

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
GENERAL BUSINESS / AGENDA ITEM # 8e

SUBJECT: Settlement of lawsuit brought by Hammock Harbour, LLC filed against Flagler County (*Hammock Harbour, LLC, v. Flagler County*, Case. No. 3:25cv00163) in the United States District Court for the Middle District of Florida, Jacksonville Division

DATE OF MEETING: February 9, 2026

OVERVIEW/SUMMARY: This lawsuit concerns real property located at 5658 North Oceanshore Boulevard, Palm Coast, Florida 32137 (“Subject Property”). Hammock Harbour, LLC (“Hammock”) acquired the Subject Property to develop a marina with dry-stack storage. Prior to closing on the purchase of the Subject Property, Hammock sought and received confirmation from the County’s Growth Management Director that the Subject Property’s C-2 zoning permitted the development of a dry-stack boat storage marina facility based in part on his stated conclusion that the marina would not result in an increased intensity of use as compared to the former boat building operation that occurred on the Subject Property from 1982 to 2014. Hammock closed on the purchase of the Subject Property in reasonable reliance on the Director’s confirmation of the Subject Property’s permitted use under the C-2 zoning.

Hammock submitted a site development plan (“Site Plan”) to the County with the intent of redeveloping the Subject Property as an indoor, dry boat storage and marina in accordance with C-2 zoning and the requirements of the A1A Scenic Corridor Overlay District. While the site plan was pending review, the Hammock Community Association, Inc. (“HCA”) appealed the decision of the Director allowing the site development plan to move forward to review. The appeal was heard by the Planning and Development Board (“PDB”) in September 2019 and the PDB affirmed the decision of the Director. The HCA appealed the PDB decision to the County Commission, which, in turn, upheld the decision of the PDB.

HCA then filed a Petition for Writ of Certiorari in Circuit Court. The Court quashed the decision of the County Commission finding that the Director’s determination was not supported by competent substantial evidence. The matter was remanded to the County for further action on the pending application for site plan approval.

Hammock subsequently applied for a “use determination” from the PDB that marinas, including marinas with dry-stack boat storage, are permissible uses in C-2 zoning, arguing that its intended marina use was of a nature similar to a “commercial recreational” use specifically permitted in C-2 zoning. PDB held a hearing on the application on August 10, 2021, and found marinas to be similar to other permitted uses in the C-2 district, that it was not a “commercial warehouse,” and that it was appropriate for the area because of its recreational component. However, before the vote was taken, the requirement was added that marinas were a permitted use only by “special exception.”

On July 11, 2023, Hammock submitted to the Technical Review Committee (“TRC”) an application for Site Plan review. On April 1, 2024, the County denied the TRC application on the grounds that the project was not a permitted use as a matter of right and could be considered only as a special exception. On April 4, 2024, Hammock filed a petition for relief invoking the alternative dispute resolution procedures under Section 70.51, Florida Statutes, known as “FLUEDRA”. On May 30, 2024, Hammock and the County mediated the dispute in accordance with FLUEDRA. HCA participated in the mediation. The mediation ended in an impasse. The matter was subsequently referred to a Special Magistrate pursuant to Section 70.51, Florida Statutes, who held a proceeding on May 30, 2024, with a second hearing on July 16, 2024. The Special Magistrate

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issued his Report and Recommendation to the County Commission finding that Hammock's proposed use of the Subject Property for a commercial recreational marina with dry-stack storage should be an allowable specifically permitted use by right in C-2 zoning, and that the PDB properly determined the use to be expressly permitted, but erroneously determined it to be subject to the special exception requirements of the Land Development Code.

The County Commission rejected the findings of the Special Magistrate, which prompted Hammock to file this action in District Court alleging a regulatory taking interfering with its economic interests in the Subject Property, substantially disrupting its reasonable investment backed expectations, and impermissibly interfering with its expectation rights. Hammock also filed a claim under Section 70.001, Florida Statutes, known as the "Bert J. Harris Act." Hammock alleged that the County unreasonably and unfairly burdened the Property, specifically in its denial of the proposed development which resulted in its inability to obtain the reasonable, investment-backed expectation for its vested use of the Property. Hammock sought in damages the actual loss to the fair market value of the Subject Property and the reasonable costs and attorneys' fees incurred since their Notice of Claim was filed on January 27, 2025. Hammock demanded a jury trial, which had not been scheduled by the Court, but was expected to occur in early 2027.

On Wednesday, January 7, 2026, the County and Hammock conducted a mediation. Today's proposed settlement is the result of that mediation. Under the terms of the Settlement Agreement, the County will pay Hammock Four Hundred Thousand (\$400,000.00) Dollars in exchange for Hammock dismissing the lawsuit with prejudice. Additionally, Hammock shall receive a non-transferable credit on Building Permit Fees applicable to the Site Plan in an amount not to exceed Fifty Thousand (\$50,000.00) Dollars. Hammock shall also receive a non-transferable credit on all applicable impact fees relating to the Site Plan in amount not to exceed One Hundred Thousand (\$100,000.00) Dollars.

DEPARTMENT CONTACT: Office of the County Attorney

FUNDING INFORMATION: The impact fee credits will not be drawn from reserves at this time, as impact fees are collected to fund future infrastructure expansion necessitated by development impacts. Funding in the amount of \$450,000 (\$400,000 for the settlement payment and \$50,000 to be held for the Building Permit Fees) will be appropriated upon approval of the Budget Transfer from General Fund Reserves.

RECOMMENDATIONS: Approve the Settlement Agreement with Hammock Harbour, LLC and approve the Budget Transfer from General Fund Reserves.

ATTACHMENTS: [Use this link to view attachment\(s\)](#)

1. Settlement Agreement
2. Budget Transfer from Reserve
3. FY26 Reserves and Adjustments

**STIPULATION AND SETTLEMENT AGREEMENT BETWEEN
FLAGLER COUNTY AND HAMMOCK HARBOUR, LLC**

THIS STIPULATION AND SETTLEMENT AGREEMENT (“Agreement”) is entered into by and between the Flagler County, a political subdivision of the State of Florida, (the “County”), and Hammock Harbour, LLC, a Florida limited liability company, (“Hammock Harbour”). Collectively, the County and Hammock Harbour are the “Parties” to this Agreement.

RECITALS

WHEREAS, Hammock Harbour is the owner of that certain real property located at 5658 N. Oceanshore Blvd., Palm Coast, FL 32137, with a Parcel Identification Number 40-10-31-3150-00000-0420 (the “Property”);

WHEREAS, Hammock Harbour has sought to construct a marina on the Property including dry-stack boat storage, a restaurant, and commercial retail storefronts (the “Proposed Use”);

WHEREAS, Hammock Harbour’s Proposed Use is depicted in the Site Development Plan, submitted to the County and bearing Application No. 3383 and Project No. 2023070010 (the “Site Plan”). A copy of the Site Plan is attached hereto;

WHEREAS, on April 1, 2023, Flagler County, acting through its Technical Review Committee, denied Hammock Harbour’s Proposed Use and Site Plan;

WHEREAS, Hammock Harbour thereafter filed suit against the County alleging that the County’s actions constituted a regulatory taking compensable under Article V of the U.S. Constitution and Article X, Section 5(a) of the Florida Constitution and inordinately burdened Hammock Harbour’s vested right to a specific use of the Property compensable under the State of Florida’s Bert J. Harris Act, codified in Section 70.001 of the Florida Statutes, with such suit pending in the United States District Court for the Middle District of Florida, Jacksonville Division and styled as *Hammock Harbour, LLC v. Flagler County*, bearing Case No. 25-cv-00163 (the “Litigation”);

WHEREAS, Flagler County and Hammock Harbour desire to resolve the Litigation in a manner which protects and promotes the public interest and enter into this Agreement for that purpose; and

WHEREAS, the settlement effected herein does not have the effect of a modification, variance or a special exception to the application of a rule, regulation, or ordinance as would otherwise apply to the Property and is a non-statutory agreement which is not subject to or enacted pursuant to the Florida Local Government Development Agreement Act contained in section 163.3220-163.3243, Florida Statutes.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants, promises, agreements and undertakings that follow, and other good and valuable consideration, the



receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree, each with the other, as follows:

AGREEMENT

1. Recitals. The above stated recitals are true and correct and fully incorporated herein.

2. Agreement. The Parties stipulate and agree to the development of the Property as follows:

a. Permissible Use. Flagler County acknowledges that Hammock Harbour's Proposed Use of the Property is consistent with the County's Comprehensive Plan, Land Development Regulations, and Manatee Protection Plan. Moreover, Hammock Harbour's Proposed Use is a permitted principal use in the C-2—General commercial and shopping center district. The Proposed Use is also consistent with the strictures of the Scenic Corridor Overlay District.

b. Development. It is the intent and effect of this Agreement that Hammock Harbour's use of the Property shall be consistent with all applicable laws, rules, and regulations. Therefore, Flagler County approves the Site Plan for the development of the Property. Hammock Harbour may apply for all applicable permits and approvals to construct the Proposed Use consistent with the Site Plan; and, on the condition such applications are consistent with the Site Plan, Flagler County will approve same and cause all such permits and approvals to be issued in a timely manner.

c. Fees and Costs. Except as provided in Section 3(b) of this Agreement, Hammock Harbour agrees to pay all fees required by any ordinance of general application in effect at the time of application for the permits and approvals required to construct the Proposed Use, including application and impact fees.

3. Financial Consideration:

a. Payment. Within thirty (30) days of the approval of this Agreement by the Flagler County Board of County Commissioners, Flagler County agrees to pay Hammock Harbour the lump sum of Four Hundred Thousand (\$400,000.00) Dollars.

b. Fee Credits. Hammock Harbour shall receive a non-transferable credit on Building Permit Fees applicable to the Site Plan in an amount not to exceed Fifty Thousand (\$50,000.00) Dollars. Hammock Harbour shall also receive a non-transferable credit on all applicable impact fees relating to the Site Plan in amount not to exceed One Hundred Thousand (\$100,000.00) Dollars. For purposes of clarification, those County Impact Fees applicable

to the Site Plan include Transportation Impact Fees pursuant to Chapter 17, Article III, Flagler County Code; Law Enforcement Impact Fees pursuant to Chapter 17, Article V, Flagler County Code; Fire Rescue Impact Fees pursuant to Chapter 17, Article VI, Flagler County Code; and Emergency Medical Services Impact Fees pursuant to Chapter 17, Article VII, Flagler County Code.

4. Dismissal of Litigation. Within five (5) days of Hammock Harbour's receipt of the Payment set forth in Section 3(a) of this Agreement, the Parties shall cause the Litigation to be dismissed with prejudice, with each of the Parties to bear their own attorneys' fees and costs associated with the Litigation. The parties agree to jointly file a request for extensions in the Litigation for any filings that would be due prior to the Payment set forth in section 3(a) of this Agreement.

5. Binding Effect. Except as specifically provided herein, this Agreement shall run with the Property and the rights and the obligations under this Agreement shall benefit, burden, and bind the successors in interest, grantees and assigns of all parties to this Agreement.

6. No Admission of Liability. The Parties specifically understand and agree that this settlement of the Parties' claims and disputes is a compromise of disputed claims and that the existence of this Agreement or any action taken hereunder shall not be construed as an admission of liability or of the truth of the allegations, claims or contentions of any Party, and that there are no covenants, promises, undertakings or understandings between the Parties outside of this Agreement except as specifically set forth herein.

7. Governing Law. This Agreement, and the rights and obligations of the County and Hammock Harbour hereunder shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida.

8. Severability. If any provision of this Agreement, or its application to any person, entity or circumstances is specifically held to be invalid or unenforceable by a Court of competent jurisdiction, the remainder of this Agreement and the application of the provisions hereof to other persons, entities or circumstances shall not be affected thereby and, to that end, this Agreement shall continue to be enforced to the greatest extent possible consistent with the law and the public interest.

9. Further Assurances. Each of the parties hereto agrees to do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all such further acts and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Agreement and give effect thereto. Without in any manner limiting the specific rights and obligations set forth in this Agreement, the parties hereby declare their intentions to cooperate with each other in effecting the terms of this Agreement and to coordinate the performance of their respective obligations under the terms of this Agreement.

10. Attorneys' Fees and Costs. The prevailing party in any dispute arising under this Agreement shall be entitled to recover reasonable attorneys' fees and costs incurred in connection

with such dispute, including but not limited to the attorneys' fees and costs incurred on appeal and attorneys' fees and costs relating to pursuing determination of entitlement to and reasonableness of any prevailing party attorneys' fees and costs to be awarded.

11. Entire Agreement. This Agreement encompasses the complete agreement between the Parties with regard to the subject matter hereof. This Agreement may only be modified by a written instrument executed by duly authorized representatives of the Parties.

12. Effective Date. This Agreement shall take effect upon the date of the last Party to execute it, as indicated below. The County shall record this Agreement in the Official Records of Flagler County.

13. No Third-Party Beneficiaries or Waiver of Immunity. This Agreement is not intended to create any rights in third parties and shall not be construed as a consent by the County to be sued by third parties or to constitute in any manner a waiver or limitation of the County's sovereign immunity.

14. Joint Preparation and Interpretation. Preparation of this Agreement has been a joint effort of the parties, with the benefit of counsel. None of the parties shall be considered the drafter of all or any portion of this Agreement for the purposes of interpreting it; nor shall the Agreement be construed more severely against one of the parties than the other.

15. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall constitute an original, and all of which together shall constitute one agreement binding on all Parties hereto, notwithstanding that all the Parties shall not have signed the same counterpart. This Agreement may be executed as facsimile originals or scanned e-mail originals, each of which shall constitute an authorized signature and each copy of this Agreement bearing the authorized transmitted signature of any party's authorized representative shall be deemed to be an original.

16. Promotion of the Public Interest. The County acknowledges and agrees that this Agreement protects the public interest by furthering the Goals, Objectives and Policies set forth in the County's Comprehensive Plan objectives, permitting development consistent with the County's Land Development Regulations, and limiting the County's financial exposure arising from the Litigation.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by its duly authorized representatives on the dates indicated below.

**FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS**

Leann Pennington, Chairman

Date: _____

HAMMOCK HARBOUR, LLC



Robert B. Million, Manager

Date: 1-20-2026

BUDGET AMENDMENTS JOURNAL ENTRY PROOF

Item 8e - Attachment 2

LN	ORG	OBJECT	PROJ	ORG DESCRIPTION	ACCOUNT DESCRIPTION	EFF DATE	PREV BUDGET	BUDGET CHANGE	AMENDED BUDGET	ERR
YEAR-PER	JOURNAL	EFF-DATE	REF 1	REF 2	SRC JNL-DESC	ENTITY	AMEND			
2026	04	41849	01/28/2026	053	BUA HAMMOCKSTL	1	1			
1	00150000	598010		GenFund/Reserves	Reserve - Contingency		7,265,562.00	-450,000.00	6,815,562.00	
	1001-150-5000-000000-590-00-000-000-598010-				Hammock Harbour Settlemnt/Crdt	01/28/2026				
3	00149005	549000		GenFund/Pooled	Oth Curr Chgs and Obligations		.00	400,000.00	400,000.00	
	1001-149-4900-519300-510-51-000-000-549000-				Hammock Harbour Settlement	01/28/2026				
4	00149005	549000		GenFund/Pooled	Oth Curr Chgs and Obligations		.00	50,000.00	50,000.00	
	1001-149-4900-519300-510-51-000-000-549000-				Hammock Harbour Permit Credit	01/28/2026				
** JOURNAL TOTAL								0.00		

BUDGET AMENDMENT JOURNAL ENTRY PROOF

CLERK: AGilbert

YEAR	PER	JNL	SRC ACCOUNT			ACCOUNT DESC	T	OB	DEBIT	CREDIT
			EFF DATE	JNL DESC	REF 1	REF 2	REF 3	LINE DESC		
2026	4	41849								
BUA	1001-150-5000-000000-590-00-000-000-598010-		01/28/2026	HAMMOCKSTL 053				T Reserve - Contingency		450,000.00
BUA	1001-149-4900-519300-510-51-000-000-549000-		01/28/2026	HAMMOCKSTL 053				T Hammock Harbour Settlemnt/Crdt		
BUA	1001-149-4900-519300-510-51-000-000-549000-		01/28/2026	HAMMOCKSTL 053				T oth Curr Chgs and Obligations	400,000.00	
BUA	1001-149-4900-519300-510-51-000-000-549000-		01/28/2026	HAMMOCKSTL 053				T Hammock Harbour Settlement		
BUA	1001-149-4900-519300-510-51-000-000-549000-		01/28/2026	HAMMOCKSTL 053				T oth Curr Chgs and Obligations	50,000.00	
								T Hammock Harbour Permit Credit		
JOURNAL 2026/04/41849 TOTAL									.00	.00

BUDGET AMENDMENT JOURNAL ENTRY PROOF

FUND ACCOUNT	YEAR PER	JNL	EFF DATE	ACCOUNT DESCRIPTION	DEBIT	CREDIT
				FUND TOTAL	.00	.00

** END OF REPORT - Generated by Amanda Gilbert **

**Flagler County Board of County Commissioners
 Appropriated Operating Reserves: General Fund
 FY 2026
 1001-150-5000-000000-590-00-000-000-598010**

Item Description	Date Approved	Item #	Budget Transfer	*Reserve Balance
FY26 Adopted Budget				\$7,315,562
5% Operating Reserve Totals \$7,315,562. Entries Below This Line Indicate That These Reserves Are < 5%				
Contribution to Food Banks due to Government Shutdown	11/17/2025		(50,000)	7,265,562
Hammock Harbour Settlement	2/9/2026	8e	(400,000)	6,865,562
Hammock Harbour Building Permit Fees Credit	2/9/2026	8e	(50,000)	6,815,562

*Reserve balance is inclusive of pending transactions and items seeking approval at this meeting.