

RESOLUTION NO. 02-61

A RESOLUTION OF THE TOWN COUNCIL OF TOWN OF MIAMI LAKES, FLORIDA, SUPPORTING STATE SENATE BILL NO. S-2248 AND STATE HOUSE BILL H-1771 WHICH SEEK TO CLARIFY THE APPLICATION OF FEDERAL PUBLIC LAW 83-280 IN THE STATE OF FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Miccosukee Tribe of Indians of Florida (Miccosukee Tribe) is an Indian tribe located within the State of Florida; and

WHEREAS, Public Law 83-280 is a Federal law adopted in 1953 by the United States Congress which decreed that criminal and civil cases involving Indians in certain states were to be adjudicated in the state court systems of a few named states and further allowed for other states to adopt, wholly or in part, jurisdiction over Indians; and

WHEREAS, in 1961 the State of Florida assumed full jurisdiction over Indians within the state pursuant to Public Law 83-280 by amending Section 285.16, Florida Statutes, to assert jurisdiction on Indian reservations in the State; and

WHEREAS, the State of Florida never consulted with the Miccosukee Tribe or any other Indian tribe in the State and the Miccosukee Tribe never agreed to submit to the application of Public Law 83-280 or to Florida Statutes, Section 285.16; and

WHEREAS, the Miccosukee Tribe filed a lawsuit against the State of Florida after the State adopted Section 285.16 in order to transfer the trusteeship of the Miccosukee State Indian Reservation from the State of Florida to the Federal Government; and

WHEREAS, in its lawsuit the Miccosukee Tribe disputed the application of Public Law 83-280 and Section 285.16, Florida Statutes on Miccosukee Tribal Trust Lands, specifically those

trust lands which were determined by the Miccosukee Tribal Court and the Federal Courts to be exclusively within Federal Jurisdiction; and

WHEREAS, these jurisdictional issues with the State of Florida were ultimately resolved by the Miccosukee Tribal Court and Federal Courts in favor of the Miccosukee Tribe; and

WHEREAS, State Senator Rudy Garcia has introduced Senate Bill 2248 and State Legislator Ralph Arza has introduced House Bill 1771 which seek to clarify the application of Public Law 83-280 and Section 285.16, Florida Statutes in the State of Florida.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. **Recitals** The above recitals are true and correct and incorporated into this resolution by this reference.

Section 2. The Town Council of the Town of Miami Lakes hereby supports Florida State Senate Bill No. 2248 and Florida House Bill 1771 which seek to clarify the application of Public Law 83-280 in the State of Florida. The Town Council further requests that all members of the Florida State Legislature give their support to the aforementioned bills.

Section 3. The Town Clerk is directed to transmit a copy of this Resolution to all Senate and House members representing the Town of Miami Lakes.

Section 4. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 12th day of March, 2002.

Wayne Slaton
Hon. Wayne Slaton, Mayor

ATTEST:

Beatris M. Arguelles
Beatris M. Arguelles, CMC Town Clerk

APPROVED AS TO LEGAL SUFFICIENCY:

WSS
Weiss, Serota, Helfman, Pastoriza & Guedes, P.A.
Town Attorney

m. Collins / s-Thomson

Council voted	<u>4-2-1</u>	as follows:
Mayor Wayne Slaton		<u>Yes</u>
Vice Mayor Roberto Alonso		<u>Abs.</u>
Councilmember Mary Collins		<u>Yes</u>
Councilmember Robert Meador		<u>Yes</u>
Councilmember Michael Pizzi		<u>NO</u>
Councilmember Nancy Simon		<u>NO</u>
Councilmember Peter Thomson		<u>Yes</u>



Miccosukee Tribe of Indians of Florida

REC'D FEB 15 2002

Business Council Members
Billy Cypress, Chairman

Jasper Nelson, Ass't. Chairman
Max Billie, Treasurer

Andrew Bert Sr., Secretary
Jerry Cypress, Lawmaker

February 13, 2002

The Honorable C. Wayne Slaton
Miami Lakes Mayor
6853 Main Street
Miami Lakes, FL 33014

Dear Mayor Slaton:

We are sorry that you could not make it to our dinner last Friday, where we explained to the attending mayors and other municipal dignitaries our current legislative needs.

We request that you support Senate Bill No. S 2248 that Senator Rudy Garcia is sponsoring in the 2002 Florida Legislature. The bill would clarify the application of Public Law 280 on Miccosukee Tribal Trust Land to uphold Tribal Sovereignty. The bill recognizes the decisions enacted by the federal court system as well.

We ask and encourage you to pass a resolution supporting the Miccosukee Tribes of Indians efforts at ensuring their sovereignty.

A sample copy of a supporting resolution prepared by the United South and Easter Tribes Inc. (USET), an intertribal organization comprising of 24 federally recognized tribes, is attached for your guidance.

Should you have any questions, please do not hesitate to contact me at (305) 223-8380.

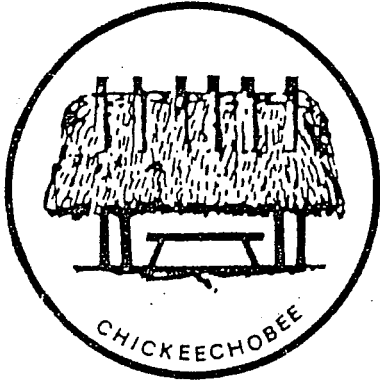
Sincerely,


Billy Cypress
Chairman

Enclosures

P.S. Enclosed you will also find two publications:
(1) A Glimpse At The Miccosukee Tribe of Indians of Florida. Twelve Frequently Asked Questions; and,
(2) Background (Talking Points) Re-Establishing Federal Jurisdiction on Miccosukee Indian Reservations

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Miccosukee Tribe of Indians of Florida

A GLIMPSE AT THE MICCOSUKEE TRIBE OF INDIANS OF FLORIDA:

TWELVE FREQUENTLY ASKED QUESTIONS

1. Who are the the Miccosukee Tribe of Indians of Florida?

The Miccosukee Tribe of Indians of Florida has a unique history. The Miccosukees were a distinct independent, self-governing community in this country long before the Europeans arrived. They were once part of the Creek confederacy, an association of clan villages that lived along a creek, or river, in areas now known as Alabama, Georgia and northern Florida - always hunting and fishing throughout Florida. The villages shared legends, religious practices, festivals and traded with one another. The Miccosukees lived in the lower Creek region and spoke a language called *Eelaponke*, which means plain words. Living by hunting, fishing and growing crops (especially corn), the Miccosukees had become familiar with South Florida through their hunting expeditions. In the early 1700's, as the European settlers encroached on their territory and the Miccosukees migrated to northern Florida and established permanent settlements and towns. In the early 1800s, they were forced farther south when settlers, soldiers, and slave traders attacked and burned their towns.

2. Why are the Miccosukee Indians called the *undefeated*?

In 1821, when Spain sold Florida to the United States, the government recognized the rights of the Indians over much of the land in the peninsula. After attempts to seize Indian land by fraudulent treaty failed, the Miccosukees became a target of the government's 1830 Indian Removal Policy in which the U.S. tried to forcibly remove all Indians from the southeast and move them out west. The Miccosukees refused to go, resulting in the Second Seminole War that lasted from 1835-1842. During the Second and Third Seminole Wars, the Miccosukees escaped deportation and death by hiding out in the Everglades. In his book, *Indian Removal*, Grant Foreman criticized the government's treatment of the Florida Indians who had all been given the name Seminole by non-Indians: *In the dishonorable record of our dealing with the Indians there is perhaps no blacker chapter than that relating to the Seminole [Miccosukee] people.* Present Tribal members are descendants of some 50 Miccosukees who evaded death and capture in this *black chapter* of history and are often called the *undefeated*.

3. How did the Miccosukees survive in the Everglades?

The Everglades was once considered a worthless swamp - but to the Miccosukees it was a Garden of Eden. Living in small groups in temporary hammock style camps spread through the Everglades, Miccosukees used dugout canoes to traverse the watery wilderness. The Indians continued to hunt and fish in the Everglades, as they had always done, and learned to harvest the native fruits of the hammocks, while the corn important to Tribal customs became more difficult to grow. They took only what they needed from nature and no more. Life was a struggle, but the *Breathmaker* had provided them with abundant food, and the Miccosukees survived and prospered in the Everglades.

4. How has the outside world impacted the Miccosukee way of life?

Some Miccosukees had traveled to town by dugout canoe to trade with settlers, but it wasn't until the 1900's that the isolated, self-reliant Indian community was thrust into the twentieth century. As real estate booms turned Miami into a metropolis, Tamiami Trail was built through the formerly impenetrable Indian land cutting their hunting ground in half. The lands that were once the Miccosukees to roam and hunt were now open to non-Indians and, in some cases, eliminated from their use. Sadly, roads and canals, dug through the Everglades for drainage, cut off the natural flow to the Everglades *River of Life* that supported their wildlife, culture, and way of life.

5. When did the Miccosukee Tribe of Indians of Florida become federally recognized ?

As the outside world encroached on the Miccosukees, Tribal leaders sought ways to protect their people for the future. In the early 1960s, the Miccosukee people decided to organize under a constitution and by-laws, so that they could gain government recognition. Always a distinct Tribe with its own language and culture, they did not become federally recognized as a political-legal entity by the U.S. government until January 11, 1962. The Miccosukee Tribe is a sovereign government that determines its own fate. Their self-determination is respected and encouraged by the U.S. government. The Tribe became one of the first in the country to sign a contract with the Bureau of Indian Affairs to operate their own programs and services. The Tribe administers its own schools, health, social service and law enforcement departments and court. Tribal programs incorporate both the traditional Indian way and non-Indian way into their system.

6. How does the Miccosukee Tribal government work?

The present day Miccosukee Tribe is a combination of traditional Tribal government, according to Tribal customs and traditions, and modern management. The Tribe has a constitution and by-laws, and Tribal authority is vested in the Miccosukee General Council, which is comprised of adult members eighteen years of age or older. The General Council deals with matters relating to membership, tribal government, law and order, education, welfare, recreation and fiscal disbursement. The officers of the General Council, called the Business Council, consist of a Chairman, Assistant Chairman, Treasurer, Secretary and Lawmaker, who are elected and hold office for a four year term. The Business Council is responsible for the development and management of resources and the day-to-day business. The Miccosukee Tribe has 492 members. Tribal membership is open to those 18 years of age or older who have at least one-half Miccosukee Indian blood.

7. Where does the Miccosukee Tribe of Indians live?

The Miccosukee Tribe is the only group of people who actually live in the Florida Everglades. Both the Everglades and the Big Cypress are considered the traditional homeland of the Miccosukees, and they continue to use these areas in the traditional way. Many Tribal members now live on a 666 acre strip of land on the border of the 1.5 million acre Everglades National Park, which is their traditional homeland. This Miccosukee Reserved Area is located 40 miles west of Miami in the middle of the Everglades. In addition, the Miccosukee Service Area is composed of Tribal members and their families, independent Miccosukees, Seminoles and other Indian families who reside along the Tamiami Trail from Miami to Naples. The Tribe also has an Alligator Alley Reservation comprised of 74,812.37 acres of mostly undeveloped Everglades located west of Ft. Lauderdale and south of Highway 84. The 25.92 acre Krome Avenue Reservation, which is outside the Everglades, is the site of the Miccosukee Resort and Indian Gaming facility and the Miccosukee Tobacco Shop. The Miccosukee also have 189,000 acres of Everglades on a perpetual lease from the State of Florida that the government *promised* to keep in its natural state for the benefit and use of the Tribe.

8. How does the Miccosukee Tribe preserve its culture?

While adapting to new ways, the Miccosukees have always managed to retain their own culture and traditional ways. The Miccosukees have kept their language, medicine and clans. Some Miccosukees even prefer to live in traditional chickees rather than the modern housing that is available. To renew their identity, they celebrate their sacred Green Corn Dance each spring. To acquaint their non-Indian neighbors with Miccosukee culture, the Tribe developed the Miccosukee Indian Village - an authentic family camp that existed before Tamiami Trail was built. The Miccosukee way is best reflected in its red, yellow, black and white flag colors which represent the circle of life. Miccosukees view the whole universe spinning slowly in a circle like logs of a ceremonial fire. What was, will be, and will cease to be again.

9. What does the Miccosukee Tribe do to protect their Everglades homeland?

The Tribe refers to the Everglades as *Our Mother*. The Miccosukees believe that the land is central to their existence, and they rely on *Mother Nature* to take care of many things. They say that the Everglades protected them when they were fleeing from government soldiers, and now it is their duty to protect the Everglades. The Tribe has invested substantial resources, and used its sovereign status, to protect their traditional Everglades homeland. They have waged numerous battles in court to stop the destruction of the Everglades and its wildlife, and have won important Clean Water Act rulings that benefit everybody. The Tribe has even used its unique status that allows them to be treated like a state under EPA regulations, to establish Tribal water quality standards for thousands of acres of Everglades in federal reservation status that are more protective of the Everglades than the state of Florida's regulations.

10. Why does the Miccosukee Tribe say that its history is one of *broken promises*?

The Miccosukees, like other Indian Tribes, have survived government policies of Indian Removal and Termination. After evading forced removal from Florida in the 1880s, they were left in the Everglades because nobody wanted it. In 1917, the government set aside 99,400 acres of Everglades in the Monroe County Reservation that was to belong to the Indians in perpetuity. *Perpetuity* ended in 1934 when the government took the land and incorporated it into Everglades National Park. And, even though Congress had recognized the rights of the Miccosukee to continue to live in the Park, this was not respected by agencies who continuously tried to remove them. In 1998, after a long struggle by the Tribe, Congress passed the Miccosukee Reserved Area Act that clarified the Tribe's right to live in their traditional homeland in the Park. The government has also signed a contract with the Tribe to keep hundreds of thousands of acres of Tribal Everglades lands in their natural state *in perpetuity* for the use and benefit of the Tribe, but is allowing these lands to be destroyed.

11. What laws apply to the Miccosukee Tribe?

Indian Tribes, long considered by the courts as *a people distinct from others*, have always had a unique status that is not well understood. In 1831, Supreme Court Chief Justice Marshall observed in Cherokee Nation v. Georgia that, *The relation of the Indians to the United States is marked by peculiar and cardinal distinctions which exist nowhere else*. The Miccosukee Tribe is considered a sovereign --- it is not a political subdivision of the federal government or the state. The Miccosukees were an independent, self-governing society long before the European governments of Spain, Great Britain and France recognized their rights of possession. Today, U.S. Government policy recognizes, and protects, the separate status for Indian Tribes in Indian Country. The Supreme Court has determined that Indian Tribes are *domestic sovereigns* with the right to *self-government*, and the right to pass laws and be governed by them. The Miccosukee Tribe governs its own affairs through its Tribal customs and Tribal laws. The Miccosukees resolve issues *Indian to Indian* in a traditional way, as they have for centuries. The Tribe has its own constitution and governing body and enforces its laws in a Tribal court system. Only federal laws apply to Indians in Indian Country, as Congress has the sole power to deal with them. The state has no jurisdiction over the Miccosukee Tribe or its Indian reservation. Non-Indian criminal violations on Tribal lands are turned over to the state and federal government.

12. What does the Miccosukee Tribe want?

The Miccosukee Tribe of Indians just want to be who they are. The Miccosukees want to be left alone to live in peace in their Everglades homeland, according to their own long established Tribal customs and traditions. They want to continue to be self-reliant and self-sufficient. They want to protect and preserve their natural resources. They want the government, which has a *solemn* trust responsibility to protect their Everglades land, to uphold that trust responsibility and follow the law. They want to work with, and understand, their non-Indian neighbors while preserving their traditional lifestyle. They want the government to respect their sovereignty and right to self-determination, and to deal with the Miccosukee Tribe on a *government-to-government* basis. Most of all, the Miccosukees want to preserve their traditional culture and way of life, so that they can continue to live in spiritual harmony with nature, as they have for centuries.

BACKGROUND
("TALKING POINTS")

REC'D FEB 15 2002

RE-ESTABLISHING FEDERAL JURISDICTION
on
MICCOSUKEE INDIAN RESERVATIONS

SUMMARY

The proposed bill would re-establish exclusive federal jurisdiction of the Miccosukee Indian Reservations. This would treat the Miccosukee Reservations as other Indian Reservations are treated in the overwhelming majority of States, and would relieve the State of Florida of the costs of civil and criminal law enforcement on Miccosukee Reservations. The Miccosukee Reservations would not be "lawless", but instead would be controlled by federal laws, as are Indian Reservations in most States; and the bill would not affect Indian gaming regulation. Federal courts would try criminal offenses, and federal courts would apply laws similar to Florida criminal laws in criminal prosecutions, so all Floridians would still be fully protected.

TALKING POINTS

[1] *** Governmental relations with Indian Tribes is an exclusively federal sphere under the U.S. Constitution, with Congress (not the States) having exclusive plenary power over government-to-government relations with Indian Tribes.

[2] *** Indian reservations always had federal criminal laws applied to them, and federal law adopts state criminal laws in order to arrest and prosecute criminal offenses on Indian Reservations in federal court, under the federal responsibility for relations with Indians.

[3] *** But for a short time (1953-68), a "termination movement" developed to try to eliminate Indian Tribes and their Reservations, which was later recognized to be a serious policy mistake, and which was repudiated by President Richard Nixon and the U.S. Congress.

(over)

TALKING POINTS

(continued)

[4] *** During the brief "termination movement", Congress mandatorily applied state criminal and civil laws on Indian Reservations in a few named states, and authorized other States to apply state criminal and civil laws on Indian Reservations without the agreement of the Indian Tribes (Public Law 83-280, known as "PL 280", adopted in 1953). Less than 15 years later, Congress reversed this ill-advised policy (1968), returning to the traditional policy of prohibiting application of State laws without the prior agreement of the Indian Tribe affected; but the repeal was not retroactive against States which had assumed jurisdiction.

[5] *** Florida was the only State to apply full jurisdiction on Indian Reservations (F.S. 285.16), while nine other States applied some limited jurisdiction. Florida acted with the approval of the Seminole Indians but over the objections of the Miccosukee Indians.

[6] *** Five States have given back ("retroceded") jurisdiction over all or some Tribes in their States to the federal government.

[7] *** If Florida tried to pass a law today to apply its laws on the Miccosukee reservations, it would need Miccosukee concurrence. This proposed bill just honors current policy and Miccosukee wishes.

[8] *** The proposed bill has nothing to do with gambling or regulation of Indian gaming in Florida. Indian gaming is regulated by a specific federal law, unaffected by State imposition of jurisdiction on Indian Reservations under PL 280.

[9] *** The Miccosukee Reservations would not be "lawless", but instead would be controlled by federal laws, as are Indian Reservations in most States, including federal criminal prosecutions for state-type criminal offenses. Florida citizens are still fully protected.

[10] *** Under the federal Indian Country Crimes Act, federal courts apply state criminal law to prosecution of all criminal offenses on an Indian Reservation (when other federal criminal laws do not directly apply to the offense).

[END]