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August 27, 2025

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City of Palm Coast
160 Lake Avenue
Palm Coast, FL 32164

Via Federal Express
City of Palm Coast
Attn: City Clerk
160 Lake Avenue
Palm Coast, FL 32164

Re: City of Palm Coast ("City") Impact Fees
Ordinance 2025-10 - - Amending Fire and Rescue Impact Fees
Ordinance 2025-11 - - Amending Parks System Impact Fees
Ordinance 2025-12 - - Amending Transportation Impact Fees

Dear Mayor and Council Members:

I have the privilege of representing the Flagler County – Palm Coast Homebuilders Association, Inc. ("Association"), Intracoastal Construction, LLC, Integrity Homes USA, LLC, Thomas Consulting and Construction, LLC, 1621 Building and Remodeling, LLC and Florida Green Building Construction, Inc., which are contractors and/or real estate developers doing business in the City of Palm Coast; and William R. Barrick and Brad M. Thomas, who are residents of the City of Palm Coast.

With respect to Ordinances referenced above, this letter shall constitute legal notice pursuant to Section 252.42, Florida Statutes, as adopted pursuant to Section 18, Senate Bill No. 180, and pursuant to Section 28, Senate Bill No. 180, that the above-referenced Ordinances ("Ordinances") are in violation of the respective sections and the State of Florida legal precedent pertaining to impact fees.

My clients are prepared to file a civil action to contest all three (3) Ordinances if the City does not repeal, or take affirmative action as required pursuant to the above-referenced statutes to repeal, within fourteen (14) days after receipt of this notice.

SUMMARY OF CLAIMS

The civil action will consist of a minimum of three (3) counts for declaratory and injunctive relief as follows:

1. Action under Section 18 of Senate Bill No. 180 for adoption of more burdensome amendments to the City land development regulations;

2. Action under Section 28 of Senate Bill No. 180 for adopting more burdensome amendments to the City land development regulations; and

3. Action that the Ordinances adopted were not in compliance with the Florida Impact Fee Act, Section 163.31801, Florida Statutes, and were in violation of the Florida Impact Fee Act and the Florida Constitution.

Sections 18 and 28, of Senate Bill No. 180, respectively prohibit the City from: (i) adopting a more restrictive or burdensome amendment to its land development regulations within one (1) year after a hurricane makes impact; and (ii) adopting more restrictive or burdensome amendments to land development regulations, before October 1, 2027, provided they were listed in the Federal Declaration of Disaster for, among others, Hurricane Milton. Flagler County was named in the Federal Declaration and the Ordinances were adopted within one (1) year of Hurricane Milton impacting Flagler County; therefore, both are null and void *ab initio*.

More importantly, all three (3) Ordinances are in clear violation of the Florida Impact Fee Act and unconstitutional as determined by state legal precedent, in summary, for among others, the following reasons:

1. The Florida Supreme Court cases are clear, that in order to adopt a fee there is required to be a **"special benefit"** to the properties responsible for paying the fee. Based on the caselaw below, all three (3) Ordinances were city-wide and there was no effort whatsoever to satisfy this special benefit requirement.

2. The impact fees are not proportional or reasonably connected to or have a rational nexus with the need for additional capital facilities for the properties as there was no effort whatsoever to apply such impact fees to neighborhoods or even regional areas within the City.

3. The Ordinances must rely on the most recent and localized data available and they clearly did not. Instead, they relied on state and national data, which is insufficient under both the Florida Impact Fee Act and caselaw.

4. The "extraordinary circumstances" relied upon in the studies do not meet any definition of extraordinary circumstances, as applied under Florida caselaw. In fact, there was no mention whatsoever of any definition of extraordinary circumstances in any study, much less any of the related caselaw. Instead, they relied substantially on inflation and population growth - - which in Florida is the norm, certainly not extraordinary.

Burden of Proof

Typically, a local government ordinance is subject to what is known as the "deferential standard". This means that there is a presumption of correctness relative to the ordinance, making it far more difficult to challenge. However, the opposite applies to impact fees under the Florida Impact Fee Act. First, the City has the burden of proof in any contest of all elements required under the Act and the related caselaw. Second, there is no deferential standard; instead, the City has the burden of proof *de novo*. (Section 163.31801(9), Florida Statutes).

Over 100% Increase in Impact Fees

The chart below shows the prior existing fees, calculated fees per dwelling for a 2,000 square foot residence, dollar increase in fee and percentage increase in fees for all three (3) Ordinances.

New	Existing fee per dwelling unit	Calculated fee per dwelling unit	Dollar increase in fee	Percentage increase in fee
Parks & Recreation	$1,828.01	$3,164.00	$1,135.99	73.10%
Fire	$434.51	$942.00	$507.49	116.80%
Transportation	$3,502.00	$7,540.00	$4,038.00	115.30%
Unit Total	**$5,764.52**	**$11,646.00**	**$5,681.48**	**101.7% average**

DETAILED REVIEW OF EACH ACTION

Below you will find a more detailed review and analysis of these issues, including the right to recover attorneys' fees in such actions.
Mayor Mike Norris

First Action
Section 18, Senate Bill No. 180

Section 18 provides that for one (1) year period after a hurricane makes landfall, an "impacted local government" may not impose or adopt a more burdensome amendment to its land development regulations.

Hurricane Milton impacted Flagler County on October 9, 2024, and, therefore, the City qualified as an "impacted local government".

Subsection 4(a) authorizes **any person** to file suit against the impacted local government for declaratory and injunctive relief to enforce this section. Pursuant to 4(c), before filing suit, one must give fourteen (14) days' notice to withdraw or revoke the action. There is an entitlement to summary procedures, which are an expedited process by the court under this section.

Subsection 4(c) provides for a prevailing party to be entitled to reasonable attorneys' fees and costs.

It is incomprehensible how over a 100% increase in impact fees with a $5,681 increase for a single family, 2,000 square foot home, could be anything but "more burdensome". The Ordinances would, therefore, be found null and void *ab initio*.

Second Action
Section 28, Senate Bill No. 180

Section 28(1) provides that any county listed in the Federal Disaster Declaration ("Declaration") for, among others, Hurricane Milton, may **not** adopt any **more burdensome amendments** to its land development regulations as those terms are defined by Section 163.3164, Florida Statutes, before October 1, 2027. Subsection 28 is also to be applied retroactive to August 1, 2024.

Section 163.3164, Florida Statutes, defines land development regulations as follows:

> (26) "Land development regulations" means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, except that this definition does not apply in s. 163.3213.

(Emphasis Supplied). Clearly, an impact fee that imposes substantial increase in cost for the issuance of a permit for a new home or business relate to an "aspect of development".

Flagler County was designated in the Federal Declaration, so, therefore, the City would be subject to Section 28.

Subsection 3(a) states as follows:

> A resident of or the owner of a business in a county or municipality may bring a civil action for declaratory and injunctive relief against the county or municipality for a violation of this section. Pending adjudication of the action and upon filing of a complaint showing a violation of this section, the resident or business owner is entitled to a preliminary injunction against the county or municipality preventing implementation of the moratorium or the comprehensive plan amendment, land development regulation, or procedure. If such civil action is successful, the resident or business owner is entitled to reasonable attorney fees and costs.

This attorney fee provision only goes one way. Only the resident or business owner bringing the action may recover attorneys' fees. There is no entitlement to a prevailing party attorney fee for the City, should the City somehow prevail. That is an exceptional attorney fee provision.

Subsection 3(b) provides that attorneys' fees may not be awarded if the resident or business owner provides written notice that the regulation is in violation of this section and the municipality withdraws the regulation or procedure within 14 days or issues a notice of intent to repeal within fourteen (14) days after receipt of the notice and repeals the regulation within fourteen (14) days thereafter. This letter constitutes compliance with the fourteen (14) day notice; therefore, there is no entitlement should the City prevail on this count.

As the impact fees increased an average of over 100%, with the dollar increase of over $5,000 per 2,000 square foot residence, such is a "more burdensome" land development regulation and pursuant to Section 28, would "be null and void *ab initio*". This would mean any fees collected would have to be returned.

Third Action
Violation of Section 163.31801, Florida Impact Fee Act and Florida Constitution

Our review of all three (3) of the supporting materials and studies relied upon by the City to adopt the Ordinances show serious and clear violations of the Florida Impact Fee Act and state legal precedent. The pertinent violations, in part, are as follows:

1. Failure to rely on the most recent and localized data available within four (4) years (Section 163.31801(4)(a), Florida Statutes);

2. The impact fees are not proportional or reasonably connected to or have a rational nexus with the need for additional capital facilities and the increased impact generated by the new residential or commercial construction (Section 163.31801(4)(f), Florida Statutes);

3. The impacts are not proportional and reasonably connected to, or have a rational nexus with, the expenditures of funds collected and the benefits accruing to the new residential or to the new construction (Section 163.31801(4)(g), Florida Statutes);

4. The revenues are not reasonably connected to, or have a rational nexus with, the increased impact generated by the new construction (Section 163.31801(4)(i), Florida Statutes);

5. There is an unlawful reliance on "extraordinary circumstances" to exceed the phase in limitations in Section 163.31801(6), Florida Statutes; and

6. The Ordinances are unlawful because they are assessing impact fees for the reconstruction or replacement of previously existing structures, where the replacement structure is on the same land and use as the original structure and does not increase the impact on public facilities beyond the original structure, or if the replacement structure increases the demand, and the failure to allocate a proportional amount to the difference in the demand between the replacement structure and the original structure. (Section 163.31801(14), Florida Statutes). (Please note, this is a new provision adopted this year by Senate Bill No. 180.)

Subsection 9 of the Florida Impact Fee Act provides that in any action challenging an impact fee, the government has the **burden of proving by a preponderance of evidence** that the imposition or amount of the fee meets the requirements of **both state legal precedent and the Florida Impact Fee Act.**

Further, pursuant to subsection 9 "the court may not use a deferential standard for the benefit of the government." In essence, this means that the court can give no deference to the fact that the City adopted the Ordinances or the legitimacy of their action and exposes them to full judicial scrutiny. Typically, a court could not review factual findings or discretionary decisions of the governing body. Instead, the court will make that decision *de novo* based on the evidence.

CITY-WIDE IMPACT FEES - - NO DISCUSSION OF KEY FLORIDA LEGAL PRECEDENT IN STUDIES

All three (3) of the Ordinances were adopted City-wide and there is no analysis whatsoever in the impact fee studies that satisfy the two (2) prong test under the legal precedent in Florida referenced below. None of the three (3) Florida Supreme Court cases referenced below were discussed in any of the Impact Fee Studies relied on by the City in adopting the Ordinances.

Key Florida Supreme Court Caselaw

In the *Lake County v. Water Oak Management Corp., 695 So.2d 667 (Fla. 1997)*, the Florida Supreme Court said there was required to be a **"special benefit"** to the burdened properties.

In the *Collier County v. State of Florida, 733 So.2d 1012 (Fla. 1999)*, the Florida Supreme Court held that the assessment must satisfy a two (2) prong test to be considered a valid special assessment: (1) property burdened by assessment must derive **"special benefit"** from service provided by assessment; and (2) assessment for services must be properly apportioned. Also held that the **specific-need / special-benefit standard applied**. It needs to be a unique benefit to those paying the fee.

In the *Volusia County v. Aberdeen at Ormond Beach, 760 So.2d 126 (Fla. 2000)*, the court rejected the argument that a county-wide standard should be employed and that the second prong ensures benefits accrue to the subdivision. They reference that explicit references to subdivisions indicate the standard is not tailored to county wide growth, but growth to a particular subdivision. The Supreme Court confirmed that they did not abandon the subdivision-based standard and that **imposing a county wide standard would eviscerate the substantial nexus requirement.**

Board of County Commissioners, Santa Rosa County v. Home Builders Association of West Florida, 325 So.3d 981 (Fla. 1st DCA 2021)

In the *Santa Rosa* case, the First DCA upheld a Final Summary Judgment Granting Plaintiff's Motion for Summary Judgment, finding that the County ordinance imposing school impact fees on a county-wide basis was unconstitutional and invalid, affirming the summary judgment and temporary injunction.

In its ruling, though the trial court rejected the plaintiff's argument that there was a bright line test that local governments must assess school impact fees on a neighborhood by neighborhood basis; however, found that the lack of geographic impact fee zones or districts resulted in a violation of the dual rational nexus test.

The court found that the school district had not geographically identified new growth and generalized the fact that the county was growing. The court also found that they did **not** analyze the "special benefit" to a fee payor in either section of the county would receive relative to their payment. The Ordinances did not address what unique or special benefits residents who will pay the impact fee would receive.

The court also found that they did not rely on the most recent and localized data but instead relied on state-wide data from Florida Department of Education for construction costs. The court held that the County was unable to meet its burden to prove by a preponderance of the evidence that the impact fees met the requirements of state legal precedent and the Florida Impact Fee Act.

The City of Palm Coast has a minimum of eleven (11) different neighborhoods or sections, not to mention the undeveloped DRI areas and other substantially undeveloped areas on the periphery of the City limits. The studies relied upon by the City in adopting the Ordinances grossly fail to identify the specific needs or specific benefits of any project versus any area being developed.

In the City Impact Fee Studies, there was virtually no discussion of the neighborhoods and no discussion whatsoever of any "special benefit" to the differing neighborhoods or sections, much less any correlation to the "specific need" for the improvements proposed - - as required by both the caselaw and the Florida Impact Fee Act.

The State legal precedent is clear. A city or county cannot rely upon a city or county-wide analysis. There must be a specific-need/specific-benefit applied. Whether it is on subdivision by subdivision basis as addressed in the *Aberdeen* case or on an impact fee zone approach as in the *Santa Rosa* case, the caselaw does not tolerate an "impact fee" that looks and acts more like a "tax". We would encourage a detailed reading of the caselaw cited above for a full understanding of the legal difference between a "fee" and a "tax".

If the City is going to charge a "fee", the person paying has to receive something different than the remainder of the community.

Compliance with "State Legal Precedent"

Paragraph 9 of the Florida Impact Fee Act specifically requires all impact fees to meet the "requirements of state legal precedent and this section". Therefore, it is fundamental to understand the relevant caselaw in Florida. Unfortunately, neither of the studies for the Fire and Rescue or Park System made any mention of any caselaw whatsoever or the requirements thereunder.

However, the Transportation Study has an 8 page section, from pages 2-9, purportedly addresses the Florida Impact Fee Act & Case Law Overview. However, it spends substantial space dealing with revisions to the Florida Impact Fee Act, then caselaw precedent from other states and the United States Supreme Court, with very limited discussion of Florida caselaw. It mentions a few Florida cases up through 1976 and then goes into a Utah Supreme Court decision and a few Florida Supreme Court decisions. It fails to even mention the key Florida Supreme Court decisions discussed above.

On page 8, the Transportation Study does mention the *Board of County Commissioners, Santa Rosa County v. Home Builders Association of West Florida* case, which is discussed in more detail above. The Transportation Study also mentioned that the impact fees in *Santa Rosa* failed a dual rational nexus test because they did not account for the differences between the northern and southern parts of the county. However, the Transportation Study fails to mention that the court in *Santa Rosa* overturned the impact fees as they were adopted on a county-wide basis and were not based on the most recent and localized data.

The Transportation Study also discusses impact fee benefit districts on page 28, Under a section titled "Transportation Impact Fee Benefit District", and states the following:

> The benefit test of the dual rational nexus test requires that the local governments establish defined areas or districts within which impact fees collected are earmarked for expenditure. The current geographic limits of the benefit district are the current City boundary.

It also stated that the City of Port Saint Lucie established 6 benefit districts in 2021.

Yet nowhere did the study discuss that in the *Santa Rosa* decision, the impact fees were unenforceable because they were based on county-wide and not a district, neighborhood or zoned basis. Also, nowhere did the study discuss that the *Aberdeen* case required the benefits accrue to a subdivision. The studies relied upon by the City were clearly lacking with respect to the legal analysis.

Despite being somewhat informed via the Transportation Study of some state precedent, the City failed to create any zones or districts for any of the ordinances, which are clearly required by the Florida Supreme Case Law precedent cited above (which was conveniently omitted in the Transportation Study.)

Despite the fact that the City has at least eleven (11) different neighborhoods, plus the undeveloped DRIs in other areas, none of the studies addressed: (i) which specific growth is causing the need for which specific new park or park improvement, new road improvement or new fire station or improvement; or (ii) which new park, park improvement, fire station or improvement, or road improvement provides a special benefit to which neighborhood or area of the City. This is a clear violation of the dual nexus, or 2-prong test, to identify the "special benefits" accruing to the new homes or businesses or how the new home or business caused the "specific need" for the new park or park improvement, new fire station or fire station improvement, or road improvement.

ALL OF THE VIOLATIONS ARE COMMON TO ALL THREE (3) ORDINANCES

All of the violations discussed above are common to all three (3) Ordinances. The specifics of each of the impact fee ordinances and supporting documentation are addressed below. Additionally, the violations relating to extraordinary circumstances are substantially similar for all three (3) Ordinances.

Extraordinary Circumstances

In order to exceed the 50% cap on increases in special assessments, subsection 6(g) of the Florida Impact Fee Act requires, among others, a "demonstrated need study justifying any increase in excess of those authorized to have "been completed within 12 months

before the adoption of the increased fee and expressly demonstrate the "extraordinary circumstances" necessitating the need to exceed the phase-in limitations".

While all three (3) Ordinances purport to have such demonstrated-needs studies, none of those studies identified a definition of "extraordinary circumstances". None of them evaluated any caselaw dealing with "extraordinary circumstances".

There are no cases in Florida interpreting "extraordinary circumstances" with respect to the Florida Impact Fee Act. Under other caselaw, there are extremely limited circumstances which can constitute "extraordinary circumstances". Typically these involve those matters which are unusual and unexpected, beyond the control, or have significant impact. Examples could be natural disasters, acts of terrorism or war, unexpected illness or injury, or significant economic deterioration. None of those were present, certainly not city-wide.

Under Florida law, "extraordinary circumstances" are rarely found; however, two (2) examples are where a trial judge had *ex parte* communications with the opposing party which warranted granting an extension of time for filing a motion to recuse (*Klapper-Barrett v. Nurell*, 74 So.2d 851 (Fla. 5th DCA 1999); and allowing an administrative agency to alter a final judgment because consumers were being forced to pay unreasonably high fuel adjustment charges because of an illegal scheme (known as "daisy-chaining") conducted by a fuel consultant employed by the agency. (*Richter v. Florida Power Corporation*, 366 So.2d 798 (Fla. 2nd DCA 1979).

There is always inflation. It is just a question of how much. The studies fail to take into consideration that the COVID related inflation had stabilized and, therefore, did not use the most recent localized data. Population growth in Florida is certainly not unusual or unexpected - - it is the norm. The fact that if the impact fees were not adopted, it would directly impact the existing residents and taxpayers is clearly not extraordinary circumstances - - it is basic math. The availability of other resources to offset impact fees is not an extraordinary circumstance to adopt impact fees, which are based upon new growth.

The only thing extraordinary in the demonstrated-need studies is the extent of creativity in an attempt to establish the nonexistent. Failure to plan by the City does not constitute extraordinary circumstances. Failure to understand that there is always inflation is not an extraordinary circumstance. To say that other taxpayers may have an increase in their burden without the special assessments is not an extraordinary circumstance - - is it simply reality.

Fire Rescue Specifics

The Impact Fee Study for the Fire Department, in addition to the above general concerns, fails to meet the criteria under the Florida Impact Fee Act, on the following grounds:

1. The Fire Rescue proposed impact fees increased from $435 to $942, a 117% increase.

2. On page 8, the impact fee comparisons show the proposed City Fire Impact Fee of $942.00 to be substantially higher than the average of $505.69, and higher than 14 of the 15 other local governments cited.

3. With respect to Fire Station 26, they are showing it as a current need with a $10,910,978 budget that serves the growing Seminole Woods area; so, therefore, cannot be benefiting those within the entire City and cannot be a need based on future growth or apportioned by neighborhood.

4. Failed to establish where growth is occurring and how there is a correlation to the need for an increase in personnel or stations.

5. The City fire stations also serve areas outside of the City and utilize as personnel Flagler County Fire Department personnel operating out of City Stations, which also serve areas outside of the City. This was not addressed.

6. There has been no allocation or explanation as to the current actual needs nor any study showing why additional stations or personnel are needed to serve residents in which areas within the City.

7. Fire Station 22 is to be replaced at a cost of $10,928,271, however, no explanation as to whether that is to serve a different area, larger area, smaller area and allocation.

8. The proposed North Station, near the edge of the City limits, is budgeted for $15,488,840, with no explanation as to who it serves or why such a station is needed to meet population growth within the City when the Fire Department serves areas outside the City.

9. Table 5 of the Fire Rescue Impact Fee Study totals the Recoupment (existing) Costs of $23,771,096, plus total Proposed Capital Additions of $46,445,665, for a total Allocated Costs of $61,572,814, which is divided by the 107 total fire fighters, for a Capital Cost per Fire Fighter of $563,723.

10. Table 6 of the Fire Rescue Impact Fee Study states, in pertinent part, as follows:

1.	**Calculation of Net Average Capital Cost per New Personnel [1]**	
2.	Recoupment Costs	$222,160
3.	Proposed Capital Additions	426,133
4.	Less Historical and Planned Future Capital Grants/Other Funding Sources Received	(84,570)
5.	Total Calculation of Net Average Capital Cost per New Personnel	$563,723
6.	**Additional Fire Personnel Anticipated to Serve Population [2]**	
7.	Existing Personnel in 2025	74.00
8.	Additional Personnel Associated with New Stations Through 2035	33.00
9.	Total Firelighters Projected by 2035	107.00
10.	**Total Costs Recovered From Impact Fees**	
11.	Total Calculation of Net Average Cost per New Personnel	$563,723
12.	Number of Total Firefighters Needed	107.00
13.	Total Capital Costs to be Recovered From Impact Fees	$60,318,338

The City has imposed a $60,318,338 Capital Cost to be Recovered From Impact Fees by multiplying the Total Fire Fighters Needed of 107 times the average Capital Cost of new personnel of $563,723. Therefore, the City is imposing the full burden of all 107 fire fighters on new development, not just the 33 additional projected by 2035, in clear violation that the impact fees must be proportional or reasonably connected or have a rational nexus with the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.[1]

11. Nowhere does the study establish any specific benefit to any home or business paying the impact fee, nor do they establish how each property is generating the specific need for any fire station or improvement thereto.

[1] Further, in conflict with Tables 6 and 7, the powerpoint presented to the City Council for the Fire Impact Fee showed on slide 23, an Average Capital Cost per fire fighter of only $514,400 and shows $45,232,843 from residential impact fees and $9,813,157 from non-residential impact fees, for a total to be collected in impact fees of $55,560,400.

12. The extraordinary circumstances relied upon in the Fire Rescue Impact Fee Study were (Page 8):

(a) A rapid population growth historically averaging 3.8% per year over the past five (5) years and projected material growth rate of 2.1% per year over the next ten (10) years.

(b) Recent large inflationary impacts to capital project construction costs have impacted the projected cost to build facilities to accommodate new growth in reliance upon a Capital Construction Materials Index.

(c) The cost of fire trucks and related apparatus have increased in an extraordinary manner in the past five (5) to six (6) years.

(d) The impact on the community, should the City not implement the fees at fully calculated level should be considered, as it would directly impact the existing residents and taxpayers.

(e) If the fees are implemented using the standard statutory approach, the revenue shortfall would be approximately $3.9 million.

None of these extraordinary circumstances cited comes close to legally constituting extraordinary circumstances. Further, there is no showing whatsoever as to the urgent needs for exceeding the phased in provisions of the Florida Impact Fee Act. A revenue shortfall of $3.9 million, due to lack of planning or proper budgeting by the City, does not establish legally "extraordinary circumstances".

Transportation Impact Fee

The Impact Fee Study for the Transportation Impact Fee, in addition to the grounds set forth above, violates the Florida Impact Fee Act on the following grounds:

1. The transportation impact fees increased from $3,502 to $7,540, a 115% increase.

2. The over $4,000 increase in transportation impact fee will be more than double those of Port Orange, Palm Bay, Ocala and Sanford.

3. Table 3 of the study shows 2023 existing road capacity and future capacity based upon the proposed road work. The proposals have increases in capacity on most

roads of over 48% up to 220% increase, when there is only a proposed 50% increase in population.

4. Table 3 shows that the 2023 vehicle capacity substantially **exceeds** the amount of vehicle travel on most roads by an average of approximately 70%.

5. Table 5 shows 2050 Road Improvement twice from 2 lanes to 4 lanes; three times from 4 lanes to 6 lanes; once from 2 lanes to 4 lanes; and once from 6 lanes to 8 lanes.

6. The study does not substantiate a need for the increasing capacity on older roadways which was caused by growth in other areas of the City; especially no special benefit for any new home or business of the City over others.

7. Table 8 shows road improvements costs total estimated of $101,519,873 and Table 10 shows the portion attributable to impact fees of $71,519,873. Therefore, the City is substantially over building capacity and placing 70% of the burden on the future 1/3 on the residents.

8. Nowhere does the study even use the term **"special benefit"**. The study does address benefits, however, fails to use the term "special benefit" anywhere.

9. Nowhere does the study establish any "special benefit" to any home or business paying the impact fee, nor do they establish how each property is generating the "specific need" for the transportation improvement.

10. The extraordinary circumstances relied upon in the Extraordinary Circumstances Study (see page 3) are based on the following:

(a) Prior Growth in Population is at a higher rate than the State of Florida;

(b) Projected Growth in Population rates will be higher than the State of Florida;

(c) Inflation has significantly increased the cost of road and intersection improvements;

(d) State-wide inflation for transportation facilities over the past six (6) years has exceeded 100%;

(e) National inflation for transportation facilities over the past six (6) years exceeded 80%;

(f) $25 million in reasonably anticipated funding to off-set calculated impact fee; and

(g) Seven (7) increases due to updates and trip lengths, trip generation and vehicle travel demand.

As noted above, these types of issues do not constitute extraordinary circumstances under Florida Law.

Parks and Recreation Impact Fees

The Impact Fee Study for the Parks and Recreation Impact Fee, in addition to the grounds set forth above, violates the Florida Impact Fee Act on the following grounds:

1. The parks and recreation impact fees increased from $1,828 to $3,164, a 73% increase.

2. Under the impact fee comparisons on page 7 of the Parks and Recreation Impact Fee Study, it shows the proposed impact fees of $3,164 to be well over double the average and the highest of the eighteen (18) local governments cited.

3. Page 3 of the study states the City's adopted level of service is to maintain eight (8) acres on recreational space per 1,000 residents and three (3) acres of resource based parkland and five (5) acres of activity based parkland per 1,000 residents.

4. It also provides that the City owns approximately 1,068 acres of recreational space; however, the City has a surplus of approximately 208 acres. Through 2035 the City is expected to only need an additional sixteen (16) acres. However, the City does not propose to simply add 16 acres to meet its established level of service. Instead, the City proposes to provide recreational services at a cost all the way to buildout of $185,486,906 and spending $59,590,036 by 2035, with a future planned investment of $106,677,445.

5. The study shows available funds of $10,709,311, with fiscal year 2025 expenditures of only $5,107,673, therefore, there was no immediate need for substantial funds.

6. Nowhere do the studies identify specifically where the new parks are going to be located or how any of the new parks or improvements to existing parks are going to provide any special benefit to the new homes paying the fees.

7. Nowhere does the study establish any "special benefit" to any home or business paying the impact fee, nor do they establish how each property is generating the "specific need" for the parks or improvements.

8. The extraordinary circumstances relied upon in the Parks and Recreation Impact Fee Study (see page 5) are based on the following:

(a) Rapid population growth historically averaging 3.8% per year over the past five (5) years and projected material growth rate of 2.1% per year over the next ten (10) years.

(b) Recent large inflationary impacts to capital growth project construction cost have impacted the projected cost to build facilities to accommodate new growth, citing the construction materials index.

(c) The City's approved and updated capital improvement plan that identifies major investments in new facilities that will be required to serve growth that will place significantly more demand on the City's services for recreational services and facilities.

(d) The impact on the community should the City not implement the fees at the fully calculated level, shall be considered as these would directly impact the existing residents and taxpayers.

As noted above, these types of issues do not constitute extraordinary circumstances under Florida Law.

RECREATIONAL IMPACT FEE POWER POINT

Long Creek Nature Preserve Phase 3:	$9,677,750
Waterfront Park Phase 2:	$2,285,250 (expanding parking, pavilion)
Neighborhood Parks:	$8,339,000 (3 parks)
Graham Swamp Trail Phase 2:	$19,919,599

Conversion of Fire Station:	$4,753,500 (history museum, arts venue, etc.)
Skate Park:	$3,270,000
Southern Recreation Facility Phase 3:	$6,652,181 (additional parking, remote restroom facilities and maintenance building)
Sports Complex:	$19,115,000
Matanzas Woods Canoe/Kayak Launch:	$1,147,000
Cultural Arts Facility:	$6,145,000 (add covering over existing stage)
ITSC Expanded Parking and Additional Field Lighting:	$2,853,000
Palm Coast YMCA:	$3,180,000 (City contribution) $90,669,923 (10 year plan)

With reference to the above parks, the Neighborhood Parks and Skate Park have no location, so there can be absolutely no justifiable correlation to benefit any specific new home.

The Waterfront Park Phase 2 is simply an expansion of parking and pavilion, with no indication of increase in capacity and no allocation of proportional amount in the difference in demand as required pursuant to section 163.31801(14), Florida Statutes.

With respect to the three (3) neighborhood parks, if they are in fact Neighborhood Parks, how could they possibly special benefit any person burdened by the impact fees in another neighborhood? These are clearly neighborhood specific parks that do not specifically benefit other neighborhoods.

With reference to the Southern Recreation Facility Phase 3, they are simply adding parking, remote restroom facilities and a maintenance building. No increased capacity.

With respect to the remainder, they are all general facilities for the benefit of the entire City with no nexus or no correlating special benefit to any impacted property owner that pays the new fees.

CONCLUSION

Based on our detailed review of all three (3) Ordinances and the supporting statutorily required studies, there is an exceptionally strong case to overturn all three (3) Ordinances.

You will note in the *Santa Rosa* decision, the County lost by Summary Final Judgment on the preliminary injunction. Procedurally, this means that they were unable to submit any facts to support the validity of their ordinances. In order to obtain a summary final judgment, there must be no materially disputed facts. The trial court was able to rule, as a matter of law, and such was upheld by the First District Court of Appeal.

Here, the City has the burden to prove compliance with all requirements over the Florida Impact Fee Act, together with the requirements of the caselaw precedent or it will lose. It seems incomprehensible how any court could uphold the adoption of city-wide impact fees when there are a minimum of eleven (11) different neighborhoods with future areas to be developed, all with diverse needs and timelines. If the City fails to meet any of the legal criteria within the Florida Impact Fee Act or the Florida legal precedent, then the City will lose and be compelled to return any impact fees paid and be liable for payment of all attorneys' fees and costs.

It is unfortunate that the consultants hired by the City, undoubtedly at a substantial cost to tax payers, failed to address the fundamental requirements required under the State's legal precedent. Additionally, the studies failed to mention or address the statutory changes, which were pending before the legislature, and approved by the Governor on June 26, 2025 - - which was four (4) days before the Ordinances were adopted.

The violations of the Florida Impact Fee Act, as well as Sections 18 and 28 of Senate Bill No. 180, are fundamental and fatal. My clients are optimistic that the City will recognize such and immediately repeal all three (3) impact fee Ordinances.

Thank you for your attention to these matters.

Sincerely,

Daniel J. Webster

DJW:cle
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