

**Administration**  
1769 E. Moody Blvd, Bldg 2  
Bunnell, FL 32110



[www.FlaglerCounty.gov](http://www.FlaglerCounty.gov)  
Phone: (386) 313-4001

January 29, 2026

**By Certified United States Mail, Return Receipt Requested**

9489 0178 9820 3027 0839 90

Dale Martin  
City Manager  
City of Flagler Beach  
Post Office Box 70  
Flagler Beach, Florida 32136-0070

*Re: Notice of Initiation of Conflict Resolution Procedures under Chapter 164, Florida Statutes*

Dear Mr. Martin:

On January 28, 2026, the Board of County Commissioners of Flagler County ("County") adopted Resolution No. 2026-05 initiating dispute resolution procedures under Chapter 164, Florida Statutes. A certified copy of the resolution is enclosed. The purpose of this letter is to give you notice that these procedures have been initiated and of the following information, as required by Section 164.1052(1), Florida Statutes.

**Description of the Conflict**

The conflict stems from the annexation certain real property located west of John Anderson Highway and directly south of State Road 100, commonly known as the "Summertown Project," and the concurrent amendments to the City's Comprehensive Plan and Official Zoning Map to effectuate the annexation and future development of the property.

Ordinance 2025-22 of the City of Flagler Beach annexed the subject property within the corporate area and city limits of the City of Flagler Beach, providing for the annexation of approximately 514.06 acres of property.

Ordinance 2025-25 amended the City's Comprehensive Plan Future Land Use Map ("FLUM") designation for the recently annexed property from the previously County FLUM designation of "Agriculture, Conservation, and Mixed Use: High Intensity" and City FLUM designation "Low and Medium Density" to the City FLUM designation of "Low Density Residential and Commercial" with an accompanying Text Policy Amendment to limit development.

Ordinance 2025-26 amended the City of Flagler Beach's Official Zoning Map classification of the recently annexed property from County classified "Planned Unit Development" and City classification "Reserved and Single-Family Residential" to the City classification "Master Planned Development." A Master Plan Development Agreement was as part of Ordinance 2025-26.

---

**Andy Dance**  
District 1

**Greg Hansen**  
District 2

**Kim Carney**  
District 3

**Leann Pennington**  
District 4

**Pam Richardson**  
District 5

January 29, 2026

*Re: Notice of Initiation of Conflict Resolution Procedures under Chapter 164, Florida Statutes*

Page 2 of 4

The dispute concerns whether Ordinance 2025-26 amending the Official Zoning Map classification is consistent with both the City's Comprehensive Plan and the County's Comprehensive Plan. In particular, there are three issues of contention relating to consistency with the relative Comprehensive Plans.

*Consistency with the City's Comprehensive Plan and Settlement Agreement dated January 31, 2007, as It Relates to Reclaimed Water*

The County's contention is that there is no requirement to build a reclaimed water facility in the Utility Service Agreement for Veranda Bay (f/k/a The Gardens) between the City and the Summertown developer. Rather, the City committed to providing reclaimed water service to the proposed development when available; the developer's only requirement as it relates to reclaimed water was to install the reclaimed water distribution lines on its own property. Similarly, the approved Master Planned Development Agreement (the "MPD Agreement"), approved by the City contains no requirement on the part of the developer as it relates to donation of a reclaimed water site, much less a requirement to build one. Instead, Section 9a of the MPD Agreement merely provides the developer with the authority, but not the obligation, to construct private services or obtain such services from other providers including adjacent municipalities. The only conveyance contemplated is in Section 10(c) of the MPD Agreement, which requires the developer to convey all reuse improvements to the City pursuant to the City's utility agreement (which again only requires the installation of the required lines). Based on the foregoing, it would appear that the City has assumed the responsibility to build a reclaimed water facility, and will do so at the expense of the residents. All the while, Section 10(c) of the MPD Agreement provides that the City will not charge the developer fees for use of the reclaimed water until the later of January 1, 2034 or ten (10) years after the City provides reclaimed water to the project

*Consistency with the City's Comprehensive Plan as It Relates to Floodplain Protection*

The County's contention is that rather than recommend acquisition by the State, the City pressed forward with annexation of the property and passed the responsibility for taking preservation measures to the developer. Section 10(m) of the MPD Agreement indicates that some consideration was given to this, but the City stopped well short of requiring the developer to work in earnest with the County. Ordinance 2025-25 adopted both a FLUM amendment and a text amendment for the purpose of incorporating a limiting policy into the City's Comprehensive Plan. The FLUM amendment changed the land use designation applicable to 544.97 acres from Agriculture and Timberlands, Conservation, and Mixed Use High-Intensity (Flagler County Designations) and Low and Medium Density (City of Flagler Beach Designation) to Low Density Residential and Commercial (City of Flagler Beach Designations). The text amendment reads as follows: "Policy A.1.1.3.I-Development of the Property shall be limited to a maximum of 1,640 residential units, a maximum of 840,000 square feet of nonresidential uses and a maximum of 250 hotel rooms ("Development Plan"). Land uses permitted within the Low Density Residential and Commercial Future Land Use designation shall be allowed as permitted in the City Comprehensive Plan and Land Development Regulations (July 2025), Changes to the Development Plan may be permitted providing the net new external trips (PM peak hour) do not increase as certified by the Developer's traffic engineer." With the acreage involved, the residential density permitted is equal to three (3) dwelling units per acre. This is a huge shift from what was previously permitted, as the majority, if not all, of the property slated for residential development had an Agriculture and Timberlands designation. This would have

January 29, 2026

Re: Notice of Initiation of Conflict Resolution Procedures under Chapter 164, Florida Statutes

Page 3 of 4

allowed only one (1) dwelling unit per five (5) acres. At roughly 545 acres, this would amount to 109 units as opposed to the 1640 approved by the City of Flagler Beach Commission. If the developer does not follow through with the agreement to sell the property to the County, it is possible that a sizable portion of the development will occur in the floodplain (or is at least authorized to occur within the floodplain).

*Consistency with the County's Comprehensive Plan as It Relates to Residential Density Within the Coastal High Hazard Area and Hurricane Evacuation Capacities for John Anderson Highway.*

The County's contention is the annexation and development of the "Summertown Project" within the jurisdiction of the City does not take into consideration the impacts of the increased density on John Anderson Highway as contemplated in the County's Comprehensive Plan. The City's annexation of the property and concurrent FLUM amendment and re-zoning had the effect of increasing the allowable residential density in this Coastal High Hazard Area. The City's Ordinances did not take into account the impacts of the increase in density upon John Anderson Highway and its known evacuation capacities, as contemplated in Objective E.2.1, County Comprehensive Plan. The County and City must discuss whether ownership and jurisdiction over John Anderson Highway should remain with the County or be transferred to the City. If jurisdiction is to remain with the County, the County and City must discuss and resolve outstanding issues relating possible contributions or improvements to be made by the City or Developer to ensure that the increase in density caused by the FLUM amendment (and future FLUM amendment for "Veranda Bay") are consistent with the Goals, Objectives, and Policies of the County Comprehensive Plan.

**Justification for Initiating the Chapter 164 Conflict Resolution Process**

Section 164.102, Florida Statutes, provides that the purpose and intent of the conflict resolution process is to promote, protect, and improve the public health, safety, and welfare and to enhance intergovernmental coordination efforts by the creation of a governmental conflict resolution procedure. It is the intent of the statutes to resolve such conflicts without litigation.

Section 164.1041(1), Florida Statutes, provides in pertinent part that all governmental entities are encouraged to use the procedures in this act to resolve conflicts that may occur at any time between governmental entities, but shall use these procedures before court proceedings, consistent with the provisions of this section.

It is the intent of the County to initiate these prior to initiating court proceedings pursuant to Section 163.3215(3), Florida Statutes. To that effect, the Board of County Commissioners has directed the County Attorney's Office to execute an agreement between the County and the City extending the jurisdictional time requirements with regard to that claim for the period set forth therein as a good faith sign of the County's intent to resolve the outstanding issues through the Conflict Resolution Process.

**Proposed Dates and Locations of Conflict Assessment Meeting to Be Held Under Section 164.1053, F.S.**

- February 4, 2026 – Flagler Governmental Services Building
- February 5, 2026 – Flagler Governmental Services Building
- February 6, 2026 – Flagler Governmental Services Building

January 29, 2026

*Re: Notice of Initiation of Conflict Resolution Procedures under Chapter 164, Florida Statutes*

Page 4 of 4

**Suggestions Regarding Officials Who Should Be Present at the Conflict Assessment Meeting:**

On behalf of Flagler County:

Heidi Petito, County Administrator

Percy Sayles, Deputy County Administrator

Adam Mengel, Director, Flagler County Growth Management Department

Or their designees

On behalf of Flagler Beach:

Dale Martin, City Manager

Additionally, the County suggests that the parties' respective legal counsel be present at the conflict assessment meeting.

Sincerely,



Heidi Petito  
County Administrator

Enc: Certified Copy of Resolution No. 2026-05

cc: Drew Smith, City Attorney  
City of Flagler Beach  
Shepard Smith Hand & Brackins  
2300 Maitland Center Parkway, Suite 100  
Maitland, Florida 32751

Michael D. Chiumento III  
Chiumento Law  
145 City Place, Suite 301  
Palm Coast, Florida 32164

RESOLUTION NO. 2026-05

**A RESOLUTION OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS INITIATING CONFLICT RESOLUTION PROCEDURES PURSUANT TO CHAPTER 164, FLORIDA STATUTES, TO RESOLVE ISSUES RELATING TO THE CITY OF FLAGLER BEACH COMPREHENSIVE PLAN AMENDMENT, REZONING, AND APPROVAL OF MASTER DEVELOPMENT PLAN FOR THE PROJECT KNOWN AS SUMMERTOWN**

WHEREAS, on or about January 8, 2026, the City Commission for the City of Flagler Beach enacted Ordinance 2025-22 annexing property to be included within the corporate area and city limits of the City of Flagler Beach, providing for the annexation of approximately 514.06 acres of property lying in the areas proximate to the existing city limits of the city, pursuant to Section 171.044, Florida Statutes;

WHEREAS, on or about October 7, 2025, the Planning and Architectural Review Board of the City of Flagler Beach (“PARB”), acting as the City’s Local Planning Agency, considered the proposed map amendments referenced in Ordinance 2025-25 and voted to recommend disapproval of the proposed Comprehensive Plan Amendment, however, the Recitals in Ordinance 2025-25 reflect that the PARB voted to recommend approval of the proposed Comprehensive Plan Amendment;

WHEREAS, on or about January 8, 2026, the City Commission for the City of Flagler Beach in conjunction with Ordinance 2025-22 enacted Ordinance 2025-25 amending the City’s Comprehensive Plan Future Land Use Map designation for the recently annexed real property generally located west of John Anderson Highway, and directly south of State Road 100, from the County designated “Agriculture, Conservation, and Mixed Use: High Intensity” and from the City designated “Low and Medium Density” future land use designations to the City designated “Low Density Residential and Commercial” future land use designations with an accompanying Text Policy Amendment to limit development;

WHEREAS, on or about January 8, 2026, the City Commission for the City of Flagler Beach, in accord with Ordinances 2025-22 and 2025-25, enacted Ordinance 2025-26 amending the Official Zoning Map designation of the recently annexed property generally located west of John Anderson Highway, and

directly south of State Road 100, from the County designated Planned Unit Development and City designated Reserved and Single-Family Residential to a City approved Master Planned Development;

WHEREAS, Flagler Beach Ordinance 2025-26 will have an adverse effect on Flagler County floodplain and County infrastructure through impacts to John Anderson Highway, a county owned and maintained right-of-way;

WHEREAS, prior to initiating court action against the City of Flagler Beach regarding Flagler Beach Ordinance 2025-26, Flagler County wishes to initiate the conflict resolution procedures in Chapter 164, Florida Statutes; and

WHEREAS, the County seeks to have the City comply with their lawful obligations and to do so in accordance with the Florida Governmental Conflict Resolution Act and to resolve this matter without the need of litigation.

NOW, THEREFORE, BE IT RESOLVED by the Flagler County Board of County Commissioners, that:

1. Flagler County initiates the conflict resolution procedures with regards to Flagler Beach Ordinance 2025-26 and related actions.

2. The issues in conflict between Flagler County and the City of Flagler Beach are as follows:

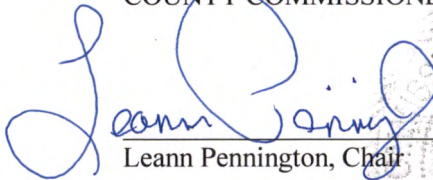
- a. Whether Ordinance 2025-26 passed by the City of Flagler Beach is consistent with the City's Comprehensive Plan and with the Settlement Agreement entered into by Flagler County and the City of Flagler Beach in *City of Flagler Beach, et.al. v. Hammock Beach River Club Property Owners Association, Inc. et.al.*, Cir.Ct. Case No. 06-001531CA, January 31, 2007, as it relates to the provisions of reclaimed water.
- b. Whether Ordinance 2025-26 is consistent with the City Comprehensive Plan as it relates to Floodplain Protection, and its impact on the County's adjacent floodplains and sensitive environmental lands adjacent and contiguous to the Subject Property.
- c. Whether Ordinance 2025-26 is consistent with the County's Comprehensive Plan in as much as it increases residential density within the Coastal High Hazard Area adversely impacting John Anderson Highway, a county owned and maintained right-of-way and hurricane evacuation route.

- d. Whether an adequate traffic study was conducted to analyze the impacts of the increase in residential density on John Anderson Highway by the adoption of Ordinance 2025-26.
- e. Whether there is a possibility for an alternative to future maintenance of John Anderson Highway, either in the form of the City taking the ownership and maintenance obligation of the right-of-way, or the developer paying county impact fees or their functional equivalent relating to the impacts and maintenance of the right-of-way.

3. The County Administrator is directed to mail a certified copy of this Resolution by letter meeting the requirements of Section 164.1052, Florida Statutes, by certified mail, return receipt requested, to the City Manager of the City of Flagler Beach within five (5) days of the enactment of this Resolution.

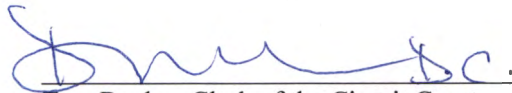
PASSED AND DULY ADOPTED this 28th day of January, 2026

FLAGLER COUNTY BOARD OF  
COUNTY COMMISSIONERS

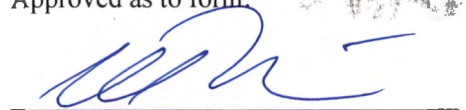
  
Leann Pennington, Chair



ATTEST:

  
Tom Bexley, Clerk of the Circuit Court  
and Comptroller

Approved as to form:

  
Michael A. Rodriguez, County Attorney