



# PERSSON, COHEN & MOONEY, P.A.

ATTORNEYS AND COUNSELORS AT LAW

## M E M O R A N D U M

**TO:** Mayor Spoll and Town Commissioners  
Tom Harmer, Town Manager

**FROM:** Maggie Mooney, Town Attorney

**DATE:** February 25, 2020

**SUBJECT:** Request from Manatee County and Cities of Bradenton and Palmetto to Terminate “The Accord” and Related Interlocal Agreements

The purpose of this Memorandum is to discuss a request that was received from the Manatee County Attorney’s Office (“MCAO”) requesting that the Town of Longboat Key (“Town”) adopt a proposed interlocal agreement attached to Manatee County’s Resolution 19-053 that terminates a multi-part interlocal agreement, known generally as “The Accord” between Manatee County (the “County”), all of the cities located within Manatee County (City of Bradenton, City of Palmetto, City of Anna Maria Island, City of Holmes Beach, City of Bradenton Beach and the Town), and the Manatee County School Board. A copy of Manatee County Resolution 19-053 and the proposed Interlocal Agreement Terminating The Accord is attached as Exhibit 1.

By way of background, “The Accord” was a negotiated interlocal agreement dating back to 2002, that followed a period of disputes between the County and primarily the cities of Bradenton and Palmetto relating to annexations and growth. During that time period, the cities of Bradenton and Palmetto were expanding their boundaries (and tax base) and by attracting multi-story development both inside and outside of their urban corridors. The annexations pursued by these two (2) cities were opposed by Manatee County and many of the barrier island cities (including the Town) because of the pressure such development would place on local infrastructure, including transportation. The Accord was a compromise reached to resolve various disputes over how these two (2) cities should expand, grow and coordinate with Manatee County. A copy of “The Accord” and its two (2) associated implementing interlocal agreements are attached as Composite Exhibit 2.

The Town executed the “The Accord” in May 2002, and subsequently approved the two (2) implementing interlocal agreements relating to The Accord that primarily addressed coordination on annexations. In summary, “The Accord” and

the implementing interlocal agreements provided for the following:

- the creation of a Joint Planning Council (“JPC”) to make recommendations relating to certain annexation issues;
- an agreement to limit certain height and densities in annexed areas (excluding urban development zone);
- the establishment of impact fee equivalent requirements for annexed areas;
- stipulations that the cities (Bradenton and Palmetto) cannot annex areas without providing for the delivery of certain services;
- provisions for intergovernmental coordination on issues relating to: traffic management systems, transportation, building departments 911 systems, stormwater, health benefits, environmental land management, sports and recreational facilities, duplication of services and service coordination;
- a commitment to support a 2003 sales tax referendum;
- a commitment to preserve environmentally sensitive land; and
- a commitment to provide for the financial stability of the cities.

Discussions with the MCAO have revealed that since the adoption of The Accord in 2002, the County Attorney’s office publicly opined verbally and in several written opinions that the terms of The Accord were not binding or enforceable on the parties to the documents. It appears that the opinion of the MCAO was also shared by the City Attorneys for the Cities of Bradenton and Palmetto. See attached Composite Exhibit 3. Because of these shared opinions, in 2005, there was an initiative to explore replacing The Accord with either a new interlocal agreement between Manatee County and all of its municipalities, or alternatively explore becoming a Charter county. It appears that both initiatives were ultimately abandoned.

The Town Manager and I have discussed The Accord and the pending request from the MCAO, and we concur with the analysis provided by the MCAO relating to the enforceability of The Accord. While well intentioned, the aspirations of The Accord were not implemented in such a way to require all of the parties to The Accord to coordinate on regional growth issues within Manatee County; in other words, there was not a means provided for in the documents to enforce the aspirational commitments of the parties. For this reason, should the Town Commission want to terminate its participation in The Accord as requested by Manatee County and the Cities of Bradenton and Palmetto, we do not believe that such action will negatively impact the Town’s existing rights. Accordingly, there is no legal impediment to the Town Commission moving forward with the approval of the Interlocal Agreement Terminating The Accord attached to Resolution 19-053 as presented by the MCAO.

As mentioned above, the aspirational intergovernmental cooperation goals within The Accord recognize that development and growth in neighboring jurisdictions has regional impact. While The Accord may not have been an effective

vehicle for regional coordination, the Town Commission may want to direct the Town Manager to engage in communications with Manatee County officials that encourage future efforts that address regional growth issues within Manatee County (ie, issues relating to transportation, etc.).

Because the majority of the exhibits attached to this Memorandum are historic documents, they cannot be readily converted to an ADA compliant format. For this reason, copies of all of the referenced exhibits to this Memorandum will be made available for public inspection and copying at the Town Clerk's office. Should you have any question or concerns relating to this Memorandum, please do not hesitate to contact me.

**Recommended Action:** Approve the Interlocal Agreement Terminating the Accord forwarded by (that was attached to Manatee County Resolution 19-053) and authorize the Town Manager to engage in discussions with Manatee County representatives regarding future efforts to address regional growth issues.

**End of Agenda Item**