

RESOLUTION NO. 09- 724

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, PERTAINING TO THE PENDING LITIGATION STYLED; TOWN OF MIAMI LAKES V. MIAMI-DADE COUNTY, CASE NO. 07-30357(CA31) IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT AND TOWN OF MIAMI LAKES V. MIAMI-DADE COUNTY, CASE NO. 3D08-1724 IN THE 3RD DISTRICT COURT OF APPEAL; RELATING TO THE TOWN'S CHARTER; PROPOSING ELIMINATION OF MITIGATION PAYMENTS TO MIAMI-DADE COUNTY UNDER CERTAIN CONDITIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town is currently a party to pending litigation styled; Town of Miami Lakes v. Miami-Dade County, Case No. 07-30357(CA31) in the Circuit Court of the Eleventh Judicial Circuit and the Town of Miami Lakes v. Miami-Dade County Case No. 3D08-1724 in the 3rd District Court of Appeal pertaining to the payment of mitigation fees (collectively the "Pending Litigation"); and

WHEREAS, in the Incorporation/Annexation and Mitigation Workshop of the Governmental, Operations and Environment Committee of the Board of County Commissioners, the Town of Miami Lakes, the Village of Palmetto Bay and the City of Doral discussed the phasing out of mitigation payments to the County, which was voted upon by the electors as a pre-agreed condition contained in their respective municipal charters; and,

WHEREAS, the Miami-Dade Board of County of County Commissioners expressed its intent to phase out mitigation through the adoption of Resolution R-508-07,

and more specifically expressed its plan to do so under Resolution R-973-08, dated September 16, 2008; and,

WHEREAS, County Resolution R-973-08 requires the Town to provide for payment of the outstanding Mitigation Fee for Fiscal Year 2006-07 in the amount of \$1,762,013; authorizes the Town to prepare a ballot question (subject to approval of the ballot question by the County Attorney) authorizing an amendment to the Town's Charter through a Special Election eliminating the obligation to pay to the County any mitigation fees for future fiscal years, so long as the Town as part of this Charter modification eliminates the Most Favored Nation Status as it applies to the Town's contribution to the Municipal Services Trust Fund; requires the Town to voluntarily dismiss with prejudice the Pending Litigation with such dismissal to be held in escrow by the County Attorney pending the actual occurrence of the Special Election and,

WHEREAS, the County has additionally offered to pay the cost of the Special Election in the form of a Mail Ballot election; and,

WHEREAS, the Town Council desires to move forward with the settlement of the Pending Litigation, and to coordinate the Charter Amendments and Special Election needed to approve same.

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

Section 1. Recitals.

The above recitals are true and correct and incorporated herein by this reference.

Section 2. Direction regarding Pending Litigation.

The Town Council directs the Town Manager, Town Attorney and Town Clerk to take all necessary steps to:

1. Prepare ballot text amending the Town's Charter to eliminate the payment of annual Mitigation Fees starting with Fiscal Year 2007-08 and to modify the Town's Most Favored Nations Status (the "Charter Amendments");
2. Coordinate with the County and the Supervisor of Elections the scheduling of a Special Election Mail Ballot for the Charter Amendments to be paid for by the County;
3. Negotiate an Escrow agreement with the County Attorney for the Fiscal Year 2006-07 Mitigation Fee in the amount of \$1,762,013 to provide that the funds shall only be released to the County upon the actual Special Election occurring and the certification of the results of the Special Election by the Supervisor of Elections¹; and

¹ Holding the payment in escrow is not in the County's Offer.

4. Prepare a Stipulated Settlement for Voluntary Dismissal of the Pending Litigation which will be effective and filed with the Court(s) only after the Special Election is certified.

Section 3. Effective Date.

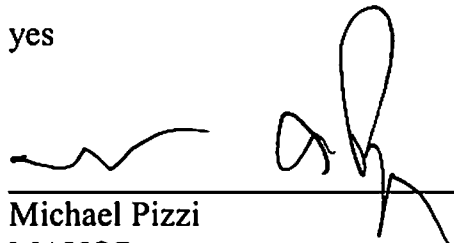
This resolution shall take effect immediately upon approval.

PASSED and ADOPTED this 11th day of March, 2009.

Motion to adopt by Mayor Michael Pizzi, second by Councilmember Mary Collins.

FINAL VOTE AT ADOPTION

Mayor Michael Pizzi	yes
Vice Mayor Richard Pulido	yes
Councilmember Mary Collins	yes
Councilmember George Lopez	yes
Councilmember Robert Meador	no
Councilmember Nick Perdomo	yes
Councilmember Nancy Simon	yes



Michael Pizzi
MAYOR

ATTEST:

Marijail Tejada
TOWN CLERK, Deputy

APPROVED AS TO LEGAL SUFFICIENCY:

Kathryn M. McHaffey
TOWN ATTORNEY
Weiss, Serota, Helfman, Pastoriza,
Cole & Boniske, P.L.