

RESOLUTION 2006 - 089

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, ADOPTED PURSUANT TO SECTION 164.1052, FLORIDA STATUTES, DECLARING THE INTENT OF THE TOWN COUNCIL TO INITIATE THE CONFLICT RESOLUTION PROCEDURES SET FORTH IN CHAPTER 164, FLORIDA STATUTES; FINDING THAT A CONFLICT EXISTS WITH THE SOUTH BROWARD DRAINAGE DISTRICT, ARISING FROM THE TOWN'S UTILIZATION OF THE SOUTH BROWARD DRAINAGE DISTRICT'S PROPERTY; DIRECTING THE TOWN ADMINISTRATOR TO PREPARE AND TO FORWARD A CERTIFIED COPY OF THIS RESOLUTION AND THE REQUIRED CERTIFIED LETTER TO THE SOUTH BROWARD DRAINAGE DISTRICT DIRECTOR AND OTHER GOVERNMENTAL UNITS PURSUANT TO SECTION 164.1052, FLORIDA STATUTES; AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO TAKE ALL STEPS NECESSARY TO EFFECTUATE THIS RESOLUTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Southwest Ranches (the "Town") entered into its current Lease Agreement with the South Broward Drainage District (the "SBDD") on June 28, 2004 to allow the Town's temporary Town Hall to remain on the SBDD property that had been acquired for governmental use; and

WHEREAS, on June 19, 2006, the SBDD sent the Town a letter proposing an extension to the Town's Lease Term, which also required the SBDD property to be de-annexed from the Town; and

WHEREAS, on June 23, 2006, the Town responded to the SBDD's letter with a counter proposal; and

WHEREAS, on June 30, 2006, the SBDD responded to the Town's counter proposal; and

WHEREAS, on July 6, 2006, at a public meeting, the Town Council, discussed this matter with SBDD representatives and the Town Administrator was directed to pursue alternate proposals; and

WHEREAS, on July 7, 2006, the SBDD sent the Town a letter threatening to constructively evict the Town by changing the locks to the front gate of the property; and

WHEREAS, on July 7, 2006 the Town responded to the SBDD's letter by informing the SBDD that its actions would be illegal and that it would constitute wrongful eviction; and

WHEREAS, on or about July 10, 2006, the SBDD changed the lock in an effort to evict the Town through self help; and

WHEREAS, on July 10, 2006, the SBDD sent the Town a three day notice; and

WHEREAS, on July 12, 2006, the SBDD discussed this matter and decided that if the Town refused to execute a modified Lease, which provides for the de-annexation of the SBDD property, that the SBDD would immediately commence eviction proceedings; and

WHEREAS, the SBDD's actions threaten to disrupt the ability to provide municipal services to the Town of Southwest Ranches; and

WHEREAS, the SBDD's actions are an excessive abuse of its powers, it fails to maintain a rational basis, and it is unwarranted; and

WHEREAS, on July 20, 2006, pursuant to Resolution 2006-81, the Town accepted SBDD's modified Lease subject to the removal of the provision that would require the de-annexation of the SBDD property; and

WHEREAS, on July 20, 2006, pursuant to Resolution 2006-87, the Town initiated dispute resolution procedures in the event that the SBDD rejected the Town's Lease and sought legal recourse against the Town; and

WHEREAS, on or about July 27, 2006, the SBDD rejected the Town's Lease and voted to initiate legal proceedings against the Town; and

WHEREAS, although Resolution 2006-87 became effective immediately upon the South Broward Drainage District's filing a legal proceeding against the Town, the SBDD alleges that the Resolution is defective since (a) it was not served upon the SBDD within five days of its passage and (b) there is no provision in Chapter 164 Florida Statutes which provides for the Resolution initiating conflict resolution procedures set forth in Chapter 164 to become effective upon a legal proceeding being filed against another governmental entity; and

WHEREAS, although the Town believes that Resolution 2006-87 did not pass until the SBDD filed a legal proceeding against the Town, to cure any

alleged or perceived defect, the Town has passed an additional Resolution to declare the Town Council's intent to enact a conflict resolution proceeding pursuant to Section 164 Florida Statutes, as described herein; and

WHEREAS, Chapter 164, Florida Statutes, entitled the "Florida Governmental Conflicts Resolution Act," ("Act") provides that governmental entities in dispute must attempt to negotiate their differences pursuant to the procedures outlined in the Act prior to commencing litigation regarding the conflict; and

WHEREAS, Section 164.1052, Florida Statutes, requires the governing body of the government entity initiating the conflict resolution procedures to adopt a resolution expressing its intent to initiate such procedure.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southwest Ranches, Florida:

Section 1. The above referenced "WHEREAS" clauses are true and correct and are incorporated herein by reference.

Section 2. The Town Council of the Town of Southwest Ranches, Florida, hereby expresses its intent to initiate the conflict resolution procedure pursuant to section 164.1052, Florida Statutes, with the South Broward Drainage District concerning the Town's utilization of the SBDD property for the Town's temporary Town Hall.

Section 3. The Town Council of the Town of Southwest Ranches finds that it has a conflict with the South Broward Drainage District concerning the above referenced utilization of the SBDD property. The issues in conflict include the use of the SBDD property and the impact to the Town by the SBDD's actions. The Town believes that the SBDD's actions are an excessive abuse of its powers, it fails to maintain a rational basis, and it is unwarranted.

Section 4. The Town Council of the Town of Southwest Ranches, Florida, hereby directs the Town Administrator through coordination with the Town Attorney, to forward a certified copy of this Resolution, as well as the required Conflict Resolution Letter, to the SBDD Director, within five (5) days, by certified mail, return receipt requested, pursuant to Section 164.1052(1), Florida Statutes. The Conflict Resolution Letter shall include all items required by Section 164.1052(1), Florida Statutes, including without limitation:

- a. Description of the conflict between the Town and the SBDD;

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- b. List of governmental entities with which the Town has a conflict;
- c. The Town's justification for initiating the conflict resolution procedures of this Act;
- d. Suggestions as to which individuals should be in attendance at the Conflict Assessment Meeting.

The Town Administrator is directed to also send a copy of the letter to any other state, county or other local governmental entity that may be affected by the SBDD's actions or by a settlement arising out of the Conflict Assessment Meeting, or whose interests may be substantially affected by the resolution of the conflict, or any other governmental entity the Town Administrator seems appropriate.

Section 5. The appropriate Town officials are hereby authorized and directed to take all steps necessary to effectuate this Resolution.

Section 6. All Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

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Section 7. Severability. If any word, phrase, clause, sentence or section of this Ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

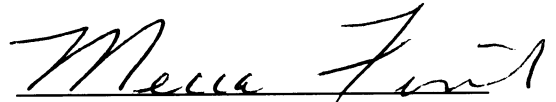
Section 8. Effective Date. This Resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 31st day of August 2006, on a motion by Council Member Jeff Nelson and seconded by Council member Aster Knight.

Fink Y Ayes 5
Maines y Nays 0
Blanton Y Absent 0
Knight Y Abstaining 0
Nelson y

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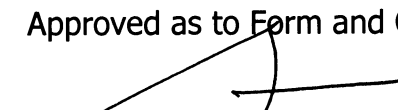
[Signatures on Following Page]


Mecca Fink, Mayor

ATTEST:


Susan A. Owens, Town Clerk

Approved as to Form and Correctness:


Gary A. Poliakoff, J.D., Town Attorney
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