carried unanimously. Vice-Chair Mealy read the second legislative request. Commissioner Shupe requested the word "temporary" be added, so we can indicate we do not want it fixed permanently. Commissioner Settle felt the second legislative priority request should be deleted in entirety. He referenced the City Manager and Mr. Campbell feeling FDOT implied they had the funding to make the repair. Acting City Manager Campbell injected the FDOT proposal would be on the October 13th agenda. Commissioner Carney urged for more time to review the proposal from FDOT. She felt the Commission should wait until we are all in unison on this. Commissioner Carney felt the City did not have to submit a list of priorities; we should focus on one issue. Commissioner Mealy felt the existing seawall should be repaired. She stated she is not for a seawall, however, the one we already have needs to be repaired. **Motion** by Commissioner Settle, seconded by Commissioner Carney, that we delete the second. The **motion** failed with Commissioner Shupe and Mealy voting no. City Clerk Overstreet requested a motion to clarify. Discussion turned to previous direction provided to the

Acting City Manager. **Motion** by Commissioner Settle, seconded by Commissioner Carney, that we leave that second point on as exactly as it's written. The **motion** failed three to one with Commissioner's Carney, Settle and Shupe voting no. **Motion** by Commissioner Carney, seconded by Commissioner Shupe to adjourn at 6:50 p.m. The **motion** carried unanimously.

Penny Overstreet, City Clerk

Jane Mealy, Vice-Chair



City of Flagler Beach AGENDA ITEM # 7 **Item Summary and Recommendation**

SUBJECT: Approve a request for an Outdoor Entertainment Permit, "Village Shops" – GOLA.

BACKGROUND: The applicant has held an annual permit for the past three years. The PAR Board recommended approval on October 4th.

RECOMMENDATIONS: Approve the annual permit

ATTACHMENTS: Application, documentation of mailings to surrounding properties.

SUBMITTED BY: Penny Overstreet

Staff Comments:

City Manager:

Oct. 4th ~ October 13th

OFFICE USE ONLY:

DATE REC'D 9-6-11

FEE REC'D \$ 150.00 Credit CARD

INITIALS: P.O.

APPROVED

DISAPPROVED

SENT PARB

PERMIT ISSUED _____

INSTRUCTIONS:
 Please print or type all information. The application must be filled out accurately and completely. Answer all questions. Do not leave an item blank. If an item does not apply, write N/A (not applicable). Incomplete applications may delay your request. All statements made on the application are subject to verification.

City of Flagler Beach
 APPLICATION FOR
 OUTDOOR ENTERTAINMENT



105 South 2nd Street,
 Post Office Box 70
 Flagler Beach, Florida 32136
 Phone (386) 517-2000 Fax (386) 517-2008

**Please type or print legibly
 Required Information**

Business Name: Village Shops - GOLF ETC

Contact Person: Marjorie Barnhill, Carol Fisher

Address: 208 S. Central

City: Flagler Beach State: FL Zip: 32136

Work Phone: 571-338-9480 Home Phone: 703-658-4346

Fax: _____ Mobile Phone: _____

E-Mail Address: m@valuecalc.com

What type of permit are you applying for? (check one)

Annual Permit (permit fee = \$150.00)

Per event that occurs fewer than 12 times a year (permit fee = \$75.00)
 (Please list dates and times for the events on the bottom of page 2)

One day event on Date _____ (permit fee = \$50.00)
 Start time _____ am\pm End time _____ am\pm

Will you utilize temporary structures at your event? _____ No _____ Yes (maybe)
 (If yes, attach a sketch of the site showing the location of these structure and see note below)
 (Indicate number of each)

Stages _____ Scaffolding _____ Fences _____ Other will change locations on site

Tents Do any of the tents exceed 200 square feet? No _____ Yes

Note: Special Permits are required for tents exceeding 200 square feet. Special Building permits are required for temporary structures 700 or more square feet in area and those that are four feet above grade.

PLEASE ATTACH A SITE PLAN REGARDING THE SET UP OF THE OUTDOOR ENTERTAINMENT. PLEASE ATTACH A CURRENT COPY OF YOUR LIABILITY INSURANCE TO THIS APPLICATION.

By signing below I understand:

- This is an application only and does not obligate the City in any fashion to issuing a permit or approve an event.
- I have included my application fee and understand that my application will not be processed without the application fee.
- In no case shall the City's Noise Ordinance be violated.
- The City Manager may reasonably limit the type and number of temporary structures and the duration of the activity including the hours and the number of days of the activity conducted.
- The event(s) may not be held until a permit is received.

Signature of Applicant Margie Barbell Date 9-6-2011

Title of Applicant Owner

Affiliation _____

- | | | |
|----------------|------------------------|----------------------|
| 1. Date _____ | Start time _____ am\pm | End time _____ am\pm |
| 2. Date _____ | Start time _____ am\pm | End time _____ am\pm |
| 3. Date _____ | Start time _____ am\pm | End time _____ am\pm |
| 4. Date _____ | Start time _____ am\pm | End time _____ am\pm |
| 5. Date _____ | Start time _____ am\pm | End time _____ am\pm |
| 6. Date _____ | Start time _____ am\pm | End time _____ am\pm |
| 7. Date _____ | Start time _____ am\pm | End time _____ am\pm |
| 8. Date _____ | Start time _____ am\pm | End time _____ am\pm |
| 9. Date _____ | Start time _____ am\pm | End time _____ am\pm |
| 10. Date _____ | Start time _____ am\pm | End time _____ am\pm |
| 11. Date _____ | Start time _____ am\pm | End time _____ am\pm |
| 12. Date _____ | Start time _____ am\pm | End time _____ am\pm |

12-12-31-4500-00320-0030
S E CLINE HOLDING COMPANY
PO BOX 262
FLAGLER BEACH, FL 32136-0262

12-12-31-5122-00020-0100
HADLEY JAMES C
49 COLLINS STREET
WORCESTER, MA 01606

12-12-31-4500-00330-0030
PALMADESSO PETER
103 SOUTH 21ST STREET
KENILWORTH, NJ 07033

12-12-31-4500-00330-0060
HORAN JOHN W
P.O. BOX 151587
TAMPA, FL 33684

12-12-31-5122-00010-0030
SMOLENSKI CHESTER A & SANDRA
K SMOKENSKI & LINDSEY N
SMOLENSKI JTWROS
30 A WOODAMBER DRIVE
PALM COAST, FL 32164

12-12-31-4500-00090-0030
200 PLEASANT VIEW PROP INC
PO BOX 1207
FLAGLER BEACH, FL 32136

12-12-31-4500-00090-0100
LHP SCALES INC
PO BOX 1207
FLAGLER BEACH, FL 32136

12-12-31-5122-00020-0120
GERLING HOLDINGS LLC
109 EMERALD LAKE DR
PALM COAST, FL 32137

12-12-31-4500-00100-0060
VAUGHN ELAINE D &
CLYDE E JR W&H
P O BOX 65
UMATILLA, FL 32784

12-12-31-5080-00000-0000
PALM WAVE PLAZA CONDOMINIUM
DEC REC OR 1599/1819

12-12-31-5122-00030-0060
GORDON SUZANNE BOULOS
7605 NW 71ST TERRACE
PARKLAND, FL 33067

12-12-31-4500-00100-0010
NCNB NATION BANK OF FLORIDA
BANK OF AMERICA-CORPORATE
R.E. ASSESSMENTS-NC1-001-03-81
101 N TRYON STREET
CHARLOTTE, NC 28255

12-12-31-5122-00010-0020
CURRIN PATRICIA LEE
6024 GALEWIND COURT
JOHNS CREEK, GA 30097-8484

12-12-31-5080-00CU0-0102
FLAGLER PARTNERS LLC
P O BOX 2103
FLAGLER BEACH, FL 32136

12-12-31-4500-00320-0110
BLACKBURN ALDE &
ANGIE H&W
1845 N US HIGHWAY 1
ORMOND BEACH, FL 32174

12-12-31-5122-00020-0080
GOLDBERG RONALD & JULIA M
GOLDBERG TRUSTEE
186 ERIC DR
PALM COAST, FL 32164

12-12-31-5122-00030-0050
GORDON SUZANNE BOULOS
7605 NW 71 TERRACE
PARKLAND, FL 33067

12-12-31-4500-00330-0120
BARNHILL THEODORE M &
MARJORIE C TRUSTEES & THEODORE
MCCOY BARNHILL JR TRUSTEE
6615 CARDINAL LANE
ANNANDALE, VA 22003

12-12-31-5122-00030-0110
MARTINEZ DEBORAH M
PO BOX 282
FLAGLER BEACH, FL 32136-0282

12-12-31-4500-00330-0080
MELTON ERIK H & BRENDA L H&W
9 CLEARVIEW COURT NORTH
PALM COAST, FL 32137

12-12-31-5122-00020-0090
BYRD BRYANT E
370 JOHN ANDERSON DRIVE
ORMOND BEACH, FL 32176

12-12-31-5080-00CU0-0105
FLAGLER PARTNERS LLC
P O BOX 2103
FLAGLER BEACH, FL 32136

12-12-31-5122-00010-0010
WALKER JOHN R & CAROL J
40 TURKEY CREEK
ALACHUA, FL 32615

12-12-31-5080-00000-0203
FLAGLER PARTNERS LLC
P O BOX 2103
FLAGLER BEACH, FL 32136

12-12-31-5122-00020-0070
BENGLEY JACK E & LORRAINE H&W
2 CHEROKEE COURT EAST
PALM COAST, FL 32137



See instruction sheet for Easy Peel Feature!

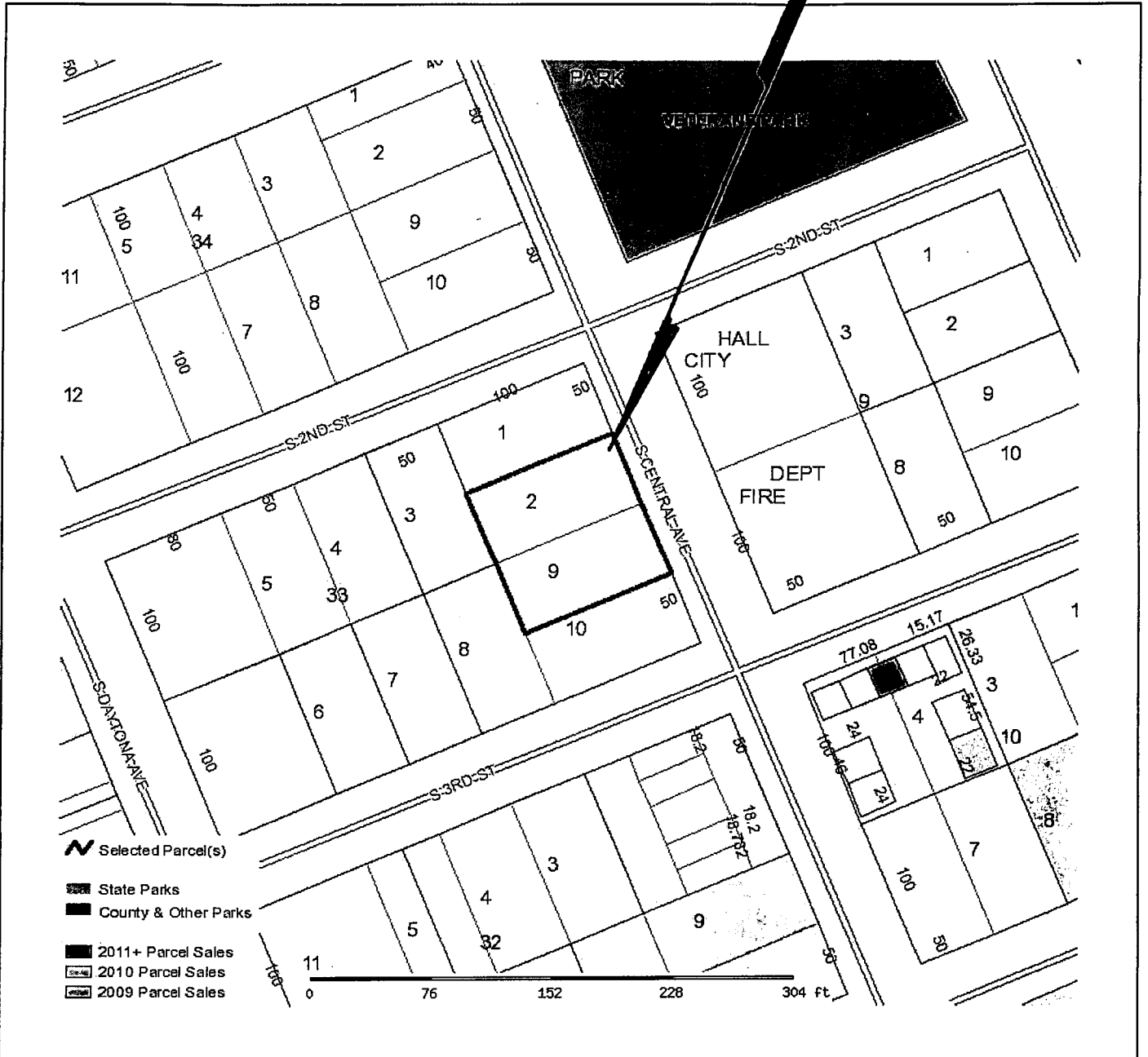


Feed Paper

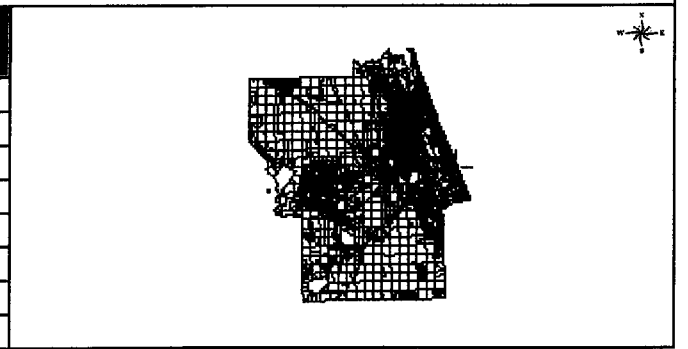


Easy Peel Labels Avery® TEMPLATE 8160™

Subject Property



Flagler County Property Appraiser			
Parcel: 12-12-31-4500-00330-0020 Sqft: 10002			
Name:	BARNHILL THEODORE M JR &	Land Value:	1
Site:	208 CENTRAL AVE S	Building Value:	160,999
Sale:	\$600,000 on 04-2006 Vacant=N Qual=U	Misc Value:	0
Mail:	MARJORIE V TRUSTEES	Just Value:	161,000
	6615 CARDINAL LANE	Assessed Value:	161,000
	ANNANDALE, VA 22003	Exempt Value:	0
		Taxable Value:	161,000



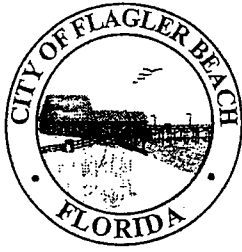
The Flagler County Property Appraiser's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER FLAGLER COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS --THIS IS NOT A SURVEY--
Date printed: 09/27/11 : 14:34:16

**FLAGLER BEACH
PLANNING AND ARCHITECTURAL REVIEW BOARD
AGENDA
TUESDAY, OCTOBER 4, 2011 AT 5:30 P.M.
CITY HALL COMMISSION CHAMBERS**

1. Call the meeting to order.
2. Call the roll.
3. Pledge of Allegiance.
4. Approve the minutes of the Regular Meeting of September 13, 2011.
5. New Business:
 - A. Application # OE 11-10-01
Outdoor Entertainment Permit
Applicant: Marjorie Barnhill (Village Shops-Gallery of Local Art)
208 S. Central Avenue, Flagler Beach, FL 32136
Property Owner: Theodore M. Jr. & Marjorie Barnhill, Annandale, VA
6. Old Business :
7. PARB Member Comments
8. Adjournment.

RECORD REQUIRED TO APPEAL: In accordance with Florida Statute 286.0105 if you should decide to appeal any decision the Board makes about any matter at this meeting, you will need a record of the proceedings. You are responsible for providing this record. You may hire a court reporter to make a verbatim transcript, or you may buy a tape of the meeting for \$3.00 at the City Clerk's office. Copies of tapes are only made upon request. The City is not responsible for any mechanical failure of the recording equipment. In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the Secretary at (386) 517-2000 ext. 231 at least 72 hours prior to the meeting. Please take notice that individual Elected Officials of the City of Flagler Beach may attend this meeting. Those Elected Officials who attend will not take any action or take any vote at this committee meeting. This is not an official meeting of the Flagler Beach City Commission. This notice is being provided to meet the spirit of the Sunshine Law to inform the public that Elected Officials may be present at this committee meeting.

Posted: September 16, 2011



City of Flagler Beach

P.O. Box 70 • 105 South 2nd Street
Flagler Beach, Florida 32136

Phone (386) 517-2000 • Fax (386) 517-2008

September 27, 2011

12-12-31-4500-00330-0010
BARNHILL THEODORE M JR &
MARJORIE TRUSTEES
6615 CARDINAL LANE
ANNANDALE, VA 22003

RE: Outdoor Entertainment Permit Application Review

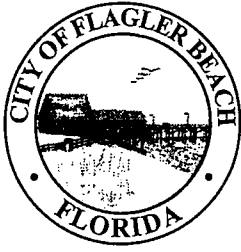
Dear Sir or Madam:

This letter is to advise you of a request from the Gallery of Local Art located at 208 S. Central Avenue, Flagler Beach, Florida 32136, for an Annual Outdoor Entertainment Permit has been received by the City. Per Ordinance 2010-02 the office of the City Clerk is required to notify property owners in a two-hundred foot radius of the subject property of the meeting dates and times the request will be reviewed by the Planning & Architectural Review Board and the date the City Commission will have final review. The request will be reviewed by the Planning & Architectural Review Board on October 4, 2011 meeting begins at 5:30 p.m. The request will be before the City Commission for consideration on October 13, 2011 meeting begins at 5:30 p.m. Please contact the Planning & Zoning Office at 386-517-2000 if you wish to view the application.

Sincerely,

Penny Overstreet
City Clerk

cc: Bruce Campbell, Acting City Manager
Chad Lingenfelter, Planner



City of Flagler Beach

P.O. Box 70 • 105 South 2nd Street
Flagler Beach, Florida 32136

Phone (386) 517-2000 • Fax (386) 517-2008

September 27, 2011

BARNHILL THEODORE M JR &
MARJORIE TRUSTEES
6615 CARDINAL LANE
ANNANDALE, VA 22003

RE: Outdoor Entertainment Permit

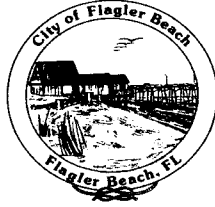
Dear Mr. & Mrs. Barnhill:

This letter is to advise you your request for an Annual Outdoor Entertainment Permit has been placed on the October 4, 2011 Planning & Architectural Review Board Agenda for consideration. When drafted an agenda will be mailed to you from the Board Secretary in the Planning & Zoning Department. The item will be before the City Commission for consideration on the agenda on October 13, 2010.

Sincerely,

Penny Overstreet
City Clerk

CC: Bruce Campbell, Acting City Manager
Chad Lingenfelter, Planner



City of Flagler Beach AGENDA ITEM # 8

Item Summary and Recommendation

SUBJECT: Approve a request for Co-Sponsorship of a Special Event "Holiday at the Beach" – Joseph Pozzuoli, Chairman, Flagler Beach Chamber.

BACKGROUND: This is an annual event in our City. The Recreation Director, CRA Director, and Police Chief have met with the Chamber representatives in a pre-planning meeting.

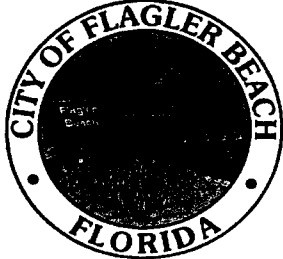
RECOMMENDATIONS: Approve the request.

ATTACHMENTS: Application, Site Plan, estimated cost of sponsorship.

Staff Comments:

City Manager: Approve co-sponsorship with understanding that the City will be reimbursed for police & fire personnel expenses required to properly ensure the safety of all citizens, guest, and visitors to our City.

City of Flagler Beach
SPECIAL EVENTS APPLICATION



105 South 2nd Street,
Post Office Box 70
Flagler Beach, Florida 32136
Phone (386) 517-2000 Fax (386) 517-2008

INSTRUCTIONS:

Please print or type all information. The application must be filled out accurately and completely. Answer all questions. Do not leave an item blank. If an item does not apply, write N/A (not applicable). Incomplete applications will not be considered. All statements made on the application are subject to verification.

If you have a 5013 C exemption certificate please attach a copy to this application for the application fee waiver.

OFFICE USE ONLY

DATE REC'D _____

FEE REC'D \$ _____

INITIALS: _____

APPROVED

DISAPPROVED

REASONS: _____

PX _____

BY: _____

CITY SPONSOR: YES

NO

**Please type or print legibly
Required Information**

Name of Event Producer\Promoter: _____ Holiday at the Beach _____

Type of Organization: non-profit profit charitable _____ government

Will the City be asked to sponsor or co-sponsor? Yes _____ No

Contact Person: _____ Joseph Pozzuoli _____

Address: _____ Flagler County Chamber of Commerce & Affiliates / 20 Airport Road - Suite C

City: _____ Palm Coast _____ State: _____ FL _____ Zip: _____ 32164 _____

Work Phone: _____ 954-448-2609 _____ Home Phone: _____

Fax: _____ Mobile Phone: _____ 954-448-2609 _____

E-Mail Address: _____ joseph@jpaflorida.com _____

Billing Information

Is the party responsible for billing same as above? Yes _____ No

If not please provide the proper information below:

Attention: _____

Address: _____

City _____ State _____ Zip _____

Work Phone: _____ Fax: _____

EVENT INFORMATION

Event Name: Holiday at the Beach in conjunction with 1st Friday in the Park!

Date(s) Requested: Friday, Dec. 2nd and Saturday, Dec. 3rd

Location of Event: Veterans Park and surrounding streets

Brief Description of Event: Holiday Stroll with Scramble Ramble, Tree Lighting, Parade and 10th Anniversary Celebration of Museum's Grand Opening

Site Plan Attached Yes
 No, explanation _____

Will admission fee be charged for event? Yes No

Event Time: Date 12/2 Start 5pm End 9pm

Date 12/3 Start 10am End 4pm

Set Up: Date 12/2 Start 3pm End 5pm

Break Down Date 12/3 Start 4pm End 6pm

Rain Date Date N/A Start _____ End _____

Number of Expected attendees\participants 2000 over 2 days

Age Breakdown: Under 10: 400 11-18: 200 19-25: 200 26-40: 900 Over 41: 300

Have you held this event previously? Yes, explain below No

If Yes Previous

Date(s): _____ Annually for over 10 years _____

Location: Same

Does this event differ from previous years? Yes(explain below) No

ENTERTAINMENT

Will there be entertainment? Yes(see below) No

A completed detailed listing of names and times of must be provided for all entertainment.

Have you attached the contracts, detailed listings, etc. to this form? Yes No

Currently being arranged and compiled with city 1st Friday staff

Will you be using a sound system? Yes No

Name of Contractor Aitken, TV199 Type of System _____

Sound Time Date: 12/2 Start 5pm End 9pm

Date: 12/3 Start Noon End 4pm

Date: _____ Start _____ End _____

Will there be carnival games or rides? _____ Yes, see below No

If yes explain _____

SPECIAL EFFECTS

Will there be special effects used? _____ Yes (See below) No

Type of Effects: _____ fireworks _____ laser light show _____ other _____

Time(s) of Date: _____ Start _____ am\pm End _____ am\pm

Special Effects Date: _____ Start _____ am\pm End _____ am\pm

Date: _____ Start _____ am\pm End _____ am\pm

Location of Special Effects _____

Effects Producer\Company Name: _____

Address _____

Phone _____ Fax: _____

Note: Flagler Beach Fire Department will issue a permit contingent upon separate insurance being provided for fireworks

PARADES

Permits for Parades on SR A1A or SR 100 are provided by FDOT the City will apply for the permit but can not guarantee approval.

Please estimate the number units in each category. 3 Bands 20 Floats
25 Cars 4 Marching units 10 Miscellaneous

Attachment of plan of route required, designating requested street closures.

_____ Parade route is N.6th to S.6th on A1A as per city ordinance. _____

Parade time Date: 12/3 Start 1pm End 2pm

Set-up time Date: 12/3 Start 10am End 1pm

Break down Date: _____ Start _____ am\pm End _____ am\pm

Rain date Date: _____ Start _____ am\pm End _____ am\pm

TRAFFIC

Will normal traffic patterns be altered by the event? Yes, see below No
Will public parking areas, streets, sidewalks, etc. be restricted or obstructed?
 Yes, see below No

Explanation: Friday's closures will be same as monthly 1st Fridays in conjunction with that event with no parking on Central from Moody to 3rd Street after 3pm, and possible extension of southern barriers south of 3rd street by one block or two.

Saturday's parade route will require re-route of traffic onto South Flagler to North and South 7th during parade.

Does your plan include on-site parking? Yes, designate on sketch No

Does you plan include off-site parking? Yes, designate on sketch No

Will shuttles be used to transport? Yes No

FACILITY REQUIREMENTS

Will you utilize temporary structures at your event? Yes, see below No
(Indicate number of each)

Stages Tents _____ Scaffolding _____ Miscellaneous

_____ Booths _____ Fences Concession Stands

Location of these structures on site sketch required.

Note: Special Permits are required for tents exceeding 200 square feet. Special Building permits are required for temporary structures 700 or more square feet in area and those that are four feet above grade.

How many tents exceeding 200 square feet will be used? Please list tent location and

Size. _____

Will you need electric? Yes.

Type of equipment

#of Amps needed

Sound system, park lighting, vendors

Will you employ an electrician? Yes No

Hope to work with city staff in advance to determine full needs to be met

Please provide name & Phone
number _____

SIGNS\BANNERS

Will you be using signs and banners at your event? Yes No

How many; please list dimensions One 4x8

Proposed locations of signs\banners Veterans Park or end of Moody @A1A

PROPOSED RETAIL SALES

*** Note: All vendors are required to complete a Itinerant Merchants License application**

How many vendor locations do you hope to accommodate?

0 1 - 5 6 - 10 11 - 15 16 or more vendors

We hope to work in conjunction with the traditional 1st Friday set-up

Type of vending (including number of each)

Clothing Food\beverage Jewelry Crafts Misc.

If miscellaneous please describe in detail _____

Prepared Food and Alcoholic Beverages\Liquor Liability

Will alcoholic beverages be dispensed, provided or served? Yes, see below No

Name of Organization licensed to serve alcohol at this event: _____

Note: Liquor Liability Coverage required.

This organization is for profit not for profit

Will food\beverage be prepared\sold at this event? Yes, see below No

We hope to work in conjunction with the traditional 1st Friday set-up

Note: Fire extinguishers are required and will be inspected by the Flagler Beach Fire Department, Department of Business & Professional Regulation or Department of Agriculture licenses are required and copies must be provided to the City, additional liability insurance required as set by Special Events Ordinance.

RESTROOM FACILITIES

Toilet Facilities available? Yes No

Number available City locations plus 2

Will you be providing Port-o-lets, how many?(indicate on site sketch) Yes No

Note: ADA requires one handicapped restroom in each group of restrooms

AMERICANS WITH DISABILITIES ACT

ADA requires with accessibility guidelines as adopted by the State of Florida are now in effect.

SANITATION

Please review the Special Events Ordinance, and Resolution 2008-32 regarding fees for sanitary requirements.


POLICE SERVICES\CROWD CONTROL

Please review the Special Events Ordinance for Police\Security requirements.

LIABILITY INSURANCE WILL BE REQUIRED (See Special Events Ordinance for insurance \indemnity requirements) To be arranged with Flagler County Chamber.

SIGNATURE(S)

I understand this is an application only and does not obligate the City in any fashion to reserve any facility or approve an event. I have included my application fee and understand that my application will not be processed without the application fee.

Signature of Applicant  Date 9-30-11

Title of Applicant Chairman

Affiliation Flagler Beach Chamber of Commerce

City Officials

To be signed after review of application by Department heads or at Special Event Planning Meeting if required.

Chief of Police _____ Date _____

Fire Chief _____ Date _____

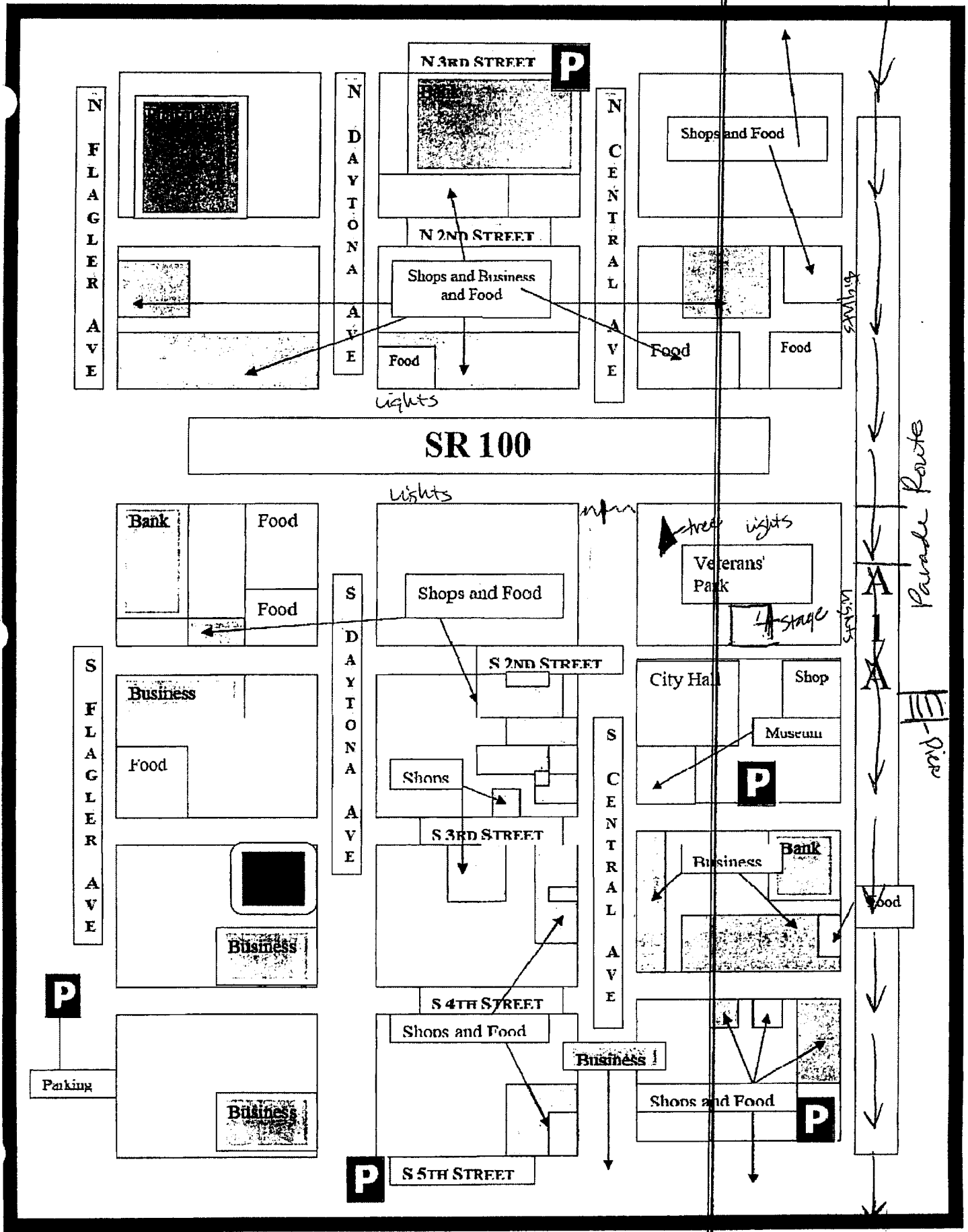
Sanitation _____ Date _____

City Manager _____ Date _____

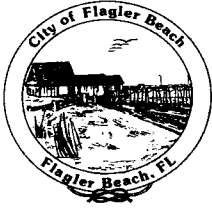
Chairman City Commission _____ Date _____

Holiday at the Beach

N 6th



S 6th



City of Flagler Beach AGENDA ITEM # 9

Item Summary and Recommendation

SUBJECT: Approve two (2) Purchase Requisitions' for annual blanket purchase order to Workers temporary Staffing, Inc. in the amount of \$110,000 and Volusia County Landfill in the amount of \$114,327 for FY 2011-2012.

BACKGROUND: These contractual fees for day laborers were approved in the FY 2011-2012 budget. Volusia County Landfill is the sole source vendor for this type of garbage. These contractual fees were approved in the FY 2011-2012 budget.

RECOMMENDATIONS: Purchase Requisitions in the amount of \$110,000.00 for MDT Personnel for Temporary Labor and Volusia County Landfill in the amount of \$114,327.00 for Dump Fees.

ATTACHMENTS: Purchase Requisitions

SUBMITTED BY: Robert Smith

DATE: September 30, 2011

Staff Comments:

City Manager: Recommend approval.

PURCHASE REQUISITION

DEPARTMENT: SANITATION

[Signature]
DEPT. HEAD SIGNATURE

10/1/2011
DATE

BUDGET COST CODE: 403 - 5341

3 0 3 4 0 2

\$ _____
CURRENT BALANCE

	FINANCE DEPT INITIAL
VENDOR: <u>VOLUSIA COUNTY LANDFILL</u>	
Vendor # _____	
MAILING ADDRESS: _____	

TELEPHONE # _____	FAX # _____
VENDOR CONTACT PERSON _____	

SPECIAL INSTRUCTIONS/DATA (please check):

REGULAR PURCHASE REQUISITION

SIX MONTH BLANKET PR

ONE YEAR BLANKET PR

SOLE SOURCE PR

BID WAIVER PR

OTHER INSTRUCTIONS AND/OR INFORMATION:

	CHECK HERE FOR ASSET 1,000.00 THRU 4,999.99	CHECK HERE \$5,000 +				
			ITEM DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL PRICE
			DUMP FEES		\$	\$ 114,327.00
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$

CITY MANAGER OR DESIGNEE APPROVAL

If vehicle has risk management been notified _____

FREIGHT (CHECK ONE):

CONFIRMED

VENDOR ESTIMATE

CITY ESTIMATE

NO CHARGE

SUB TOTAL _____

FREIGHT \$ _____

PR TOTAL \$ 114,327.00

PURCHASE REQUISITION

DEPARTMENT: SANITATION

[Signature]
DEPT. HEAD SIGNATURE

10/1/2011
DATE

BUDGET COST CODE: 403 - 5341 3 0 3 1 0 0

\$ _____
CURRENT BALANCE

FINANCE DEPT INITIAL

VENDOR: MDT---- PERSONNEL
Vendor # _____

MAILING ADDRESS: _____

TELEPHONE # _____ FAX # _____ VENDOR CONTACT PERSON _____

SPECIAL INSTRUCTIONS/DATA (please check):

REGULAR PURCHASE REQUISITION

SIX MONTH BLANKET PR

ONE YEAR BLANKET PR

SOLE SOURCE PR

BID WAIVER PR

OTHER INSTRUCTIONS AND/OR INFORMATION:

CHECK HERE ← **CAPITAL ASSET \$1,000.00 THROUGH \$4,999.99 ALSO CHECK THIS COLUMN**

FOR ASSET 1,000.00 THRU 4,999.99 CHECK HERE ← **OR IF CAPITAL ASSET \$5,000.00 OR GREATER CHECK THIS COLUMN**

	CHECK HERE \$5,000 +	ITEM DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL PRICE
	<input type="checkbox"/>	LABOR--TAILGATE OPERATORS		\$	\$ 110,000.00
	<input type="checkbox"/>			\$	\$
	<input type="checkbox"/>			\$	\$
	<input type="checkbox"/>			\$	\$
	<input type="checkbox"/>			\$	\$
	<input type="checkbox"/>			\$	\$
	<input type="checkbox"/>			\$	\$

CITY MANAGER OR DESIGNEE APPROVAL
If vehicle has risk management been notified _____

FREIGHT (CHECK ONE):

CONFIRMED

VENDOR ESTIMATE

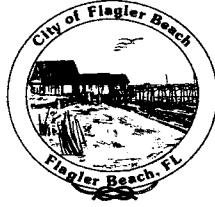
CITY ESTIMATE

NO CHARGE

SUB TOTAL _____

FREIGHT \$ _____

PR TOTAL \$ 110,000.00



City of Flagler Beach AGENDA ITEM # 10

Item Summary and Recommendation

SUBJECT: Provide direction regarding recommendation to include Coastal PCX in the Shore Protection Study – Bruce Campbell, Acting City Manager.

BACKGROUND: Marlowe & Company has recommended involving Coastal PCX in the US Army Corps of Engineers Study to assess the feasibility of providing Federal hurricane and storm damage measures to portions of the Flagler County shoreline, including Flagler Beach.

RECOMMENDATIONS: Marlowe & Company has encouraged the Acting City Manager to recommend to the Commission that Flagler Beach requests the assistance of Coastal PCX in the completion of the Feasibility Study.

ATTACHMENTS: PCX Web-site information, correspondence from Marlow & Co., draft letter, correspondence from Army Corps, email from County Administrator Coffey.

SUBMITTED BY: Bruce Campbell, Acting City Manager

Staff Comments:

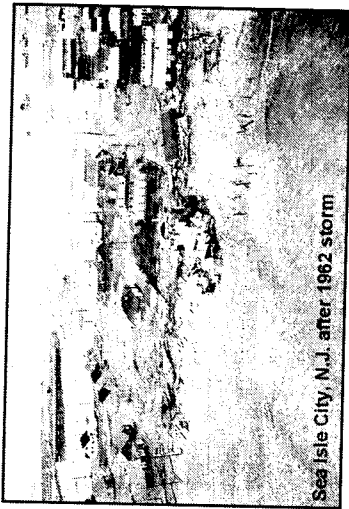
City Manager: The Feasibility Study is estimated to be completed in an additional 14-18 months, again dependant on Federal, State and Flagler County funding. A dependency that has already extended the completion date beyond our original expectations.

In addition to the challenges of future study funding, there has also been a change in Corps study project leadership for the fourth time. Due to both funding and a changed leadership from the Corp itself, Marlowe is suggesting that Flagler Beach recommends to the U.S. Army Corps of Engineers and Flagler County that the Coastal PCX be involved to assist the oversight of the study itself. This may provide a measure to better ensure final completion. (There is no additional project cost to involve Coastal PCX.)

The Acting City Manager has liaised with the Flagler County Administrator concerning the study and this recommendation. At this date, Mr. Coffey's staff is studying this issue, is aware of our agenda item and will await your decision prior to Flagler County finally deciding whether to request the assistance of Coastal PCX or not.

Who We Are

The National Planning Center of Expertise for Coastal Storm Damage Reduction was formed in 2003 and is based out of the U.S. Army Corps of Engineers North Atlantic Division.



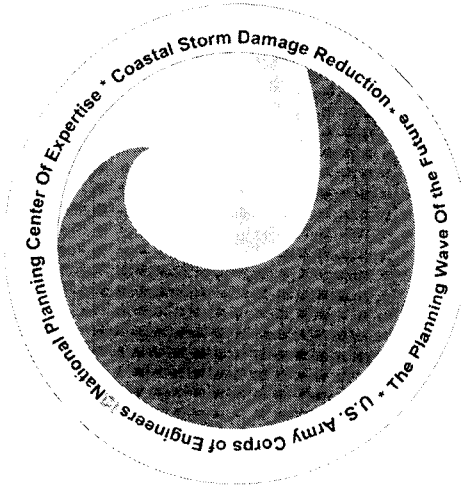
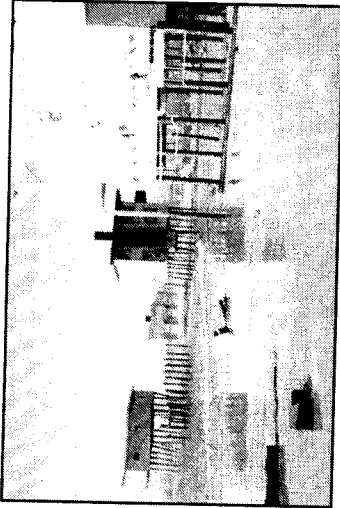
Sea Isle City, N.J. after 1962 storm



Sea Isle City, N.J. in 2004

The team is a virtual organization that includes contributors from across the country and provides advisory and consulting services on many coastal issues. From coastal storm damage reduction to environmental restoration off our Nation's shores, the Center strives for excellence in coastal planning.

Through adequate planning and coordination, we can avoid this kind of devastating damage, that happened on Long Beach Island, N.J. in 1962.



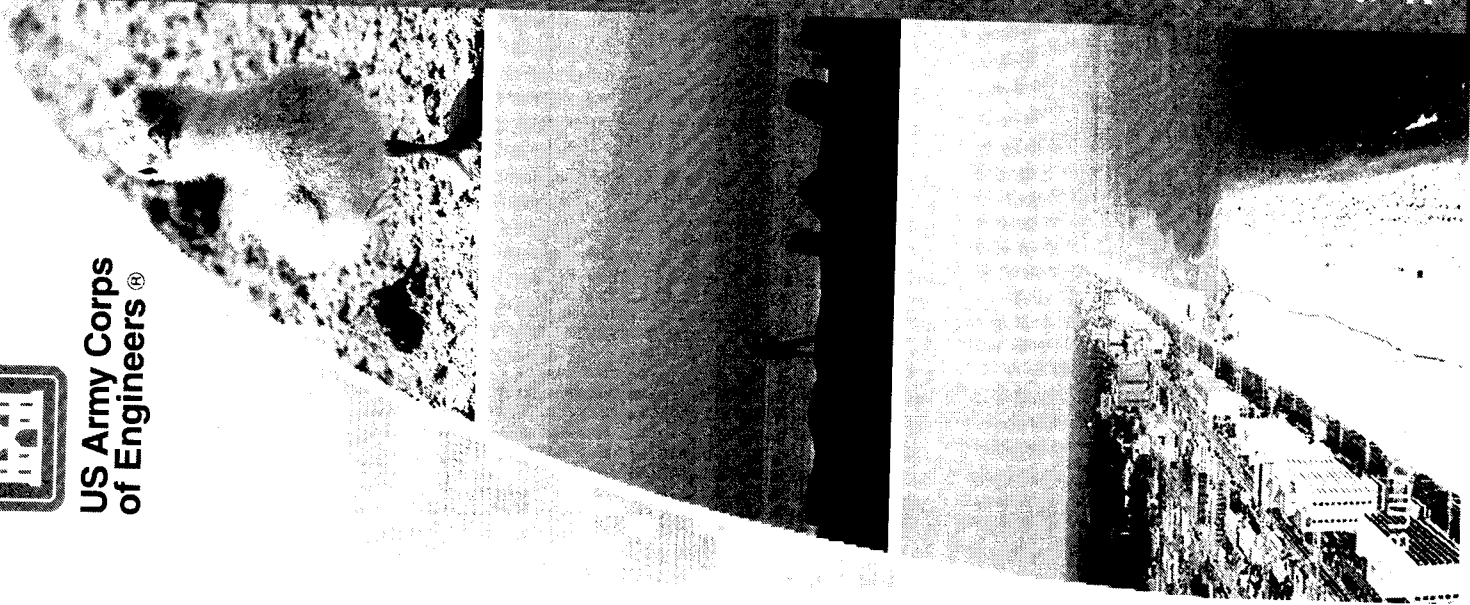
Contact

Director: Joseph Vietri
Deputy Director: Larry Cocchieri
E-Mail: PCXCSDR@usace.army.mil
Web site: <http://www.nad.usace.army.mil/natplan.html>

National Planning Center of Expertise: Coastal Storm Damage Reduction



US Army Corps
of Engineers®



Aside from protecting infrastructure, coastal projects have numerous environmental benefits, like protecting the habitat of pelicans, sea turtles and snow owls like the ones seen in the picture to the right.

What We Do

- Provide consulting service for any Coastal Storm Damage Reduction study, including highly complex and/or controversial study
- Lead peer reviews including agency technical reviews, independent external peer reviews and model certifications
- Provide training opportunities to sustain technical competencies
- Supplement policy compliance review on projects
- Provide lessons learned and best practices
- Assist in establishing USACE research and development priorities
- Serve on steering committee for USACE Coastal Engineering Research Board
- Provide advice to HQUSACE, USACE labs and stakeholders
- Manage USACE role in FEMA's National Hurricane Program



Seawall repairs, Galveston, Texas, 2009.



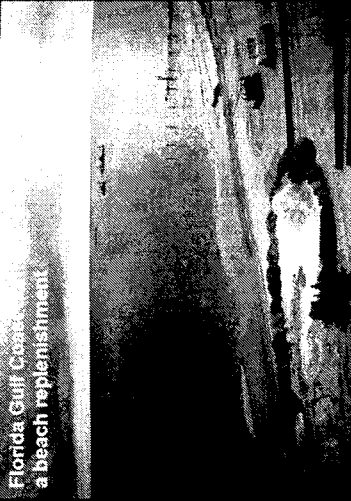
What is Coastal Planning?

Our Nation's coastlines are just one of its many valued resources for recreation, tourism, beauty and wildlife. Planning for future storm systems and sea level and shoreline changes are methods to reduce storm damages and sustain our coastlines. Coastal planning is a systematic and comprehensive process where many considerations and conditions are assessed.

By evaluating many alternatives (which can include emergency evacuation routes, financial analyses, environmental analyses, climate change, among others) solutions for reducing risk and storm damages can be developed.

The Center's goal is to develop, maintain and apply the expertise in science and engineering technology in order to protect the coastline resource.

Florida Gulf Coast a beach replenishment



Accomplishments

- Pioneered procedures for conducting peer reviews, following Hurricane Katrina
- Completed a number of peer reviews of nationwide studies
- Provided hands-on consulting services and advice to areas along the Atlantic, Gulf, and Pacific coasts
- Developed and conducted training in coastal planning
- Improved the preparedness and readiness of coastal communities through hurricane evacuation studies and post storm assessments
- Established the Coastal Regional Advisory Board to manage the center and to better address our customer's needs
- Initiated efforts to prototype a systems approach for coastal protection to improve the efficiency and effectiveness of our coastal projects
- Provided planning expertise internationally to countries in Europe and Africa
- Secured contracting services of an internationally recognized consulting firm



Bruce Campbell

From: Michael.Willis@marloweco.com
Sent: Friday, September 30, 2011 1:53 PM
To: Bruce Campbell
Cc: John.Harms@marloweco.com
Subject: PCX Involvement
Attachments: PCX Visit Request.doc

Follow Up Flag: Follow up
Flag Status: Completed

Bruce,

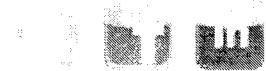
Please find attached a draft of the letter requesting the Jacksonville Corps District invite the PCX to the Flagler Study site to review the current study process and offer recommendations for improving the efficiency of the study. We have yet to be involved with a study (10 plus in the last year) that the PCX has not greatly improved the project or saved tens of thousands of dollars in overall costs. The cost of the PCX's involvement in the Study is covered by the PCX's own budget provided by Congress and there is no cost agreement between the City/County needed. In full disclosure, I have seen in the past that the Corps District sometimes offer to cover the cost of the PCX's travel to the District office using funds from a project. However, we will work with the PCX to ensure that these costs are covered by the PCX's budget and do not impact your study's funds.

In addition, I can get a member of the PCX to join us on the conference call with the County to share their thoughts on moving forward before we get the PCX "officially" involved with the study. I will need to do this soon as their schedules are tight. Let me know what you think and please let me know if you have any additional questions.

Regards,

Michael

Michael D. Willis
Principal
Marlowe & Company
1667 K St. NW Ste. 480
Washington, DC 20006
(202) 775-1796
www.marloweco.com



DRAFT

October XX, 2011

Colonel Alfred A. Pantano, Jr.
District Commander, Jacksonville
United States Army Corps of Engineers
701 San Marco Blvd.
Jacksonville, FL 32207

Dear Colonel Pantano,

As a stakeholder in the Flagler County Shore Protection Project (GI Study), the City of Flagler Beach respectfully requests that the District invite representatives from the Coastal Planning Center of Expertise (PCX) to visit the site of our study. This visit will allow members of the PCX to meet with District staff and the local sponsors to discuss the PCX's thoughts on our study. We are particularly concerned with the progress of our study as it is moving into its eighth year and we are still several years from completion. It is our hope that the PCX will be able to offer insights into how to expedite our study and prepare us for a Chief's Report in the near future.

We have heard that local sponsors with ongoing studies in Texas and California have appreciated visits from the PCX and how the District personnel have benefited from their input. This appears to be the perfect time to request the PCX's insights as our study is under new project management within the District and this would be a great opportunity to move forward in a collective fashion. Given the tightness of the schedules of all involved, we hope that the site visit can be scheduled sometime in November or December before the Corps FY12 Work Plan is completed. This will give our representation in Washington the time they need to make last minute efforts to amend our federal funding request should there be any changes in the District's capability based on the recommendations of the PCX.

I appreciate your assistance with this request. I look forward to your response and thank you for your continued leadership in the Corps' coastal missions.

Sincerely,

Bruce Campbell
City Manager



MARLOWE & COMPANY
GOVERNMENT AFFAIRS CONSULTANTS

Memo:

To: Bruce Campbell, City of Flagler Beach

From: John Harms, Marlowe & Company

RE: Involvement of the Coastal Planning Centers of Expertise in the Flagler Beach Shore Protection Project.

Date: September 28, 2011

The Flagler Beach Shore Protection Study is entering a critical phase of development and it is important that steps be taken now to ensure the study progresses in a timely manner with the efficient use of the federal and local dollars expended for this important project.

The obstacles the study is now facing include: personnel changes to the Project Development Team, the continuing erosion along Route A1A, inefficient use of study funding, difficulties locating an offshore sand source, and a highly competitive funding environment not to mention a completion date that is still several years down the road. While there have been a few years when federal funding has delayed work, there have also been significant cost increases and causes for delay that should be reviewed by individuals considered experts in coastal engineering. Given these hurdles, Marlowe & Company strongly urges the study's Non-Federal Sponsor to press the Jacksonville Corps District to request the assistance of the Coastal PCX.

The US Army Corps of Engineers Coastal Planning Center of Expertise (Coastal PCX, or just PCX for our purposes) is based at the Corps' North Atlantic Division in Brooklyn, NY. The Coastal PCX provides specialized planning talent to enhance and supplement the capability of the Corps district offices. "PCX Teams" are comprised of the Corps' top coastal planning experts from around the nation that together have decades of experience planning and implementing a variety of shore protection and flood control projects. The PCX operates on their own budget, so having them involved does not increase project costs; in almost all cases, it reduces overall project costs by increasing efficiency. Most importantly, the PCX engineers cannot lend their expertise to a project or study unless the local Corps District specifically requests their involvement. However, the local Corps District will only make this request to the PCX if they

have received a request to do so from the Non- Federal Sponsor. Therefore, it is imperative that the Non-Federal Sponsor request the Coastal PCX's involvement.

In addition to their technical expertise, PCX teams bring with them the clout and high level contacts needed to help troubled studies overcome obstacles and continue on the path to completion. Marlowe & Company has worked successfully – and continues to work successfully – with the Coastal PCX on several different projects around the country. The following are success stories that could not have been achieved without PCX intervention:

- An Army Corps Shore Protection Study in Northern California was essentially stalled and on the verge of collapse after the local Corps District could not find enough benefits to justify the project's cost under the Benefit-Cost Ratio (BCR). Marlowe & Company helped their client (a local municipality) contact the PCX and request their involvement in the project. Within months, the engineers from the PCX had helped the client overcome bureaucratic hurdles and directed the Corps District to include in their BCR calculations the benefits to saving a set of train tracks running along the beach. These new common sense benefits pushed the project's BCR into acceptable territory, making the project economically justifiable. In May of this year, the Client's study was finalized and submitted to Corps Headquarters for final evaluation. The completion of this study would not, and could not, have happened without the intervention of the Coastal PCX.
- In Texas, a Marlowe & Company Client (also a local municipality) was recently trying to begin a new shore protection study in an underused and little-understood project authority. Though Marlowe & Company was successful in getting the study funded in a difficult budget year, the local Corps District did not understand the project authority – and thus did not understand what the study was supposed to entail. At the outset of the study, the District made key mistakes that would have dragged the study on for years and exceeded the funding amount allowed under statute. At Marlowe & Company's suggestion, the Client insisted that the Coastal PCX be involved in the initial key stages of the study. Today, the study is proceeding smoothly toward construction.

The Flagler Beach Shore Protection Study is critical to the viability of Route A1A, and the local economy. Without the expertise and added credibility of the PCX, this study faces an uphill battle getting funding in the next fiscal year. We urge the City of Flagler Beach to call on the Jacksonville Corps District to request the inclusion of the Coastal PCX in this study.

The only drawback that we have seen with regard to having the PCX involved in a study is that the Army Corps Project Manager may be initially hesitant to have an outside expert review the work they are tasked to perform. The PCX is experienced in handling these issues and they are usually resolved very quickly when the Project Manager realizes that the PCX is more interested in the project than who gets the credit for the study. The benefits greatly outweigh the detriments and we believe that at this time it is important to include the PCX in this study as soon as possible.

Michael Willis and John Harms of your Marlowe & Company Team are available to discuss this further should you have any questions. You may reach either of them at 202-775-1796.



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P. O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

REPLY TO
ATTENTION OF

Planning and Policy Division
Environmental Branch

SEP 29 2011

To Whom It May Concern:

The Jacksonville District, U.S. Army Corps of Engineers (Corps) is gathering information to define issues and concerns that need to be addressed during hurricane and storm damage reduction (HSDR) study for Flagler County, Florida. Authority for the study is contained in House Resolution 2676, adopted May 22, 2002. A Notice of Intent to prepare a Draft Environmental Impact Statement was issued on August 26, 2008. A reconnaissance level report was completed resulting in a recommendation to continue the study into the Feasibility phase. The study area is the coastal shoreline of Flagler County, approximately 18 miles.

The Flagler County HSDR Project is being evaluated under the National Environmental Policy Act (NEPA) process. The NEPA would assess impacts to the human environment, identify methods and procedures to insure that present un-qualified environmental amenities and values are sufficiently addressed, and evaluate unresolved conflict that may develop over the recommended alternatives. Additionally, the NEPA would initiate and use ecological/natural resources information in the planning and development of project action and alternatives.

The Corps invites you to attend this public scoping workshop to address environmental concerns, cultural resources, study objectives, and important features within the described study area, and to suggest alternatives, scientific data collection, and possible study improvements. The workshop would provide the opportunity for verbal and written commentary, and participation with technical specialists of various disciplines that address the Corps planning process, environmental and cultural resources, as well as engineering and economic concerns.

The workshop will be held on October 25, 2011, from 6:00 pm to 9:00 pm at the City of Flagler Beach Council Chambers, located at 105 South 2nd Street, Flagler Beach, FL 32136. Inquiries regarding this meeting may be directed to Ms. Kathleen McConnell, at the above letterhead, by telephone at 904-232-3607, or email at Kathleen.k.mcconnell@usace.army.mil.

Sincerely,

for Eric Summa
Chief, Environmental Branch

Bruce Campbell

From: Craig Coffey [ccoffey@flaglercounty.org]
Sent: Tuesday, October 04, 2011 7:34 AM
To: Bruce Campbell
Subject: FW: Planning Center of Expertise for Water Management and Reallocation Studies

Follow Up Flag: Follow up
Flag Status: Flagged

Bruce,

FYI, Here is something we found out through Jason. Apparently we are already doing it partly. We continue to look at. More to follow.

Craig

-----Original Message-----

From: Faith Alkhatib
Sent: Monday, October 03, 2011 4:04 PM
To: Craig Coffey
Subject: FW: Planning Center of Expertise for Water Management and Reallocation Studies

FYI.

Thank you,

Faith Alkhatib, P.E., MBA
Flagler County Engineer
1769 E. Moody Blvd. Bldg#2, Suite 309
386-313-4045
Blackberry 386/931-9271
160*16537*4
Fax: 386/313-4106
falkhatib@flaglercounty.org

-----Original Message-----

From: Harrah, Jason S SAJ [<mailto:Jason.S.Harrah@usace.army.mil>]
Sent: Monday, October 03, 2011 3:54 PM
To: Faith Alkhatib
Subject: RE: Planning Center of Expertise for Water Management and Reallocation Studies

FYI I asked someone about this and here is the response:

The coastal PCX is in North Atlantic Division. Our study has been through their office twice already, once with the review plan that outlined the purpose of the study, models to be used, and review necessary along the way. Second time was when we submitted the FSM documentation. It went through review at the PCX prior to submittal to SAD. They are a technical resource for us.

Thanks,
Jason Harrah
Project Manager

Water Resources Branch
Programs & Project Management Division
Jacksonville District - USACE
Phone: 904-232-1381
BB: 904-305-0323
Email: Jason.S.Harrah@usace.army.mil

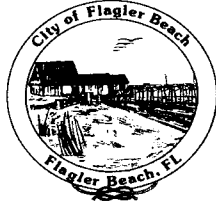
-----Original Message-----

From: Faith Alkhatib [<mailto:falkhatib@flaglercounty.org>]
Sent: Friday, September 30, 2011 3:47 PM
To: Harrah, Jason S SAJ
Subject: Planning Center of Expertise for Water Management and Reallocation Studies

<http://www.swd.usace.army.mil/pcx/index.asp>

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from the Flagler County Board of County Commissioners and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.



City of Flagler Beach **AGENDA ITEM # 11**

Item Summary and Recommendation

SUBJECT: Provide direction regarding FDOT proposal to encapsulate S.R. A1A Seawall – Bruce Campbell, Acting City Manager.

BACKGROUND: Commission directed the Acting City Manager to request of FDOT a project that would both structurally and aesthetically repair the existing S.R. A1A seawall. This direction was originally provided at the July 14, 2011.

RECOMMENDATIONS:

ATTACHMENTS: FDOT S.R. A1A Flagler Beach Existing Steel Sheet pile Wall Corrosion Mitigation Evaluation, excerpt from the July 14, 2011

SUBMITTED BY: Bruce Campbell

Staff Comments:

City Manager: The Acting City manager had requested that FDOT perform an analysis of options to optimize the remaining life of the existing seawall. Conformation of this request was officially received August 31, 2011 from Mark Garcia, P.E., FDOT Deland Operations Engineer. In this correspondence Mr. Garcia committed to completing a structural analysis, along with presenting a decision matrix that would allow FDOT to evaluate:

- Different types of treatments available
- Projected years of life extension to the wall
- Cost
- Environmental permitting issues/timeframes
- Aesthetics
- Maintainability

FDOT next conducted a site visit on September 4, 2011 to observe the current condition of the seawall. (Page 2-1 of evaluation report) In addition, in January of 2011, the State Material Office Corrosion Research Laboratory (SMO-CRL) was requested by FDOT to evaluate the present condition of the wall to aid in the determination of the estimated remaining service life of the sheet piles.

Various alternatives were then evaluated following the review of the SMO Report and the September site visit. (Please see attached summarization matrix.)

The recommended alternative is concrete encapsulation. (Please see 5.0 attached recommended alternative.) The projected cost is \$361,690 and will increase the existing wall life expectancy from (do nothing) thirteen (13) years to fifty-three (53) years. So, having reviewed the FDOT proposal, do we agree with their recommendation? Do we want FDOT to proceed? Do we want to include sand/vegetation?

5.0 Recommended Alternative

The recommended alternative is Concrete Encapsulation for the following reasons:

- This is a proven, effective method of protecting concrete in severe marine environments
- Materials and construction techniques are conventional
- Required surface preparation of the sheet piles is less, therefore effectiveness of the product is not as dependent upon this surface preparation.
- The provided protection and additional life to the structure is significantly greater than other alternatives.

Other considerations are:

- The sand removed from the face of the seawall out to the proposed cofferdam should be stored and replaced after the concrete encasement is installed, or placed on the beach dune to the south to rebuild the dune area
- Beach compatible sand must be considered for the refilling of the area in front of the newly encased seawall to bring the beach grade to the pre-construction elevations as conditioned by the Biological Opinion
- Compaction of the sand that is replaced should be considered since the existing sand was hydraulically compacted when it was placed there through wave and tidal activity
- There are no rip rap stones in front of the seawall as observed on September 5, 2011
- All surface preparations should be captured and removed from the site such as tarps or other means of capturing the metal pieces
- The end treatments should be increased and extend as shown on Figure 8 with end treatment equal distance from seawall as existing revetment (18') and same distance along seawall (18') with an 18 ft section of seawall between the transitions sections on each end of the end treatment.
- Coordination with jurisdictional agencies is required for allowable dewatering and discharge amounts and locations
- Maintain a safe open trench due to the repose of the beach sand
- Comply with all applicable permitting criteria (refer to Section 6.0 Environmental Permitting Issues)

The next phase of this effort is anticipated to be development of final design and documents for bidding and construction purposes.

3.6 Summarization Matrix

SUMMARIZATION MATRIX
SR A1A Steel Sheetpile Wall - Corrosion Mitigation Evaluation

Alternatives	Estimated Remaining Life of Wall	Opinion of Probable Construction Cost	Constructability	Aesthetics	Maintenance	Depth of Treatment	Back of Wall treatment	End Treatments	Strengthening	Environmental Issues	Comments
Alt. 1 No Action	13 years	None	No issues	No change from existing	Not applicable	Not applicable	None	None	None	Must meet Biological Opinion Terms and Conditions	
Alt. 2 Paint/Coal Tar Epoxy Coating	23 years, with one painting	\$303,645	Cofferdam required. Achieving quality surface preparation and quality painting are considerations.	Black paint	Repaint in approximately 10 years.	10 ft. below bottom of cap, 1e down to elevation +5	None	Rubble	None	Requires approval by USFWS, FWC, USACE, FDEP	
Alt. 3 Concrete Encapsulation	53 years	\$361,690	Cofferdam required. Conventional materials and practices. Surface preparation and required ambient conditions are achievable.	Concrete surface can be treated, textured and colored	Routine concrete maintenance	10 ft. below bottom of cap, 1e down to elevation +5	None	Rubble	Moderate additional reinforcing would potentially enhance the wall section.	Requires approval by USFWS, FWC, USACE, FDEP	Recommended Alternative
Alt. 4 Metallizing	Insufficient data makes this prediction difficult. Current estimate of 28 years.	\$374,361	Cofferdam required. Achieving quality surface preparation and quality coating application are considerations.	A colored top coat can be applied	Insufficient data to evaluate	10 ft. below bottom of cap, 1e down to elevation +5	None	Rubble	None	Requires approval by USFWS, FWC, USACE, FDEP	
Alt. 5 Cathodic Protection	Not applicable to this site										
Refer to the Evaluation Report and materials for additional detailed information											

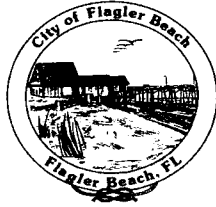
* permits. Commissioner Feind asked for a consensus to direct the City Manager to contact FDOT to refurbish the Sea Wall. It was the consensus of the Commission to have the Acting City Manager contact FDOT to see what they could do. He reported there is an opening on the TPO's Citizen's Advisory Committee. Commissioner Feind attended the Sun Rail presentation.

* Commission Comments.

PUBLIC HEARING

18. ORDINANCE 2011-07; AMENDING THE CITY OF FLAGLER BEACH CODE OF ORDINANCES, CHAPTER 9, FIRE PREVENTION AND PROTECTION, ADDING REGULATIONS RELATING TO AUTOMATIC FIRE SPRINKLERS, OPEN BURNING AND WILDFIRE HAZARD MITIGATION; PROVIDING FOR CODIFICATION, CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE, SECOND AND FINAL READING: Attorney Smith read the title of the ordinance into the record. Commissioner Feind noted at the last reading the Commission had asked to eliminate the commercial land clearing. Commissioner Mealy thought the Commission had agreed to change the wording to "Fire Chief or designee" and referred to lines 154, 155 and 164 the current version still reads "city manager." Attorney Smith referred to lines 209 and 213, and clarified the reference there needs to stay as "City Manager." Commissioner Mealy continued and referred to line 188 needs to be changed to "two hearings." On line 189, she thought the reference to the number of days should be ten days. Commissioner Settle referred to lines 156/157 and asked the term "may" be changed to "shall." The public hearing was opened. No comments were received. The public hearing was closed. Motion by Commissioner Mealy, seconded by Commissioner Shupe to approve Ordinance 2011-07, as amended on second reading. The motion carried four to one, with Commissioner Feind voting no.

19. ORDINANCE 2011-11; INCREASING MUNICIPAL BUSINESS TAX RATES BY NOT MORE THAN FIVE PERCENT; CLARIFYING CERTAIN SECTIONS OF CHAPTER 18, ARTICLE II OF THE CODE OF ORDINANCES REGARDING MUNICIPAL BUSINESS TAXES CONSISTENT WITH STATE LAW AND DISTINGUISHING BUSINESS TAXES FROM REGULATORY FEES; AMENDING SECTION 18-18 REGARDING THE "PROFESSIONAL" CLASSIFICATION TO BE CONSISTENT WITH CHAPTER 2011-78, LAWS OF FLORIDA; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE, SECOND AND FINAL READING: Attorney Smith read the title of the ordinance into the record. Commissioner Mealy referred to on line 145 - 146, felt this refers to citizens having businesses in their homes but there is not traffic to the house, there is not a truck outside with a sign and they do not store on their property. Attorney Smith felt there is a need for him to work with the Planner and the LBTR Clerk to update the entire list but would change the wording to reflect "administrative office support for offsite sales." The Commission agreed to add Item "H" adding the aforementioned wording from the Attorney regarding administrative office support. Commissioner Mealy referred to line 157 and need clarification of the use. Commissioner Feind referred to a reference of the license needing a four to one vote. Attorney Smith clarified that it would only need a simple majority. Commissioner Shupe referred to lines 14 through 16, referring to the four votes. Commissioner Feind announced the law allows the City to increase fees every other year and they have not been increased since 1996. The public hearing was opened. No comments were received. The public hearing was closed. Motion by Commissioner Settle,



City of Flagler Beach **AGENDA ITEM # 12** **Item Summary and Recommendation**

SUBJECT: Provide direction regarding implementing an ordinance regulating Pain Management Clinics.

BACKGROUND: Ordinance 2010-19, adopted January 13, 2011, placed a 180 day moratorium on the issuance of Business Tax Receipts for Pain Management Clinics. The moratorium expired at midnight on July 12, 2011. Senate bill 818 (HB 7095) adopted during the 2011 legislative session brought even tighter restrictions designed to shut down pill mills and controlled substance medication abuse. However, cities may exercise their home rule authority to pass additional legislation to further regulate pain management clinics. The City of Palm Coast is considering an ordinance to regulate these types of businesses in its City and is coordinating with other local governments so that the proposed regulations do not create a potential problem for another local government. Currently, the *City of Flagler Beach Code of Ordinances* permit this use in the following GC, General Commercial and HC, Highway Commercial zoning districts and additional districts by a special exception.

RECOMMENDATION: Direction requested:

1. Direct City Attorney to craft an ordinance regulating Pain Management Clinics;
2. Direct City Clerk to mirror the proposed City of Palm Coast ordinance; or
3. Do nothing.

ATTACHMENT: Ordinance being considered by the City of Palm Coast City Council at their workshop on October 18, 2011.

SUBMITTED BY: Chad Lingenfelter, City Planner

Staff Comments:

City Manager: With our moratorium expiring in July, our City may be vulnerable; recommend we adopt a similar ordinance which would allow legitimate pain management clinics and discourage or eliminate illegitimate pain management clinics.

Planner: To be consistent with our adjacent jurisdictions, the City of Flagler Beach should adopt similar regulations so that we can uniformly regulate this use and minimize the impacts of pain management clinics to our commercially zoned areas.



COMMUNITY DEVELOPMENT DEPARTMENT

Building (386) 986-3780 ♦ Code Enforcement (386) 986-3764 ♦ Planning (386) 986-3736

September 27, 2011

Mr. Bruce Campbell
City of Flagler Beach
P.O. Box 70
Flagler Beach, FL 32136-0070

CITY OF FLAGLER BEACH

SEP 29 2011

RECEIVED

RE: Draft Ordinance for Pain Management Clinics

Dear Mr. Campbell:

As you may know, the City of Palm Coast currently has a moratorium on the establishment of new pain management clinics. After discussion of the on-going moratorium by the City Council at a workshop on September 13, 2011, staff was directed to draft an ordinance to regulate pain management clinics and to distribute the proposed ordinance to all local governments.

As directed by the City Council, staff has attached to this letter a draft ordinance to regulate pain management clinics in the City of Palm Coast. Our intent with this coordination is to ensure that proposed regulations in the City of Palm Coast do not unnecessarily create potential problems for a neighboring city or jurisdiction. The draft ordinance was completed after a review of the newly adopted State Statutes regulating pain management clinics, as well as a review of existing ordinances from other municipalities. At this time, it is our goal to present the ordinance to City Council at their October 18, 2011 workshop.

If you have any questions and comments or would like to discuss the proposed ordinance in more detail please do not hesitate to call me at 386-986-3745 or Jose Papa, AICP, Senior Planner at 386-986-2469.

Sincerely,

Ray Tyner, Planning Manager

c. w/out attachments

Mayor and City Council

Jim Landon, City Manager

Nestor Abreu, Community Development Department, Director

Jose Papa, AICP, Senior Planner

c. w/attachments

Flagler County Staff

Craig Coffey, County Administrator

Albert Hadeed, County Attorney

Adam Mengel, Director of Planning and Zoning

City of Bunnell Staff

Armando Martinez, City Manager

Sid Nowell, City Attorney

Mick Cuthbertson, Community Development Director

City of Flagler Beach Staff

Bruce Campbell, Acting City Manager

Drew Smith, City Attorney

Chad Lingenfelter, Planning and Zoning Department

Town of Beverly Beach

Mayor Steve Emmett

Town of Marineland

Mayor Jim Netherton

ORDINANCE NO. 2011 - XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, RELATING TO PAIN MANAGEMENT CLINICS; ADOPTING REGULATIONS OF PAIN MANAGEMENT CLINICS AS DEFINED, TO BE CODIFIED AT SECTIONS 16-232 THROUGH 16-237, ARTICLE VIII, CHAPTER 16, CITY OF PALM COAST CODE OF ORDINANCES; PROVIDING FOR DEFINITIONS, FINDINGS OF FACT AND INTENDED PURPOSE, SUPPLEMENTAL REGULATIONS OF PAIN MANAGEMENT CLINICS, REGULATIONS REGARDING PRESCRIPTION DRUG MONITORING PROGRAM, APPLICABILITY, PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Flagler County Sheriff has informed the Palm Coast City Council ("City Council") that a pattern of illegal drug use and distribution has been linked in large part to certain pain management clinics operating throughout the State of Florida; and

WHEREAS, the illegal distribution of prescription drugs, increased crime associated with such activity, and the health concerns in Flagler County and Palm Coast relating to prescription drug abuse create an urgent situation requiring immediate action to reduce the threat to the health, safety and welfare of the Palm Coast citizens; and

WHEREAS, on December 21, 2010, the City Council adopted Ordinance No. 2010-18 to implement a moratorium which shall expire on December 31, 2011, on the issuance of any new Local Business Tax Receipts for pain management clinics, to direct City staff to analyze the effects of pain management clinics on the Palm Coast community and to prepare recommendations to better promote, protect and improve the health, safety and welfare of the citizens of the City by local regulation of pain management clinics, to restrict cash only operations, and to regulate hours of operation of existing clinics through the period of the moratorium; and

WHEREAS, the State of Florida, Flagler County Sheriff, the City Council and City staff have identified negative adverse secondary effects associated with pain management clinics that necessitate a recommendation for certain changes to the Palm Coast code that will result in additional substantive regulations, compatible with the State of Florida initiatives, for pain management clinics in Palm Coast.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF PALM COAST, FLORIDA:

Section 1. Creation of pain management clinic Ordinance. A Pain Management Clinic Ordinance, is hereby created to read as follows, to be codified at Article VIII, Chapter 16, Palm Coast City Code.

Section 2. Title.

This Ordinance shall be known as the "Pain Management Clinic Ordinance".

Sec. 16-232. Findings of Fact; Intent and Purpose.

- (a) The Flagler County Sheriff informed the City Council that a pattern of illegal drug use and distribution has been linked in large part to certain pain management clinics operating throughout the State of Florida ; and
- (b) The illegal distribution of prescription drugs, increased crime associated with such activity, and the health and safety issues relating to prescription drug abuse has created an urgent situation requiring immediate action to reduce the threat to the health, safety and welfare of City citizens; and
- (c) The Florida Legislature has identified concerns regarding the increased use and abuse of substances controlled by federal and/or state law and the frequency of injury and death occurring as a result of the increased availability of controlled substances via medical practitioners operating in pain management clinics or facilities, and
- (d) Florida Statutes require physicians and other persons dispensing prescription drugs through pain management clinics, facilities or offices, to register with the State Department of Health in order to conduct such business; and
- (e) The negative secondary impacts associated with the certain pain management clinics includes the congregation of drug users and drug addicted persons outside of pain management clinics in a manner that has a negative effect on the willingness of residents

to patronize nearby businesses and which disturbs nearby residents all hours of the day but particularly in the early morning and late evening hours thus creating an urgent situation necessitating immediate investigation into and potential regulation of such clinics in Palm Coast; and

- (f) It is not the intent of this Ordinance to interfere with the legal prescription, dispensation, or use of controlled substances; and
- (g) Under its home rule authority Palm Coast can pass additional legislation to further regulate pain management clinics as long as these additional regulations are not preempted in the law and are not inconsistent with the statutory provisions.

Sec. 16-233. Definitions.

For purposes of this article, the following terms, whether appearing in the singular or plural form, shall have the following meanings. All other terms used in this article shall have the meaning provided in Chapter 2011-141, Laws of Florida, as it may be amended from time to time.

"Acute Pain" means the normal, predicted, physiological response to an adverse chemical, thermal, or mechanical stimulus and is associated with surgery, trauma, or illness. It is generally short-lived. Acute Pain responses may vary between patients and between pain episodes within an individual patient. Acute Pain episodes may be present in patients with Chronic Pain.

"Chronic Pain" or "Chronic Non-Malignant Pain" means pain unrelated to cancer or rheumatoid arthritis which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery.

"City" means the City of Palm Coast, Florida.

"Dangerous Drugs" means a controlled substance listed in Schedule II and Schedule III in Section 893.03, Florida Statutes as amended from time to time, specifically opiate analgesic and benzodiazepine drugs.

"Health Care Physician or Physician" means any practitioner who is subject to licensure or regulation by the Florida Department of Health under Chapters 458 (physician) or 459 (osteopathic physician), Florida Statutes.

"Pain" means an unpleasant sensory and emotional experience associated with actual or potential tissue damage or described in terms of such damage. Categories of pain include Acute Pain or Chronic Pain.

"Pain Management" means the use of pharmacological and non-pharmacological interventions to control a patient's identified pain. Pain Management often extends beyond pain relief, encompassing the patient's quality of life, ability to work productively, to enjoy recreation, and to function normally in family and society.

"Pain Management Clinic" means any publicly or privately-owned facility:

1. That advertises in any medium for any type of pain-management services; or
2. Where in any month a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain.

"Physician Primarily Engaged in the Treatment of Pain" means a physician who prescribes or dispenses Dangerous Drugs when a substantial portion of the patients seen are prescribed or dispensed Dangerous Drugs for the treatment of chronic pain. For purposes of this definition, the term "substantial portion" means more than an insignificant or incidental portion. The term "substantial portion" does not necessarily mean a majority or predominant amount.

Sec. 16-234. Exceptions.

Businesses with one of the following characteristics are not regulated by this Section:

1. Licensed as a hospital or other licensed facility pursuant to Chapter 395, Florida Statutes, as may be amended;
2. The majority of the physicians who provide services in the clinic primarily provide surgical services;
3. Owned by a publicly held corporation whose shares are traded on a national exchange or on the over-the-counter market and whose total assets at the end of the corporation's most recent fiscal quarter exceeded \$50 million dollars:

4. Affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows;

5. Does not prescribe controlled substance for the treatment of pain;

6. Owned or operated by a governmental entity for the sole purpose of serving that governmental entity.

7. The clinic is wholly owned and operated by one or more board-certified anesthesiologists, physiatrists, or neurologists; or

8. The clinic is wholly owned and operated by one or more board-certified medical specialists who have also completed fellowship in pain medicine approved by the Accreditation Council for Graduate Medical Education, or who are also board-certified in pain medicine by a board approved by the American Board of Medical Specialties and perform interventional pain procedures of the type routinely billed using surgical codes.

Sec. 16-235. Regulation of pain management clinics.

Pain Management Clinics shall be subject to the following supplemental regulations and the physician designated as responsible for complying with all requirements related to registration and operation of the Pain Management Clinic shall ensure compliance herewith as follows:

(1) *Display of licenses.* Any Pain Management Clinic shall be validly registered with the State of Florida and with the City and shall prominently display in a public area near its main entrance copies of all state licenses, City licenses, and Occupational License/Local Business Tax Receipts, and the name of the owner and designated physician responsible for compliance with state and City law.

(2) *Controlled Substances.* The on-site sale, provision, or dispensing of controlled substances at a Pain Management Clinic shall be prohibited except as is specifically set forth in applicable federal or state law.

(3) *Minimum floor area.* A Pain Management Clinic shall have a total leasable floor area of not less than ____ thousand (X,000) square feet.

(4) *Activities in enclosed areas.* All activities of Pain Management Clinics, including sale, display, preparation and storage, must be conducted entirely within a fixed and completely enclosed business. Pain Management Clinics shall not provide outdoor waiting areas, such as seating and queues.

(5) *Facility and Physical Operations.* Pain Management Clinics shall provide the following:

- a. emergency lighting and communications (land line telephone),
- b. reception and waiting area,
- c. restroom(s),
- d. administrative area, including room for storage of medical records, supplies, and equipment,
- e. private patient examination room,
- f. treatment rooms, if treatment is being provided to patients,
- g. a printed sign located in a conspicuous place in the waiting room viewable by the public with the name and contact information of the clinic's designated physician and all physicians practicing in the clinic.

(6) *Drive-thru.* Pain Management Clinics shall not provide drive-thru window operations or services.

(7) *Alcoholic beverages.* Alcoholic beverages shall be prohibited from being consumed or served on the premises.

(8) *No loitering.* The Pain Management Clinic shall not direct or encourage any patient or business invitee to stand, sit (including in parked car), gather, or loiter outside of the building where the clinic operates, including in any parking area, sidewalk adjacent, right-of-way, or neighboring property for any period of time longer than that reasonably required to arrive and depart. The Pain Management Clinic shall post conspicuous signs stating that no loitering is allowed on the property.

(9) *Operating hours.* A Pain Management Clinic may operate only Monday through Friday and only during the hours of 8:00 a.m. to 7:00 p.m.

(10) *Landlord responsibility.* Any landlord who knows, or in the exercise of reasonable care should know, that a Pain Management Clinic is operating in violation of the Palm Coast Code,

or applicable Florida law, including the rules and regulations promulgated by the Department of Health, Board of Medicine, or Board of Osteopathic Medicine, shall have the responsibility to stop or take reasonable steps to prevent the continued illegal activity on the leased premises. Landlords who lease space to a Pain Management Clinic must expressly incorporate language into the lease or rental agreement stating that failure to comply with the Palm Coast code is a material breach of the lease and shall constitute grounds for termination and eviction by the landlord.

(11) *Compliance with other laws.* A Pain Management Clinic shall at all times be in compliance with all federal and state laws and regulations and the Palm Coast Code.

(12) *Patient payment options.* No Pain Management Clinic shall limit patient payment options to cash only.

(13) *Certificate of Use.* A Pain Management Clinic must apply for and receive a Certificate of Use from the City at the time that it seeks issuance or renewal of the Local Business Tax Receipt for the business, or at any time that there is a change of owner or the physician of record, pursuant to Section 458.3265, Florida Statutes or Section 459.0137, Florida Statutes, as amended. This application for Certificate of Use shall establish, and shall be updated as needed:

- (a) owner or operator of the facility;
- (b) proof of registration with the Florida Department Health, pursuant to Section 458.3265 or Section 459.0137, Florida Statutes. If the registration of the Pain Management Clinic is revoked or suspended by the Florida Department of Health, the City's Certificate of Use shall be revoked automatically and shall not be subject to the provisions herein;
- (c) the application for a Certificate of Use shall include an affidavit by the owner or the physician of record, pursuant to Section 458.3265 or Section 459.0137, Florida Statutes, as amended, attesting to the fact that no employee of the business, nor any independent contractor or volunteer having regular contact with customers of the business, has been convicted of a drug related felony within the five (5) year period prior to the date of the application, and that the business shall not employ or allow any such convicted employee, independent contractor or volunteer on the premises thereafter;

(d) the application shall contain a sketch of the intended business to confirm compliance with the business/floor plan requirements of this Section. The sketch shall confirm that the Pain Management Clinic will not have any outdoor waiting areas such, such as seating or queues.

(e) a copy of the lease agreement for business location.

Sec. 16-236. Application to Existing Pain Management Clinics.

All Pain Management Clinics legally in existence prior to the effective date of this Section, shall comply with the requirements herein within 365 days of the effective date of this Section. Any Pain Management Clinic legally in existence prior to the effective date of this Section, but now in violation of this provision due to the Pain Management Clinic's failure to meet the requirements of this section, shall be considered a legal nonconforming use for a period of one (1) year from the effective date of this Section. After the one (1) year period of time, such nonconforming use shall be removed or discontinued.

If at any time the City determines that a Pain Management Clinic is operating in any manner that is inconsistent with, or contrary to the provisions of this Chapter, or any other applicable Code or statutes, the City may revoke the Certificate of Use through the process outlined herein or as allowed by State Statutes.

Sec. 16-237. Penalties. Unless as otherwise provided herein, violations of this Article shall be punishable in accordance with Section 35 of the City of Palm Coast Code of Ordinances. In addition, the City may bring any other action available at law or equity to penalize or enjoin violations of this Article.

Section 3 It is declared to be the intent of the City Council of the City of Palm Coast, Florida, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance, is held to be unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not be construed as to render unconstitutional or invalid the remaining provisions of this Ordinance.

Section 4. Effective Date. This Ordinance shall become effective _____ days after the adoption of this Ordinance.

Approved on first reading this _____ day of _____ 2011.

Adopted on the second reading after due public notice and hearing City of Palm Coast this _____ day of _____ 2011.

CITY OF PALM COAST, FLORIDA

ATTEST:

JON NETTS, MAYOR

VIRGINIA A. SMITH, CITY CLERK

APPROVED AS TO FORM AND LEGALITY:

William E. Reischmann Jr. Esquire
City Attorney

ORDINANCE 2011-15

AN ORDINANCE OF THE CITY FLAGLER BEACH, FLAGLER COUNTY, FLORIDA, CREATING SECTION 5-31. "CITY OF FLAGLER BEACH DOG FRIENDLY DINING PROGRAM"; PROVIDING FOR ALLOWANCE OF PATRONS' DOGS AT CERTAIN OUTDOOR SEATING AREAS OF RESTAURANTS; PROVIDING DEFINITIONS; PROVIDING RESTRICTIONS AND REQUIREMENTS RELATED TO ALLOWANCE OF DOGS AT OUTDOOR SEATING AREAS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 509.233, Florida Statutes, creates a limited exemption from certain State regulations, which exemption allows restaurants meeting the specified requirements to allow dogs in designated outdoor seating areas; and

WHEREAS, Section 509.233, Florida Statutes, is a local option exemption which requires a local government to "opt-in"; and

WHEREAS, the City of Flagler Beach is a dog friendly community; and

WHEREAS, the City Commission of the City of Flagler Beach has determined it is in the best interest of the City of Flagler Beach, its residents and guests to "opt-in" to the exemption created by Section 509.233, Florida Statutes, and allow patrons' pets at outdoor restaurant seating areas that comply with the conditions and requirements of Section 509.233, Florida Statutes and this Ordinance.

NOW THEREFORE, BE IT ENACTED BY THE CITY OF FLAGLER BEACH, FLORIDA:

SECTION 1: Authority: The City of Flagler Beach has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida, Chapter 166, Florida Statutes and Section 509.233, Florida Statutes.

SECTION 2: Amendment of Existing Code: The Flagler Beach City Code, Chapter 5, Animals, is hereby amended to include a new Section 5-31., entitled "City of Flagler Beach Dog Friendly Dining Program."

Sec. 5-31 City of Flagler Beach Dog Friendly Dining Program

(a) Definitions.

The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

33 "Division" means the Division of Hotels and Restaurants of the State of Florida
34 Department of Business and Professional Regulation.

35 "Dog" means an animal of the subspecies Canis lupus familiaris.

36 "Outdoor area" means an open air area adjacent to a public food service
37 establishment. An outdoor area shall not be enclosed on more than two sides.
38 For purposes of this definition, partial walls and railings shall not be considered
39 enclosures.

40 "Patron" has the meaning given to "guest" by section 509.013, Florida Statutes.

41 "Public food service establishment" has the meaning given it by section 509.013,
42 Florida Statutes.

43 (b) Permit Required; Submittals.

44 In order to protect the health, safety, and general welfare of the public, a public food
45 service establishment is prohibited from having any dog on its premises unless it
46 possesses a valid permit issued in accordance with this part. The City shall establish a
47 reasonable fee to cover the cost of processing the initial application and renewals.
48 Applications for a permit under this part shall be made to the Building & Zoning
49 Department, on a form provided for such purpose by the City, and shall include, along
50 with any other such information deemed reasonably necessary by the City in order to
51 implement and enforce the provisions of this part, the following:

52 (i) The name, location, and mailing address of the subject public food service
53 establishment.

54 (ii) The name, mailing location, and telephone contact information of the permit
55 applicant.

56 (iii) A diagram and description of the outdoor area to be designated as available
57 to patrons' dogs including dimensions of the designated area; a depiction of the
58 number and placement of tables, chairs, and restaurant equipment, if any; the
59 entryways and exits to the designated outdoor area; the boundaries of the
60 designated area and of any other areas of outdoor dining not available for
61 patrons' dogs; any fences or other barriers; surrounding property lines and
62 public rights-of-way, including sidewalks and common pathways; and such other
63 information reasonably required by the City. The diagram or plan shall be
64 accurate and to scale but need not be prepared by a licensed design
65 professional.

66 (iv) A description of the days of the week and hours of operation that patrons'
67 dogs will be permitted in the designated outdoor area.

68 (v) All application materials shall contain the appropriate division issued license
69 number for the subject public food service establishment.

70
71 (vi) All applications shall be accompanied by an application fee in an amount as
72 set by Resolution of the City Commission.

73 (c) General Regulations; Cooperation; Enforcement.

74 In order to protect the health, safety, and general welfare of the public, and pursuant to
75 section 509.233, Florida Statutes, all permits issued pursuant to this part are subject to
76 the following requirements:

77 (i) All public food service establishment employees shall wash their hands
78 promptly after touching, petting, or otherwise handling any dog. Employees shall
79 be prohibited from touching, petting, or otherwise handling any dog while
80 serving food or beverages or handling tableware or before entering other parts
81 of the public food service establishment.

82 (ii) Patrons in a designated outdoor area shall be advised by the food service
83 establishment that they should wash their hands before eating. Waterless hand
84 sanitizer shall be provided at all tables in the designated outdoor area.

85 (iii) Employees and patrons shall be instructed by the food service establishment
86 that they shall not allow dogs to come into contact with serving dishes, utensils,
87 tableware, linens, paper products, or any other items involved in food service
88 operations.

89 (iv) Patrons shall keep their dogs on a leash at all times and shall keep their dogs
90 under control.

91 (v) Dogs shall not be allowed on chairs, tables, or other furnishings.

92 (vi) All table and chair surfaces shall be cleaned and sanitized with an approved
93 product between seating of patrons. Spilled food and drink shall be removed
94 from the floor or ground between seating of patrons.

95 (vii) Accidents involving dog waste shall be cleaned immediately and the area
96 sanitized with an approved product. A kit with the appropriate materials for this
97 purpose shall be kept near the designated outdoor area.

98 (viii) At least one sign reminding employees of the applicable rules, including
99 those contained in this part, and those additional rules and regulations, if any,
100 included as further conditions of the permit by the City, shall be posted in a
101 conspicuous location frequented by employees within the public food service
102 establishment. The mandatory sign shall be not less than eight and one-half
103 inches in width and eleven inches in height (8½ x 11) and printed in easily legible
104 typeface of not less than twenty (20) point font size.

105 (ix) At least one sign reminding patrons of the applicable rules, including those
106 contained in this part, and those additional rules and regulations, if any, included
107 as further conditions of the permit by the City, shall be posted in a conspicuous
108 location within the designated outdoor portion of the public food service
109 establishment. The mandatory sign shall be not less than eight and one-half
110 inches in width and eleven inches in height (8½ x 11) and printed in easily legible
111 typeface of not less than twenty (20) point font size.

112 (x) At all times while the designated outdoor portion of the public food service
113 establishment is available to patrons and their dogs, at least one sign shall be
114 posted in a conspicuous and public location near the entrance to the designated
115 outdoor portion of the public food service establishment, the purpose of which
116 shall be to place patrons on notice that the designated outdoor portion of the
117 public food service establishment is currently available to patrons accompanied
118 by their dog or dogs. The mandatory sign shall be not less than eight and one-
119 half inches in width and eleven inches in height (8½ x 11) and printed in easily
120 legible typeface of not less than twenty (20) point font size.

121 (xi) Signs required under subsections (ix) and (x) herein are considered on-site
122 non-commercial signs, shall be approved as part of the permitting application
123 process described by this section, and will not be subject to the application
124 process for signs under Article VII of the Land Development Regulations. Such
125 signs may be window signs, freestanding signs, or wall signs, and their copy area
126 shall not be calculated as part of the premises' total allowable number of signs
127 or allowable sign copy area. However, such signs shall not be located in any
128 setback or in a location which impedes pedestrian traffic or presents any other
129 safety hazard and shall not be prohibited signs described in Section 7.05.00.

130 (xii) Dogs shall not be permitted to travel through indoor or undesignated
131 outdoor portions of the public food service establishment, and ingress and
132 egress to the designated outdoor portions of the public food service
133 establishment shall not require entrance into or passage through any indoor or
134 undesignated outdoor portion of the public food service establishment.

135 (d) Non-Transferability of Permits.

136 A permit issued pursuant to this Section shall not be transferred to a subsequent owner
137 upon the sale or transfer of a public food service establishment, but shall expire
138 automatically upon such sale or transfer. The subsequent owner shall be required to
139 reapply for a permit pursuant to this part if such owner wishes to continue to
140 accommodate patrons' dogs.

141 (e) Complaints and Reporting.

142 In accordance with section 509.233(6), Florida Statutes, the Code Enforcement Officer
143 shall accept and document complaints related to the Dog Friendly Dining Program
144 within the City of Flagler Beach, Florida, and shall timely report to the Florida Division of
145 Business & Professional Regulation all such complaints and the City's enforcement
146 response to such complaint. The City Manager or designee shall also timely provide the
147 Florida Division of Business & Professional Regulation with a copy of all approved
148 applications and permits issued pursuant to this part.

149 (f) Enforcement

150 Any public food service establishment that fails to comply with the requirements of this
151 Section shall be guilty of violating this Section of the City of Flagler Beach Code of
152 Ordinances and shall be subject to any and all enforcement proceedings consistent with
153 the applicable provisions of this Code and general law. Each day a violation exists shall
154 constitute a distinct and separate offense. The City shall have the authority to revoke a
155 permit issued pursuant to this Section for repeated violations of the requirements of
156 this Section.

157 **SECTION 3: Codification:** Section 2 of this Ordinance shall be codified and made part of the
158 City of Flagler Beach Code of Ordinances.

159 **SECTION 4: Severability:** It is the intent of the City Commission of the City of Flagler Beach,
160 and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of
161 this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction,

162 such invalidity or unconstitutionality shall not be construed as to render invalid or
163 unconstitutional the remaining provisions of this Ordinance.

164 **SECTION 5: Effective Date:** This Ordinance shall become effective upon adoption.

165 PASSED ON FIRST READING THIS _____ DAY OF _____, 2011.

166 PASSED AND ADOPTED THIS _____ DAY OF _____, 2011.

167 Attest:

168 _____
169 Penny Overstreet, City Clerk
170 City of Flagler Beach

Alice Baker, Mayor
City of Flagler Beach

#116

ORDINANCE NO. 2011-01

AN ORDINANCE OF THE CITY OF FLAGLER BEACH, FLORIDA, AMENDING SECTION 2.06.08.4.1 OF THE LAND DEVELOPMENT REGULATIONS REGARDING PLACEMENT OF TEMPORARY STRUCTURES AND PARKING AND STORAGE OF UTILITY TRAILERS AND RECREATIONAL VEHICLES; AMENDING SECTIONS 2.02.00 AND 5.02.01 OF THE LAND DEVELOPMENT REGULATIONS TO PROVIDE DEFINITIONS; REMOVING CERTAIN REGULATIONS RELATED TO STORAGE OF BOATS; PROVIDING FOR COMPLIANCE ASSISTANCE; PROVIDING FOR CODIFICATION, SEVERABILITY, AND REPEAL OF CONFLICTING ORDINANCES, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Commission of Flagler Beach hereby finds it desirable and necessary to amend Sections 2.06.08.4.1 of the Land Development Regulations to clarify regulations regarding placement of temporary structures and parking and storage of utility trailers and recreational vehicles on private property and to amend Sections 2.02.00 and 5.02.01 to define temporary structures, utility trailers and recreational vehicles; and

WHEREAS, some residents of the City of Flagler Beach own recreational vehicles and utility trailers; and

WHEREAS, some residents of the City of Flagler Beach desire that their recreational vehicles and utility trailers be readily available to them; and

WHEREAS, based on the recommendation of the Planning and Architectural Review Board, sitting as the City’s local planning agency, the Commission finds and determines that this Ordinance is not inconsistent with the City’s Comprehensive Plan; and

WHEREAS, the City Commission finds it necessary and desirable to allow owners of recreational vehicles and utility trailers to park or store their recreational vehicles and utility trailers on their residential lots under certain conditions and circumstances to ensure safety and health and to preserve aesthetics of the City’s residential neighborhoods.

(NOTE: underline text denotes additions, ~~strikethrough~~ text denotes deletions and asterisks “* * *” denote sections of the existing Ordinance which remain unaltered and not reprinted herein).

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF FLAGLER BEACH, FLORIDA:

SECTION 1. Legislative findings and intent. The findings set forth in the recitals above are hereby adopted as legislative findings pertaining to this Ordinance.

46 **SECTION 2.** Section 2.02.00, “Definitions,” of the Land Development Regulations
47 shall be amended as follows:

48
49 Recreational vehicle, except as otherwise defined in these land development regulations, is a
50 vehicle primarily used as temporary living quarters for recreational, camping, or travel use,
51 which either has its own motive power or is mounted on or drawn by another vehicle.
52 Recreational vehicle units are those defined in Section 320.01, Florida Statutes, as amended from
53 time to time.

54
55 ***
56 Structure, temporary means a structure without any foundation or footings, designed,
57 constructed, and intended to be used on a short term basis, and which is removed when the
58 designated time period, activity, or use for which the temporary structure was erected has
59 ceased.

60
61 ***
62
63 ~~Travel trailer or recreational vehicle—A vehicle less than forty (40) feet in length and used for~~
64 ~~temporary or recreational living or sleeping purposes, and standing on wheels, whether self-~~
65 ~~propelled or requiring a separate vehicle for power.~~

66
67 ***
68
69 Utility trailer means a trailer manufactured, designed or used to store or carry personal property
70 including but not limited to: household furnishings, building materials, lumber, boxes,
71 automobiles and all terrain vehicles.

72
73 ***
74 *Yard* --An open space on the same lot with a building unoccupied or unobstructed from the
75 ground upward, except by trees or shrubbery or as otherwise provided herein.

76
77 *Yard, front* --An open unoccupied space across the full width of the lot extending from the front
78 building line (front building line includes open porches) to the front line of the lot. On corner lots
79 the front yard shall mean the lesser of the width/depth dimension.

80
81 *Yard, rear* --An open unoccupied space extending across the full width of the lot and measured
82 between the rear line of the lot and the rear building line of the main building.

83
84 *Yard, side* --An open unoccupied space on the same lot with a building between the building line
85 and the side line of the lot extending through from the front building to the rear yard or to the
86 rear line of the lot where no rear yard is required.

87
88 **SECTION 3.** Section 2.06.08.4.1 of the Land Development Regulations shall be
89 amended as follows:

90

91 Section 2.06.08.4.1 ~~Accessory and~~Temporary structures, utility trailers, ~~motor vehicles, and~~
92 ~~recreational vehicles regulations.~~

93
94 Except as hereinafter provided, ~~n~~No accessory or temporary structure, utility trailer or
95 ~~recreational vehicle~~ shall project into the ~~required~~ yard or encroach into easements, parking
96 areas, or other required areas ~~except as hereinafter provided.~~

97
98 (1) Unless temporary structures are prohibited in any district or subdivision, ~~Tents,~~
99 ~~cabanas, outdoor shelters, sheds, tool houses, and other enclosed and~~ temporary structures may
100 be constructed in a ~~required-rear~~ yard provided that ~~such accessory~~ all such structures,
101 ~~collectively,~~ buildings do not occupy more than thirty (30) percent of the required rear yard and
102 provided it is not located ~~within the rear yard setback~~ closer than five (5) feet to a side or rear lot
103 line.

104
105 (2) Recreational vehicles, ~~motor vehicles~~ Travel trailers, campers, and utility trailers,
106 ~~and boats~~ shall have a current license tags or validation stickers, if required by State law, and
107 shall be in good working order. ~~Boats, other than canoes and small boats and the like that are~~
108 ~~normally hand-carried, shall be stored on a trailers with a current tags or validation sticker and~~
109 ~~shall be in good working order and.~~ For purposes of this section, “good working order” shall
110 mean that the body, tires, windows, and bumpers are maintained in accordance with generally
111 accepted standards and that the recreational vehicle or utility trailer or motor vehicle is
112 functional, usable and in such a state as it may be used without further repair or alteration for the
113 purpose for which is was intended.

114
115 (3) To protect and promote the public health, safety and welfare, to provide light, safety
116 from fire, safety from other damages and to protect property owners from certain general
117 nuisances associated with unregulated parking, storage, or maintenance of utility trailers and
118 recreational vehicles, the parking, storage, and maintenance of utility trailers and recreational
119 vehicles shall be allowed on private property subject to the following:

120
121 a. No utility trailer or recreational vehicle shall be occupied as temporary living
122 quarters while such utility trailer or recreational vehicle is parked or stored within a residentially
123 zoned district in the City except as otherwise provided in the Code of Ordinances. No utility
124 trailer or recreational vehicle parked or stored in the City shall have its wheels removed for a
125 period greater than 72 consecutive hours, except for repair or maintenance. No recreational
126 vehicle parked or stored in the City shall run a generator or be connected to water, electric or
127 sewer hookups for any purpose other than maintenance and testing purposes. A rebuttable
128 presumption shall exist that a generator was run for purposes other than maintenance and testing
129 if such generator is run for more than fifteen minutes in any twenty-four hour period. A
130 rebuttable presumption shall exist that a recreational vehicle was connected to water, electric or
131 sewage utilities for purposes other repair or maintenance if such connections exist for more than
132 twenty-four consecutive hours.

133
134 b. No utility trailer or recreational vehicle shall be parked in such a way that it
135 encroaches onto a street, sidewalk or other right-of-way or in any location which visually

136 obstructs vehicle egress from nearby properties or the view or vision of vehicular traffic. or
137 impede the vision of vehicular traffic.

138
139 c. Notwithstanding any other provision herein, utility trailers and recreational vehicles
140 more than forty (40) feet in overall length may not be parked or stored on residential parcels
141 unless stored in fully enclosed garages or stored entirely within carports.

142
143 d. A utility trailer or recreational vehicle parked or stored at a residence on residential
144 property must be owned by the owner or tenant of the parcel of property upon which the utility
145 trailer or recreational vehicle is parked or stored, except as specifically provided in this
146 subsection d. Visitors of the owner or tenant may temporarily park their utility trailer or
147 recreational vehicle on the property for no more than fourteen total days within a six-month
148 consecutive period so long as the provisions of this or any other code section is not violated.
149 Prior to a visitor's utility trailer or recreational vehicle being parked on the property, the property
150 owner or tenant shall notify the Code Enforcement Officer in writing of the dates the recreational
151 vehicle or utility trailer will be parked on the property. Failure to provide such notice to the
152 Code Enforcement Officer shall create a rebuttable presumption that the visiting recreational
153 vehicle or utility trailer was parked on the property in violation of this subsection d.

154
155 e. No more than one (1) recreational vehicle and one (1) utility trailer shall be parked
156 outside of a fully enclosed garage at any one time.

157
158 f. A utility trailer or recreational vehicle may be kept:

- 159
160 (i) in a fully enclosed garage or stored entirely within a carport;
161 (ii) in a rear yard so long as the recreational vehicle does not occupy more
162 than thirty (30) percent of the rear yard and is not located within the rear
163 yard setback;
164 (iii) in any portion of the residence driveway located entirely behind the line
165 extending from the forward-most portion of the principal residential
166 structure to each side lot line; or
167 (iv) in a side yard not fronting any street.

168
169 (3) g. Resident-owned Utility trailers and recreational vehicles might may be
170 temporarily parked in any portion of the residence driveway forward of the line extending from
171 the forward-most portion of the principal residential structure to each side lot line for the purpose
172 of loading, unloading, minor repairs, or general maintenance or being repaired for use. However,
173 such temporary parking shall not occur continuously for more than seventy-two (72) hours in any
174 consecutive seven-day period.

175
176 h. When parking pads have been issued permits by the City prior to the effective date of
177 this Ordinance and as of the effective date of this Ordinance such pads are being used for parking
178 and storage of recreational vehicles but are not in compliance with this section, parking and
179 storage of such recreational vehicles on the parking pads are hereby grandfathered in and not
180 subject to Section 2.06.08.5 regarding nonconforming uses.

181 i. No utility trailer parked or stored outside of a fully enclosed garage shall have visible
182 commercial markings identifying any business or commercial enterprise in which the trailer is
183 used.

184
185 j. The contents of any utility trailer parked or stored outside of a fully enclosed garage
186 shall be shielded from the elements and public view either by the structural components of the
187 utility trailer or by an appropriately sized tarpaulin cover that is free of holes, rips, tears and
188 excessive fading.

189
190 k. Owners of utility trailers or recreational vehicles parked or stored in violation of this
191 section prior to the effective date of this Ordinance shall have 90 days to come into compliance
192 with this section.

193
194 (4) In an effort to assist property owners to comply with the regulations of this
195 Section, the following procedures shall be followed by the City for first-time violations of this
196 Section.

197
198 a. Upon documenting a first-time violation of this Section, the Code Enforcement
199 Officer shall, prior to issuing a notice of violation, inform the subject property owner of the
200 violation and make a written offer to the owner of the subject property offering the assistance of
201 the City in providing assessment of compliance options. The compliance assistance agreement
202 shall be in a form approved by the City. The subject property owner shall have three business
203 days to accept the City's compliance assistance agreement. If the subject property owner refuses
204 the compliance assistance agreement or fails to respond within three business days from the date
205 the compliance assistance offer was made, the Code Enforcement Officer shall proceed to issue a
206 notice of violation.

207
208 b. If the subject property owner accepts the City's offer of compliance assistance,
209 the Code Enforcement Officer shall schedule an inspection of the subject property by the Code
210 Enforcement Officer for the purpose of evaluating the most efficient method of bringing the
211 property into compliance with this Section.

212
213 c. Within three business days from the date of the compliance inspection performed
214 pursuant to paragraph (b) the Code Enforcement Officer shall notify the subject property owner
215 of the Code Enforcement's determination as to the most efficient method of bringing the subject
216 property into compliance.

217
218 d. The owner of the subject property shall be allowed 21 days from the date of the
219 Notice of the compliance methods described in paragraph (c) to bring the subject property into
220 compliance by any means the subject property owner chooses. If at the end of said 21 day
221 period, the subject property remains in violation, the Code Enforcement Officer shall proceed to
222 issue a Notice of Violation.

223
224 e. Failure by the City to meet any of the time deadlines provided herein shall not
225 prevent the Code Enforcement Board or Special Magistrate from making a finding that the
226 property is in violation of this Section at a duly notice hearing. In the event that the City is

227 shown to have failed to undertake or complete any action required by this Section, the Code
228 Enforcement Board or Special Magistrate shall include in the time allowed for cure of the
229 violation additional time for the subject property owner to avail himself or herself of the
230 compliance assistance detailed herein.

231
232 **SECTION 4.** Section 5.02.01 of the Land Development Regulations shall be amended
233 as follows:

234
235 **Sec. 5.02.01. Definitions.**

236
237 The terms used in this article shall, unless otherwise specified, be defined as set forth in
238 F.S. Chapters 316 and 320.01, as amended from time to time.

239
240 **SECTION 5. Codification.** It is the intent of the City Commission of the City of
241 Flagler Beach that the provisions of this Ordinance shall be codified. The codifier is granted
242 broad and liberal authority in codifying the provisions of this Ordinance and renumbering
243 subsections consistent with this Ordinance.

244
245 **SECTION 6. Severability.** If any section, sentence, clause or phrase of this Ordinance
246 is held to be invalid or unconstitutional by a Court of competent jurisdiction, then said holding
247 shall in no way affect the validity of the remaining portions of this Ordinance.

248
249 **SECTION 7. Repeal of conflicting ordinances.** In any case where a provision of this
250 Ordinance is found to be in conflict with provisions of any other ordinance of this City, the
251 conflicting provisions of the previous ordinance shall be repealed by this Ordinance.

252
253 **SECTION 8. Effective date.** This Ordinance shall take effect immediately upon
254 adoption as provided by the Charter of the City of Flagler Beach.

255
256 PASSED ON FIRST READING THIS _____ DAY OF _____, 2011.
257 PASSED AND ADOPTED THIS _____ DAY OF _____, 2011.

258
259 CITY OF FLAGLER BEACH, FLORIDA
260 CITY COMMISSION

261
262
263 _____
264 Alice M. Baker, Mayor

265 ATTEST:

266
267 _____
268 Penny Overstreet, City Clerk

269
270

271
272

Ordinance 2011-01

AN ORDINANCE OF THE CITY OF FLAGLER BEACH, FLORIDA, AMENDING SECTION 2.06.08.4.1 OF THE LAND DEVELOPMENT REGULATIONS REGARDING PLACEMENT OF TEMPORARY STRUCTURES AND PARKING AND STORAGE OF UTILITY TRAILERS AND RECREATIONAL VEHICLES; AMENDING SECTIONS 2.02.00 AND 5.02.01 OF THE LAND DEVELOPMENT REGULATIONS TO PROVIDE DEFINITIONS; REMOVING CERTAIN REGULATIONS RELATED TO STORAGE OF BOATS; PROVIDING FOR COMPLIANCE ASSISTANCE; PROVIDING FOR CODIFICATION, SEVERABILITY, AND REPEAL OF CONFLICT ORDINANCES, AND ESTABLISHING AN EFFECTIVE DATE.

Ordinance 2011-16

AN ORDINANCE OF THE CITY OF FLAGLER BEACH, FLORIDA AMENDING THE CITY OF FLAGLER BEACH CODE OF ORDINANCES, CHAPTER 9, FIRE PREVENTION AND PROTECTION, SECTION 9-20, PROVIDING RESTRICTIONS ON THE PERMITTING OF CAMPFIRE ON THE BEACH DURING SEA TURTLE NESTING SEASON; PROVIDING FOR CODIFICATION, CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

A PUBLIC HEARING AND FINAL READING WILL BE HELD ON OCTOBER 13, 2011 AT 6:30 P.M., OR AS SOON THEREAFTER AS POSSIBLE, IN THE CITY COMMISSION CHAMBERS, 105 S. 2ND ST., FLAGLER BEACH, FL. THIS PUBLIC HEARING MAY BE CONTINUED TO A FUTURE DATE OR DATES. THE TIMES AND DATES OF ANY CONTINUANCES OF A PUBLIC HEARING SHALL BE ANNOUNCED DURING THE PUBLIC HEARING WITHOUT ANY FURTHER PUBLISHED NOTICE. THE ORDINANCE MAY BE VIEWED AT THE ABOVE LOCATION. INTERESTED PARTIES MAY APPEAR AT THE MEETING AND BE HEARD WITH RESPECT TO THE PROPOSED ORDINANCE.

CITY OF FLAGLER BEACH
P.O. BOX 70
105 S. 2ND STREET
FLAGLER BEACH, FL 32136
PHONE (386) 517-2000
FAX (386) 517-2008

L958577. October 2, 2011 lt.

ORDINANCE 2011-16

AN ORDINANCE OF THE CITY OF FLAGLER BEACH, FLORIDA AMENDING THE CITY OF FLAGLER BEACH CODE OF ORDINANCES, CHAPTER 9, FIRE PREVENTION AND PROTECTION, SECTION 9-20, PROVIDING RESTRICTIONS ON THE PERMITTING OF CAMPFIRES ON THE BEACH DURING SEA TURTLE NESTING SEASON; PROVIDING FOR CODIFICATION, CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Flagler Beach recognizes the importance of preserving and protecting sea turtles; and

WHEREAS, the effect of artificial light on sea turtle hatchlings has been well documented; and

WHEREAS, the sea turtle nesting season occurs during the period between May 1 and October 31; and

WHEREAS, in order to protect sea turtles, the City Commission finds it in the best interest of the City of Flagler Beach to restrict permitting of campfires on the beach to daylight hours during the period between May 1 and October 31 and to require any campfire commenced on the beach during such period is extinguished during the hours between dusk and dawn.

NOTE: Underlined words constitute additions to the City of the City of Flagler Beach Code of Ordinances, strikethrough constitutes deletions from the original Code of Ordinances, and any asterisks (***) indicate an omission from the existing text which is intended to remain unchanged.

NOW THEREFORE, BE IT ENACTED BY THE CITY OF FLAGLER BEACH, FLORIDA:

SECTION 1. Legislative Findings and Intent. The findings set forth in the recitals above are hereby adopted as legislative findings pertaining to this Ordinance.

SECTION 2. Chapter 9, Section 9-20 of the City of Flagler Beach Code of Ordinances is amended as follows:

Sec. 9-20. Open Burning Prohibited.

* * *

(b) The following types of open burning are permitted if pre-approved by the Fire Inspector and a permit issued by the Fire Inspector for such activities:

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- (1) ceremonial fires;
- (2) prescribed burns conducted by fire control agencies;
- (3) when an emergency condition exists within the City that warrants burning; and
- (4) campfires or bonfires on the beach, provided that no permits shall be issued for campfires to occur during the period between May 1 and October 31, due to sea turtle nesting season.

Such permits may be issued in the context of a pre-annexation agreement. All such permits shall address appropriate disbursement of smoke and its adverse affects.

* * *

SECTION 3. Codification. It is the intent of the City Commissioners of the City of Flagler Beach, Florida, and it is hereby ordained the provisions of this Ordinance become and be made a part of the City of Flagler Beach Code of Ordinances; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, "Ordinance" may be changed to "Section", "Article" or other appropriate wording.

SECTION 4. Conflict. All ordinances or regulations in conflict with the provisions herein are hereby repealed.

SECTION 5. Severability. It is the intent of the City Commission that, if any court of competent jurisdiction shall for any reason hold any section, subsection, sentence, clause, phrase, or portion of this Ordinance invalid or unconstitutional, such portion shall be deemed a separate part of portions hereof.

SECTION 6. Effective Date. This Ordinance shall become effective upon final approval by the City Commission as provided by law.

PASSED ON FIRST READING THIS 8TH DAY OF SEPTEMBER, 2011.
PASSED AND ADOPTED THIS _____ DAY OF _____, 20__.

CITY OF FLAGLER BEACH, FLORIDA
CITY COMMISSION

Alice M. Baker, Mayor

ATTEST:

Penny Overstreet, City Clerk

THE NEWS-JOURNAL

Published Daily and Sunday
Daytona Beach, Volusia County, Florida

**State of Florida,
County of Volusia**

Before the undersigned authority personally appeared

Kelley Meehan

who, on oath says that she is

LEGAL COORDINATOR

of The News-Journal, a daily and Sunday newspaper,
published at Daytona Beach in Volusia County, Florida; the
attached copy of advertisement, being a
.....

PUBLIC NOTICE

L 958577

in the Court,
was published in said newspaper in the issues.....

OCTOBER 2, 2011

Affiant further says that The News-Journal is a newspaper
published at Daytona Beach, in said Volusia County, Florida,
and that the said newspaper has heretofore been continuously
published in said Volusia County, Florida, each day and
Sunday and has been entered as second-class mail matter at
the post office in Daytona Beach, in said Volusia County,
Florida, for a period of one year next preceding the first
publication of the attached copy of advertisement; and affiant
further says that he has neither paid nor promised any person,
firm or corporation any discount, rebate, commission or
refund for the purpose of securing this advertisement for
publication in the said newspaper

.....*Kelley Meehan*.....

Sworn to and subscribed before me

This 3RD of OCTOBER

A.D. 2011

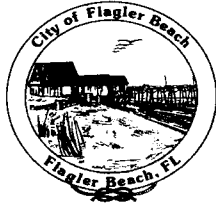
.....*Rachael L. Smith*.....

Ordinance 2011-01
AN ORDINANCE OF THE CITY
OF FLAGLER BEACH, FLORIDA,
AMENDING SECTION
2.06.08.4.1 OF THE LAND DE-
VELOPMENT REGULATIONS
REGARDING PLACEMENT OF
TEMPORARY STRUCTURES
AND PARKING AND STORAGE
OF UTILITY TRAILERS AND
RECREATIONAL VEHICLES;
AMENDING SECTIONS 2.02.00
AND 5.02.01 OF THE LAND DE-
VELOPMENT REGULATIONS TO
PROVIDE DEFINITIONS; RE-
MOVING CERTAIN REGULA-
TIONS RELATED TO STORAGE
OF BOATS; PROVIDING FOR
COMPLIANCE ASSISTANCE;
PROVIDING FOR CODIFICA-
TION, SEVERABILITY, AND RE-
PEAL OF CONFLICT ORDINAN-
CES, AND ESTABLISHING AN
EFFECTIVE DATE.

Ordinance 2011-10
AN ORDINANCE OF THE CITY
OF FLAGLER BEACH, FLORIDA
AMENDING THE CITY OF FLA-
GLER BEACH CODE OF ORDI-
NANCES, CHAPTER 9, FIRE
PREVENTION AND PROTEC-
TION, SECTION 9-20, PROVID-
ING RESTRICTIONS ON THE
PERMITTING OF CAMPFIRES
ON THE BEACH DURING SEA
TURTLE NESTING SEASON;
PROVIDING FOR CODIFICA-
TION, CONFLICT,
SEVERABILITY, AND AN EFFEC-
TIVE DATE.
A PUBLIC HEARING AND FINAL
READING WILL BE HELD ON
OCTOBER 13, 2011 AT 6:30
P.M., OR AS SOON THERE-
AFTER AS POSSIBLE, IN THE
CITY COMMISSION CHAM-
BERS, 105 S. 2ND ST., FLAGLER
BEACH, FL. THIS PUBLIC
HEARING MAY BE CONTINUED
TO A FUTURE DATE OR DATES,
THE TIMES AND DATES OF
ANY CONTINUANCES OF A
PUBLIC HEARING SHALL BE
ANNOUNCED DURING THE
PUBLIC HEARING WITHOUT
ANY FURTHER PUBLISHED NO-
TICE. THE ORDINANCE MAY BE
VIEWED AT THE ABOVE LOCA-
TION. INTERESTED PARTIES
MAY APPEAR AT THE MEETING
AND BE HEARD WITH RE-
SPECT TO THE PROPOSED OR-
DINANCE.

CITY OF FLAGLER BEACH
P.O. BOX 70
106 S. 2ND STREET
FLAGLER BEACH, FL. 32136
PHONE (386) 517-2000
FAX (386) 517-2008
L958577, October 2, 2011 It.





City of Flagler Beach AGENDA ITEM # 18

Item Summary and Recommendation

SUBJECT: Set dates for Qualifying for the January 31, 2012 Municipal Election.

BACKGROUND: The Charter allows for the City elections to follow Presidential Preference Primary's (PPP's). Since we will be following this PPP's as it is a cost savings, I need for the Commission to set the dates for qualifying. I am recommending the qualifying dates be November 14th through the 18th. This allows the candidates who are qualifying via the petition process to have their signature cards verified before the qualifying period, which is required in accordance with FS 99.095. The Mayor will read the Election Proclamation at the November 10, 2011 regular meeting and the qualifying will begin the next business day which is Monday 11-14-2011 (City Hall closed November 11th for Veterans Day) I will post notice to the web-site regarding the petition process if this approved by you tonight.

RECOMMENDATIONS: Set the qualifying period as November 14th through November 18th 2011.

ATTACHMENTS: None

SUBMITTED BY: Penny Overstreet, City Clerk