

**MINUTES
ORMOND BEACH CITY COMMISSION SPECIAL MEETING
HELD AT CITY HALL COMMISSION CHAMBERS**

October 25, 2023

5:30 p.m.

Commission Chambers

Present: Mayor Bill Partington, Commissioners Lori Tolland, Travis Sargent, Susan Persis and Harold Briley, City Manager Joyce Shanahan, City Attorney Randy Hayes, Assistant City Manager Claire Whitley and City Clerk Susan Carroll Dauderis.

A G E N D A

1. CALL TO ORDER

2. PUBLIC HEARINGS

- A. RESOLUTION NO. 2023-193:** A RESOLUTION FINDING AND DETERMINING THAT THE DEVELOPER OF HUNTER'S RIDGE DEVELOPMENT OF REGIONAL IMPACT HAS VIOLATED THE STATE OF FLORIDA LAND AND WATER ADJUDICATORY COMMISSION'S AMENDED FINAL ORDER, THE CITY OF ORMOND BEACH'S COMPREHENSIVE LAND USE PLAN AND DEVELOPMENT REGULATIONS, AND CHAPTER 380, FLORIDA STATUTES; AND DETERMINING AN EFFECTIVE DATE.

Staff Contact: Steven Spraker, Planning Director, (386) 676-3341

3. ADJOURNMENT

M I N U T E S

Item #1 – Meeting Call to Order

Mayor Partington called the meeting to order at 5:36 p.m., provided the invocation, and led the Pledge of Allegiance.

Item #8 – Public Hearings

Mayor Partington opened the Public Hearings.

Item #8A – Ormond Beach Hunter's Ridge Development of Regional Impact (DRI)
- Notice of Noncompliance

City Clerk Susan C. Dauderis read by title only:

RESOLUTION NO. 2023-193

A RESOLUTION FINDING AND DETERMINING THAT THE DEVELOPER OF HUNTER'S RIDGE DEVELOPMENT OF REGIONAL IMPACT HAS VIOLATED THE STATE OF FLORIDA LAND AND WATER ADJUDICATORY COMMISSION'S AMENDED FINAL ORDER, THE CITY OF ORMOND BEACH'S COMPREHENSIVE LAND USE PLAN AND DEVELOPMENT REGULATIONS, AND CHAPTER 380, FLORIDA STATUTES; AND DETERMINING AN EFFECTIVE DATE.

Mayor Partington applied the oath to all in attendance speaking on the item.

Mr. Steven Spraker, Planning Director, provided background on the item and reviewed the development order for the city and Flagler County. He explained the State of Florida's amended final order requirements and stated the developer did not comply with the States amended final order. He noted per Chapter 380 of the Florida Statutes the city was required to enforce the order.

Mr. Spraker reviewed the city's jurisdiction and enforcement authority over the Hunter's Ridge lands within the city. He stated the five violations of the State Mandated Development of Regional Impact (DRI) and reviewed each individually. He discussed the required corrective action sought by the city including the developer to convey to the city and St. Johns River Water Management District (SJRWMD) in fee simple Parcel B,

prepare a hydroperiod restoration plan for Parcel B that is acceptable by the city and SJRWMD, and complete the work in accordance of the approved hydroperiod restoration plan. He reviewed the city's enforcement obligations.

Mr. Randy Hayes, City Attorney, clarified the meeting was a legislative hearing regarding the developer's non-compliance issues with the DRI and was not a quasi-judicial proceeding.

Mr. Philip Crawford, Attorney for the developer, reviewed the materials submitted to the City Commission provided in the agenda packet and noted the focal point was a 22-page response to the points raised by Mr. Spraker. He inquired to his length of allowed time; whereby, Mr. Hayes suggested 20 minutes noting the Commission could allow additional time. He stated the non-compliance was inaccurate and noted the current owners of Hunter's Ridge acquired ownership of the development in April of 2021. He reviewed the city's and Flagler County's DRI's, the 40 Grade easement, the conveyance of Parcel B, and the hydroperiod plan and activities. He reviewed the confusion the developer had regarding the non-compliance and questioned why the city did not raise the issues sooner since the work was completed. He reviewed the three contracts the city signed with the predecessor owner regarding the Hudson wellfield agreement, with Flagler County regarding utilities, and with Hunter's Ridge regarding utilities and indicated the city had contractual obligations to provide utilities. He discussed the reserved rights regarding Parcel B. He reviewed the city's potential enforcement actions and stated his opposition, and expressed hope to resolve the issues. He questioned why fee simple could not be conveyed with an easement. He stated SJRWMD informed the developer they were not ready for the land at the time and needed the permitting to be completed before they received the land. He explained the developer offered to put the deed in escrow and noted it was declined by city staff due to the easement. He stated the hydroperiod work was done and no longer required for the city.

Mr. Crawford expressed concerns regarding the city's opposition to provide utilities to future developments on the west end of the city and the 2023-2024 fiscal year (FY) budget approval. He questioned if the city planned to put wells on the land of Parcel B. He stated the developer was willing to work with the city to be in compliance. He noted the developer would not apply for any further homes within the city as the development within the city was built out.

Mr. George Carter, 99 Carter Trail, discussed the easements along the 40 Grade. He expressed concerns regarding flooding in the area.

Mr. Joe Perez, 54 Hunt Master Court, reviewed his background with comprehensive plans and DRI'. He discussed the potential uses of Parcel B and potential educational use. He encouraged the Commission to work with the developer to resolve the issues.

Mr. Ryan Sherill, 1365 Shedd Lane, voiced concerns regarding the road conditions, lack of accessibility for Emergency Services vehicles, and flooding.

Mr. Sean Moylan, 1769 East Moody Boulevard, Bunnell 32110, Flagler County Deputy County Attorney, stated Flagler County was a party to the issue and requested five minutes to present; whereby, Mayor Partington confirmed the City Commission was agreeable to five minutes. He indicated the hydroperiod plan and actions were completed on the Flagler County end. He explained the Flagler County Development Order was amended in 2010 to require access to the Flagler County conservation lands. He discussed the Flagler County easement and other easements along 40 Grade. He noted discussions he had with Mr. Hayes and news articles on the topic. He explained Flagler County had no plans to pave 40 Grade and noted Flagler County would be open to a conversation about restricting the easement in place. He expressed concerns regarding the denial of utilities in the Flagler County areas.

Mr. Adam Mengel, 1769 East Moody Boulevard, Bunnell 32110, Flagler County Growth Management Director, reviewed the steps needed for any improvements to 40 Grade, noting safety concerns of 40 Grade. He provided a letter of response to the City Clerk and a copy of the Water Wastewater Retail Agreement.

Mr. Max Garcia, 805 Dylan Trail, expressed concerns regarding flooding in the area.

Mr. Mike Cowherd, 505 Shedd Lane, encouraged the Commission to work with Flagler County to address to the flooding concerns in the area.

Mr. Wayne Griffin, Hunter’s Ridge Homeowner Association President, stated there were many easements along 40 Grade and discussed the conservation lands.

Ms. Kim Booker, Attorney for developer, explained in April of 2021, the city made an application for special use of wells on the conservation lands in Flagler County under the Flagler DRI, which was approved in June of 2021, and noted that was in violation of the joint stipulation which prohibits wells. She reviewed all the easements, meetings with the city regarding the easements and wells, meetings with other affiliated parties, and conservation easement steps. She reviewed the agreements the city had with other affiliated parties including Flagler County. She requested the Commission review the non-compliance notice and consider all the facts presented by the developer’s attorneys.

Mr. Shawn Finley, Public Works Director, stated the city was in the process of renewing the consumptive use permit, which initiated the city to look for additional areas for future wells and noted the city was mainly focusing on the southern side of Airport Road.

Mr. Hayes stated there was a lot of extraneous information provided by non-city staff members and provided a summary of the State Mandated DRI. He stated it was undisputed that the conservation lands were not conveyed to the city. He reviewed the obligations and violations of the DRI and comprehensive plan related to the easement. He noted the meetings that were held with the developer and other invested entities. He discussed the 40 Grade, restoration plan, the restoration work from the Shadow Crossings development, Parcel B inspections, and reviewed the timeline of the agreements and easement. He discussed the points made by Ms. Booker.

Commissioner Persis moved, seconded by Commissioner Sargent, for approval of Resolution No. 2023-193, on first reading, as read by title only.

Commissioner Briley clarified the easement was created by the developer in 2010 to Flagler County regarding the 40 Grade; whereby, Mr. Hayes stated Flagler County had the Flagler County DRI amended to impose the public road easement as a condition. Commissioner Briley inquired about the Hudson Wellfield; whereby, Mr. Finley stated they were established around 1988, before the DRI was established. Commissioner Briley noted there were wells in other conservation land areas in the city; whereby, Mr. Finley stated any wells would go through the permitting process with the SJRWMD.

Commissioner Sargent inquired about the restoration work for Parcel B and if it would help with the flooding issues in the surrounding areas; whereby, Ms. Kimberly Buck, Project Engineer for developer, stated the restoration plans could block water from discharging into the canals to help rehydrate the wetland areas.

Commissioner Tolland asked about the annual report to the city; whereby, Ms. Buck stated the reports from 1998 outlined the restoration work was under design, and in 1999 the report indicated the work was completed.

Mayor Partington inquired how large of a road could fit on a 60-foot easement; whereby, Mr. Spraker stated it would be a two-lane roadway. He expressed support of the non-compliance, the importance of the issue, and protection of the residents.

Commissioner Tolland, Commissioner Persis and Commissioner Sargent voiced their support of the non-compliance.

Commissioner Sargent requested assistance for the residents and their flooding issues.

Call Vote:	Commissioner Tolland	Yes
	Commissioner Sargent	Yes
	Commissioner Persis	Yes
	Commissioner Briley	Yes
Carried.	Mayor Partington	Yes

Mayor Partington closed the Public Hearings.

Item #11 – Adjournment

The meeting was adjourned at 7:40 p.m.

APPROVED: December 5, 2023

BY:

Bill Partington
Bill Partington, Mayor

ATTEST:

S. Dauderis
Susan Carroll Dauderis,
City Clerk

