



MEMORANDUM

TO: Honorable Chairman and Members of the Board
 FROM: Al Hadeed, County Attorney
 RE: Potential Annexation of Airport and Surrounding County-owned Properties
 DATE: November 4, 2010

Commissioner Holland requested that I research the settlement agreement entered into by Flagler County, the City of Palm Coast and the City of Flagler Beach concerning utility territories, etc. This was a comprehensive settlement that was approved early 2007 in the context of a court case regarding utility service issues on John Anderson Highway. The case extended beyond that particular issue, and after a mediation resulted in a "global" settlement that is binding on the governmental parties.

The question arises because there is a request to provide the site of the future Florida Army National Guard facility with central water and sewer service from the City of Palm Coast. This area is outside of the municipal boundaries of the City of Palm Coast. Palm Coast does have a policy which requires a party obtaining water and sewer services outside of the City to execute an annexation agreement.

However, the settlement specifically addresses annexation and service delivery by the City of Palm Coast. The specific governing provision is contained on page 12 of the settlement, recorded in the Official Public Records Book 1560, page 482, section 5.3, entitled, "Agreements Regarding Annexation." The language states in relevant part that, "PALM COAST agrees that it will not require annexation as a condition of providing retail water and wastewater service in those areas depicted on the Map that are currently in PALM COAST's Chapter 180, *Florida Statutes*, Service Area . . . and

Honorable Chair and Members of the Board
RE: Potential Annexation of Airport and Surrounding County-owned Properties
November 4, 2010

the provisions of this agreement shall prevail over PALM COAST's policy relating to mandatory annexation as a part of the provision of utility services in those areas."

The "Map" referenced above is appended to the agreement. The originals are color coded maps that detail the service areas of the three governments, including the Palm Coast Chapter 180 Service Area. This "Map" is a series of two pages of maps and is attached to the court filed settlement in original form. We have the "Map" in both PDF and hard copy from the court file.

The Airport and the adjoining properties, including the Florida Army National Guard area, are clearly within the Chapter 180 service area. I have confirmed that determination with both the Planning Department and Engineering Department. Additionally, I have a very large oversized Chapter 180 service map that was commissioned by Florida Water Services prior to the transfer of the utility to the City depicting its water distribution area as of July 2002 on a scale of 1" = 1,500'. This oversized map confirms in much larger scale the conclusion made by the two departments, as well as my own conclusion from studying the maps.

Accordingly, the Florida Army National Guard area is not subject to annexation by the City of Palm Coast irrespective of what the City of Palm Coast policy may state today or in the future.

Should you have any questions about the foregoing, please do not hesitate to let us know. We will be separately emailing to you in PDF the "Map" and you can zoom in on any area using your PC. If you need any assistance in this regard or any map interpretation, please do not hesitate to let us know and we will arrange for it

AJH:lr

cc: Honorable Nate McLaughlin, as Commissioner Elect
Craig M. Coffey, County Administrator
Sally Sherman, Deputy County Administrator
Roy Seiger, Airport Director