

RESOLUTION 2019-04

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF BUNNELL, FLORIDA, CONDEMNING THE ACTION TAKEN BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS AT ITS APRIL 15, 2019 MEETING DIRECTING THE RELOCATION OF THE FLAGLER COUNTY SHERIFF’S OPERATIONS CENTER OUT OF THE CITY OF BUNNELL, THE COUNTY SEAT OF FLAGLER COUNTY, AND INTO THE CITY OF PALM COAST; CALLING UPON THE BOARD OF COUNTY COMMISSIONERS TO RESCIND ITS ACTION AND TO RESPECT THE PROVISIONS OF THE FLORIDA CONSTITUTION REQUIRING THAT THE PRINCIPAL OFFICES AND PERMANENT RECORDS OF THE SHERIFF BE LOCATED IN THE COUNTY SEAT; INVOKING THE PROVISIONS OF CHAPTER 164, FLORIDA STATUTES, THE FLORIDA GOVERNMENTAL CONFLICT RESOLUTION ACT; AND PROVIDING FOR FINDINGS, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Bunnell is the county seat of Flagler County, and has been the county seat of Flagler County since the County’s creation in 1917; and

WHEREAS, Article VIII, Section 1(k) of the Florida Constitution provides in pertinent part:

In every county there shall be a county seat at which shall be located the **principal offices** and permanent records **of all county officers**.

WHEREAS, the Flagler County Sheriff is a county officer pursuant to Article VIII, Section 1(d) of the Florida Constitution; and

WHEREAS, as noted by the Florida Attorney General in *Fla. Att’y Gen. Op.* 99-45 (1999), a county commission is without statutory authority to expand the boundaries of the county seat into the boundaries of another incorporated municipality, noting that “[t]he county commission may not do indirectly what it has no authority to do directly...”; and

WHEREAS, on Monday, April 15, 2019, the Flagler County Board of County Commissioners (“BCC”) voted to relocate the Flagler County Sheriff’s Operations Center out of the City of Bunnell and into the City of Palm Coast, through the authorization of design and permitting for the construction of a new 40,000 square foot Sheriff’s Operations Center in the City of Palm Coast at an estimated cost to taxpayers of \$12,000,000.00 to \$15,000,000.00; and

WHEREAS, at the April 15, 2019, BCC meeting, County staff presented the BCC with four options for the location of Sheriff’s operations, none of which included the long-term siting of the Sheriff’s Operations Center within the county seat, the City of Bunnell; and

WHEREAS, during the meeting, Flagler County Commissioner Joseph Mullins pointed out that the “four” options presented to the BCC by County staff consisted of three temporary options, and only one proposed long-term option, the siting of the Sheriff’s Operations Center in the City of Palm Coast; and

WHEREAS, Flagler County Sheriff Rick Staley offered comments to the BCC concerning the options presented by County staff, in particular noting that the Sheriff was aware of at least three long-term options for the siting of the Sheriff’s Operations Center; and

WHEREAS, Sheriff Staley noted that one of these long-term options was the siting of the Sheriff’s Operations Center on County-owned land within the City of Bunnell adjacent to the County Government Services Building, the County Courthouse, the County Emergency Operations Center, County fleet services, the County fueling depot, and the County dispatch center; and

WHEREAS, Sheriff Staley specifically stated that he found the aforementioned option of siting of the Sheriff’s Operations Center on County-owned land within the City of Bunnell “workable and effective”; and

WHEREAS, Sheriff’s Staley’s evaluation of the aforementioned option makes clear that the County has available to it a suitable site for the Sheriff’s Operations Center within the county seat; and

WHEREAS, the Sheriff’s Operations Center had previously been housed at 901 East Moody Blvd. in the City of Bunnell, on the site of the former Flagler Memorial Hospital, which had been acquired and renovated by the County for the use of the Flagler County Sheriff at a cost of approximately \$6.5 million, until allegations that the renovated building was causing health problems for certain Sheriff’s employees prompted the Sheriff to refuse to further occupy the building; and

WHEREAS, were it not for the allegations that the renovated building was causing health problems for certain Sheriff’s employees, the Sheriff’s Operations Center would continue to be sited at 901 East Moody Blvd. within the City of Bunnell, demonstrating that no exigent operational necessity necessitates the siting of the Sheriff’s Operations Center outside the county seat and in the City of Palm Coast; and

WHEREAS, at the April 15, 2019, BCC meeting, when addressing the one permanent option his staff presented to the BCC, that of relocating the Sheriff’s Operations Center to Palm Coast, County Administrator Jerry Cameron noted that, eventually, a “district office” of the Flagler County Sheriff would be built in the City of Bunnell, likely at the same time that the County builds a new library on County-owned land in Bunnell; and

WHEREAS, at the BCC meeting, Flagler County Commissioner David Sullivan subsequently noted, with the apparent concurrence of his fellow commissioners, that the expenditure of \$15,000,000.00 of taxpayer funds on the new Sheriff's Operations Center to be located in Palm Coast would delay by several years the construction of the aforementioned new library in Bunnell, and further expressed some doubt as to whether such construction will ever happen at all; and

WHEREAS, at the BCC meeting, in the course of discussing the option of relocating the Sheriff's Operation Center out of the City of Bunnell and into the City of Palm Coast, Sheriff Staley noted that such proposed facility in Palm Coast would be the Sheriff's "main office", that the majority of the Sheriff's staff would be located at that facility, and that "that's where you'll probably find the Sheriff most of the time;" and

WHEREAS, at the BCC meeting, Flagler County Commission Chairman Donald O'Brien Jr. further acknowledged the County's intent that a majority of the Sheriff's staff would be located at the Sheriff's Operations Center proposed to be built outside the county seat and inside the municipal limits of Palm Coast; and

WHEREAS, at the BCC meeting, County staff repeatedly cited an intention to avoid "fragment[ing] [the Sheriff's] unity of command," further clearly evidencing that the proposed Sheriff's Operations Center to be located in Palm Coast is intended to be, and will, in fact be, the principal office of the Flagler County Sheriff; and

WHEREAS, at the BCC meeting, Flagler County Commissioner Joseph Mullins stated that he had already spoken to Palm Coast Mayor Milissa Holland about expediting the issuance of municipal permits for the construction of the proposed Sheriff's Operations Center in Palm Coast, indicating that the decision to relocate the Sheriff's Operations Center from the City of Bunnell to the City of Palm Coast may have been, by whatever means, a foregone conclusion prior to the BCC's consideration of the matter; and

WHEREAS, subsequent to the April 15, 2019, BCC meeting, officials of the City of Bunnell were informed by Flagler County Commissioner Joseph Mullins that the County would have considered a fifth option that included the siting of a new Sheriff's operations center within the City of Bunnell, but only if the City of Bunnell had agreed to pay the County \$2,000,000 in exchange for the County agreeing to keep the Sheriff's principal offices within the county seat; and

WHEREAS, the Bunnell City Commission harbors a genuine concern that the BCC's decision to relocate the principal office of the Flagler County Sheriff out of the county seat, the City of Bunnell, and into the City of Palm Coast, in derogation of the requirements of the Florida Constitution, is not based on an exigent operational necessity or the unavailability of suitable sites within the county seat, but rather as an expedient to attempt to politically constrain the Palm Coast City Commission from considering, as they have many times before, the establishment of their own police department, in an effort by the County to keep flowing the millions of dollars annually of Palm Coast taxpayer funds, on which the County has relied for years to fund the BCC's various spending programs.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF BUNNELL, FLORIDA, AS FOLLOWS:

SECTION 1. Condemnation of BCC Action, and Appeal for BCC to Respect the Florida Constitution. The City Commission hereby condemns the action taken by the Flagler County Board of County Commissioners at its April 15, 2019 meeting directing the relocation of the Flagler County Sheriff's Operations Center out of the City of Bunnell, the county seat of Flagler County, and into the City of Palm Coast. The City Commission calls upon the Board of County Commissioners to rescind its action and to respect the provisions of the Florida Constitution requiring that the principal offices and permanent records of the Flagler County Sheriff be located in the county seat.

SECTION 2. Invocation of Chapter 164, Florida Statutes, the Florida Governmental Conflict Resolution Act.

A. Pursuant to Section 164.1052, Florida Statutes, it is the intention of the Bunnell City Commission, the governing body of the City of Bunnell, to initiate the conflict resolution procedures provided by Chapter 164, Florida Statutes, the Florida Governmental Conflict Resolution Act, prior to initiating court proceedings to resolve the conflict, and does, by this Resolution, initiate such conflict resolution procedures.

B. The governmental entity with which the City of Bunnell has a conflict is the Flagler County Board of County Commissioners.

C. The issues of conflict the City of Bunnell has with the Flagler County Board of County Commissioners pursuant to this conflict resolution process are as follows:

(1) The Flagler County Board of County Commissioners has, in violation of Article VIII, Section 1(k) of the Florida Constitution, taken formal action to relocate the principal office of the Flagler County Sheriff out of the county seat of Flagler County, the City of Bunnell, and into the municipal limits of the City of Palm Coast.

D. Within 5 days after the passage of this Resolution, the City Manager shall provide a letter and a certified copy of this Resolution to the County Administrator of Flagler County by certified mail, return receipt requested. The letter shall state, at a minimum, the conflict, the justification for initiating the conflict resolution process, the proposed date and location for the conflict assessment meeting to be held pursuant to Section 164.1053, Florida Statutes, and suggestions regarding the officials who should be present at the conflict assessment meeting. The City Manager also shall mail a copy of the letter and resolution to the Honorable Rick Staley, Flagler County Sheriff, who may have a role in approving or implementing a particular element or aspect of any settlement of the conflict or whose substantial interests may be affected by the resolution of the conflict.

SECTION 3. Conflicts. All resolutions or parts thereof in conflict with this Resolution are hereby repealed to the extent of such conflict.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Resolution, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5. Effective Date. This Resolution shall become effective immediately upon its adoption.

DULY ADOPTED by the City Commission of the City of Bunnell, Florida, on the 22nd day of April 2019.

By: _____
Catherine D. Robinson, Mayor

Attest:

Seal:

Kristen Bates, City Clerk

Approved for form and content by:

Wade Vose, City Attorney