

RESOLUTION NO. 09- 735

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF PROPOSED AMENDMENTS TO THE TOWN CHARTER IN ACCORDANCE WITH SECTION 6.1 OF THE TOWN CHARTER; SUBMITTING PROPOSED CHARTER AMENDMENTS CONCERNING SECTION 9.3 "MUNICIPAL SERVICE TRUST FUND" ELIMINATING THE TOWN REQUIREMENT TO PAY ANNUAL MITIGATION FEES TO MIAMI-DADE COUNTY, SECTION 9.1 "COUNTY SERVICES" ELIMINATING THE REQUIREMENT TO CONTRACT FOR AND PAY MIAMI-DADE COUNTY FOR SPECIALIZED POLICE SERVICES, SECTION 5.1 "ELECTIONS" CHANGING THE TIME FRAME FOR HOLDING A RUN-OFF ELECTION IN THE CASE OF A TIE VOTE; PROVIDING REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO THE ELECTORATE; CALLING A SPECIAL ELECTION ON THE PROPOSED AMENDMENTS TO THE TOWN CHARTER TO BE HELD ON THURSDAY, JUNE 25, 2009; PROVIDING FOR MAIL BALLOT ELECTION; PROVIDING FOR NOTICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR RELATED MATTERS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, when the Town of Miami Lakes (the "Town") was incorporated in 2000, the Miami-Dade County Board of County Commissioners (the "Board") imposed certain conditions upon the Town as a condition of its incorporation, and these conditions were included in Article 9 of the Town Charter (the "Special Conditions"); and

WHEREAS, among the Special Conditions was a requirement that the Town make annual mitigation payments to Miami-Dade County (the "County") in perpetuity; and

WHEREAS, the Special Conditions also included by reference the Miami Lakes Municipal Advisory Committee Report's Conceptual Agreement (the "Report") that set forth

many of the details regarding the arrangements for the Town to make annual mitigation payments to the County; and

WHEREAS, in accordance with these provisions, the Town has made the required annual mitigation payments to the County since its incorporation, and to date these annual mitigation payments to the County have cost the Town a total of \$9,047,872; and

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 annual payment of mitigation fees (collectively the “Pending Litigation”); and

WHEREAS, as the requisite first step to resolving the Pending Litigation, the Board 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 as part of the settlement of the Pending Litigation to provide for payment of the outstanding Annual 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 annual mitigation fees for future fiscal years, so long as the Town as part of this Town Charter modification eliminates the implicit Most Favored Nation Status contained within the Report, which was incorporated into the Charter by reference, 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, on March 11, 2009, the Town adopted Resolution 09-724, essentially agreeing to the County's settlement offer with regard to the Pending Litigation; and

WHEREAS, the Town Council desires to resolve the Pending Litigation, to eliminate the additional costs to the Town associated with the annual payment of mitigation fees; and

WHEREAS, the Special Conditions also included a provision that the Town contract for and pay for specialized police services from the County, and the Report detailed that provision; and

WHEREAS, Miami-Dade County has also requested that the Town remove from its Charter and the Report, the requirement that the Town contract for and pay for specialized police services from the County as well as the implicit Most Favored Nation Status as it applies to specialized police services; and

WHEREAS, the Town Council desires to also eliminate the requirement that the Town separately contract with and pay a fee to the County for the provision of specialized police services; and

WHEREAS, additionally, the Miami-Dade County Elections Department (the "Department"), which is contracted to oversee all Town elections, has requested that the Town change the time frame for run-off elections, in the unlikely event of an exact tie vote, from 14 calendar days to at least 21 calendar days after the general election in order to accommodate the logistical challenges involved with such an election; and

WHEREAS, Town Council recognizes that the chance of an election concluding with an exact tie vote are remote, making it highly unlikely that this provision would be triggered, and

regardless, the additional week is of little consequence when compared to the cost savings associated with contracting these services with the Department; and

WHEREAS, the County Elections Department has also suggested that this change be included as a part of these mail ballot charter amendments so that the issue would be resolved ahead of the next scheduled Town general election in October of 2010; and

WHEREAS, the County has additionally offered to pay the cost of the Special Election in the form of a Mail Ballot election to modify these provisions of the Town Charter and the incorporated Report; and

WHEREAS, the Town Council desires to call the Special Election to approve the Charter Amendments necessary to do so and contained herein; and

WHEREAS, pursuant to Section 6.1 of the Town Charter and Town Ordinance 06-82, the Town Council submits the following Charter Amendments to the electors of the Town.

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

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. Charter Amendments. That pursuant to Section 6.1 of the Town Charter, Section 5.03 of the Miami-Dade County Charter, and Ordinance 06-82 of the Town Code of Ordinances, the Town Charter of the Town of Miami Lakes, Florida is hereby amended by amending Section 5.1 "Elections", Section 9.1 "County Services", Section 9.3 "Municipal

Service Trust Fund”, and sections of the Miami Lakes Municipal Advisory Committee Report’s Conceptual Agreement incorporated into the Charter by reference¹; to read as follows:²

ARTICLE V. ELECTIONS

Section 5.1 Elections.

(a) *Tie vote.* In case of a tie vote for either the Mayor or Councilmember, a run-off election shall be held. The ballot shall instruct electors to cast one vote for Mayor, and if there is a run-off for Councilmember, then to cast one vote for Councilmember. A run-off election shall be held 21 ~~14~~-calendar days after the general election.

ARTICLE IX. INCORPORATION OF PROVISIONS OF THE REPORT OF THE MIAMI LAKES MUNICIPAL ADVISORY COMMITTEE (THE "REPORT").

Section 9.1 County Services.

Subject to the conditions outlined in the Report, the Town will remain part of and utilize:

- a. the Miami-Dade Fire Rescue District;
- b. the Miami-Dade Library System; and
- c. the Miami-Dade Solid Waste Collection System.
- d. specialized police services of Miami-Dade County ~~with contract renewal and price recalculations every three years~~. Specialized police services shall include, but are not limited to, homicide, robbery, sex crimes and narcotics.

~~Section 9.3 Municipal Service Trust Fund.~~

¹/ Article IX of the Town of Miami Lakes Charter entitled Incorporation of Provisions of the Report of the Miami Lakes Municipal Advisory Committee (the “Report”) incorporates the Report into the Town Charter, including the sections being amended herein.

²/ Proposed additions to the existing Town Charter and Conceptual Agreement text are indicated by underline; proposed deletions from the existing Town Charter and Conceptual Agreement text are indicated by ~~strikethrough~~.

~~For the reasons outlined in the Report and subject to calculations, decreases and CPI adjustments set forth in the Report, the Town shall annually contribute municipal property tax revenues into a Municipal Service Trust Fund ("MSTF"). The amount of the contribution for 2000/2001 will be 1.45 million. The Town agrees that the MSTF will be utilized to (1) maintain police services in the neighboring communities around the Town recognizing that crime does not respect political boundaries and that provision of police services to the neighboring communities directly benefits the Town; and (2) provide a municipal assistance retainer enabling the Town to obtain certain advice, expertise, training, financial planning and technological services, and other assistance from the County.~~

~~***~~

MIAMI LAKES MUNICIPAL ADVISORY COMMITTEE REPORT CONCEPTUAL AGREEMENT

~~***~~

~~The new City-Town of Miami Lakes will also contract with the Miami-Dade Police Department for a specific level of patrol staffing and all support and specialized police services.~~

~~The contract will specify a fixed level of patrol staffing for the Miami Lakes Area Police District, agreed to by both the local government Town of Miami Lakes and the County. The contract will clearly define, and provide for the cost of, municipal-type support and specialized police services that will be guaranteed to the area. The new city-Town will thus have the full assurance of continued specialized services as well as having its own local police force through contract with Miami-Dade County.~~

~~***~~

~~The patrol portion of the contract between the County and Miami Lakes will be revisited periodically to tailor staffing levels to the needs and desires of the local government and to assure that the residents continue to receive the best law enforcement available. After the initial three years of the contract period, the City can issue a no less than 12-month notice to terminate the contract for cause. ~~The contract for specialized police services will be in perpetuity, with renewal and price recalculations every three years.~~~~

~~***~~

~~Now therefore, the members of the Miami Lakes Municipal Advisory Committee agree that the City shall enter into a Memorandum of Understanding to contribute the equivalent of one mill of municipal property tax revenues after municipal incorporation to the County into a Municipal Service Trust Fund (MSTF). The amount to be paid into the MSTF will be set at a dollar value during the first year of operation of the City of Miami Lakes. This dollar value will be the equivalent of one mill of property tax revenue based on the preliminary tax roll for that year. That amount (which is approximately~~

~~\$1.45 million) will be adjusted annually based on the Consumer Price Index (CPI) for the Miami area, all categories, but shall otherwise not be subject to any increase.~~

~~Assurances will be built into the agreement that the terms and duration of the MSTF will be renegotiated should significant changes in the composition of the remaining unincorporated area occur. For example, if the remaining Unincorporated Municipal Service Area is reduced to fewer than 500,000 residents, or the unincorporated area per capita tax base exceeds the average of the countywide per capita tax base due to growth in the roll, or the incorporation of low tax base areas decrease the need to continue the payment at that amount, the amount and duration of the contribution will be revisited. Otherwise the MSTF payment will be maintained.~~

~~Both parties also agree that if a subsequent incorporation of any donor area is approved, without conditions outlined in this agreement, including but not limited to the contribution of at least 55% of the surplus funds to the MSTF, and those terms would be beneficial to the Town-City of Miami Lakes, the terms under this Memorandum of Understanding Report or Conceptual Agreement will immediately be replaced with the terms granted to the subsequent new city (the "Most Favored Nation Status"). It is provided however that the Most Favored Nation Status shall not apply to mitigation payments into the Municipal Services Trust Fund, nor apply to any requirement to separately contract or pay for the provision of specialized police services.~~

~~The MSTF will have two purposes. First, funds will be allocated to preserve police services in the neighboring communities that might otherwise be harmed by the incorporation of a donor area such as Miami Lakes. Second, in recognition of the fact that the development of a new city requires considerable effort and a period of transition during which the new city can benefit from a strong mentoring relationship with the current service providers and administration, and in recognition of the fact that both the new city and the County desire to have an ongoing, cooperative relationship, the fund will serve as a municipal assistance retainer, enabling the new city to receive benefits and services from the County that will be made uniquely available to Miami Lakes and the unincorporated area and that will not be made available to other municipalities that have not entered into such an agreement.~~

Section 3. Election Called.

A. That a special election is hereby called, to be held on Thursday, the 25th day of June, 2009, to present to the qualified electors of the Town of Miami Lakes, the ballot questions provided in Section 4 of this Resolution.

B. That the Town Council may by Resolution alter the date of the special election in the event that the Council finds that unforeseen circumstances require it to do so.

Section 4. Form of Ballot.

That the form of ballot for the Charter Amendments provided for in Section 2 of this Resolution shall be substantially, as follows:

1. **ELIMINATING REQUIREMENT THAT THE TOWN PAY ANNUAL MITIGATION PAYMENTS IN PERPETUITY TO THE COUNTY**

The Town Charter and Miami Lakes Advisory Committee Report incorporated into it by reference currently provide that the Town make annual mitigation payments in perpetuity to Miami-Dade County to provide unincorporated area services. Shall the Charter and Report be amended to eliminate future mitigation payments to the County after the 2006-2007 payment and remove all other mitigation provisions, including the deletion of the "Most Favored Nation Clause" as it pertains to mitigation?

Yes []

No []

2. **ELIMINATING REQUIREMENT THAT THE TOWN PAY SEPARATELY FOR SPECIALIZED POLICE SERVICES FROM THE COUNTY**

The Town Charter and Miami Lakes Advisory Committee Report incorporated into it by reference currently provide the Town contract and pay separately for specialized police services from Miami-Dade County. Shall the Charter and Report be amended to eliminate all requirements to contract and pay separately for specialized police services, including the deletion of the "Most Favored Nation Clause" as it pertains to separately contracting and paying for specialized police services?

Yes []

No []

3. **EXTENDING THE TIMING OF TOWN RUN-OFF ELECTIONS IN THE EVENT OF A TIE**

The Town Charter currently provides that run-off elections between tied candidates for Town elections shall be held 14 calendar days after the general election. Shall the Charter be amended to allow the Town, in the event of a tie vote, to hold run-off elections 21 calendar days after the general election?

[] Yes

[] No

Section 5. Balloting. That mail ballots, as prescribed by Sections 101.6101-101.6107, Florida Statutes, shall be used in this Special Election. All qualified Town electors who are timely registered in accordance with State law shall be entitled to vote. The Town Clerk is authorized to obtain any necessary election administration services from the Miami-Dade County Supervisor of Elections. The County registration books shall remain open at the Office of the County Supervisor of Elections until the date at which the registration books shall close in accordance with the provisions of the general election laws. The Town Clerk, with necessary assistance from the Miami-Dade County Supervisor of Elections, is hereby authorized to take all appropriate actions necessary to carry into effect and accomplish the electoral provisions of this Resolution. This Special Election shall be canvassed by the Town Clerk in accordance with any applicable provisions of the general election laws of the State or County. The Town Clerk is hereby authorized to take any action which is necessary or expedient to implement this section or to comply with any applicable law.

Section 6. Notice of Election. That notice of said election shall be published in accordance with Section 100.342, Florida Statutes, in a newspaper of general circulation within the Town at least 30 days prior to said election, the first publication to be in the fifth week prior to the election (to-wit: during the week commencing Sunday, May 17, 2009), and the second publication to be in the third week prior to the election (to-wit: during the week commencing Sunday, May 31, 2009), and shall be in substantially the following form:

“NOTICE OF ELECTION.”

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO RESOLUTION NO. ____ DULY ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, (THE “TOWN”), A SPECIAL ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE TOWN ON

THURSDAY, THE 25th DAY OF JUNE, 2009, BY MAIL
BALLOT, AT WHICH TIME THE FOLLOWING CHARTER
AMENDMENTS PROPOSED SHALL BE SUBMITTED TO THE
QUALIFIED ELECTORS OF THE TOWN.

1. ELIMINATING REQUIREMENT THAT THE TOWN PAY ANNUAL MITIGATION
PAYMENTS IN PERPETUITY TO THE COUNTY

The Town Charter and Miami Lakes Advisory Committee Report incorporated into it by reference currently provide that the Town make annual mitigation payments in perpetuity to Miami-Dade County to provide unincorporated area services. Shall the Charter and Report be amended to eliminate future mitigation payments to the County after the 2006-2007 payment and remove all other mitigation provisions, including the deletion of the "Most Favored Nation Clause" as it pertains to mitigation?

Yes []

No []

2. ELIMINATING REQUIREMENT THAT THE TOWN PAY SEPARATELY FOR
SPECIALIZED POLICE SERVICES FROM THE COUNTY

The Town Charter and Miami Lakes Advisory Committee Report incorporated into it by reference currently provide the Town contract and pay separately for specialized police services from Miami-Dade County. Shall the Charter and Report be amended to eliminate all requirements to contract and pay separately for specialized police services, including the deletion of the "Most Favored Nation Clause" as it pertains to separately contracting and paying for specialized police services?

Yes []

No []

3. EXTENDING THE TIMING OF TOWN RUN-OFF ELECTIONS IN THE EVENT OF
A TIE

The Town Charter currently provides that run-off elections between tied candidates for Town elections shall be held 14 calendar days after the general election. Shall the Charter be amended to allow the Town, in the event of a tie vote, to hold run-off elections 21 calendar days after the general election?

[] Yes

[] No

Polling place information and the full text of the proposed Charter Amendments is available at the Office of the Town Clerk located at 15700 NW 67 Avenue, 3rd Floor, Miami Lakes, FL 33014.

TOWN CLERK

Section 7. Copies. That copies of this Resolution proposing the Charter Amendments are on file at the offices of the Town Clerk located at Town of Miami Lakes 15700 NW 67 Avenue, 3rd Floor, Miami Lakes, FL 33014, and are available for public inspection during regular business hours.

Section 8. Effectiveness of Charter Amendment.

A. That each of the Charter Amendments which are provided for in Sections 2 and 4 above shall become effective only if the majority of the qualified electors voting on the specific Charter Amendment vote for its adoption, and each shall be considered adopted and effective upon certification of election results.

B. That the Town Attorney is authorized to revise the Charter to the extent necessary to assure that any amendments adopted conform to one another and are properly included in the publication of the revised Town Charter. Further, that in the event that some, but not all, of the Charter amendments are approved by the electors, conforming amendments shall be deemed to be adopted and the Town Attorney is authorized to reflect and implement such revisions of the Charter, including the revision of transitional provisions, to the extent necessary to assure that all amendments adopted conform to one another and to all remaining Charter provisions. If conflicting Charter amendments are adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

C. That following the adoption of the Charter Amendments, the Town Clerk shall file the adopted Charter Amendments with the Clerk of the Circuit Court of Miami-Dade County, Florida.

Section 9. Inclusion In The Charter. Subject to the requirements of Section 8 above, it is the intention of the Town Council and it is hereby provided that the Charter Amendments shall become and be made a part of the Charter of the Town of Miami Lakes; that the Sections of this Resolution may be renumbered or re-lettered to accomplish such intention.

Section 10. Severability. That the provisions of this Resolution are declared to be severable, and if any section, sentence, clause or phrase of this Resolution shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution but they shall remain in effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

Section 11. Effective date. That this Resolution shall become effective immediately upon adoption hereof.

PASSED AND ADOPTED this 14 day of April, 2009.

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

FINAL VOTE AT ADOPTION

Mayor Michael Pizzi	<u>yes</u>
Vice Mayor Richard Pulido	<u>yes</u>
Councilmember Mary Collins	<u>yes</u>
Councilmember Robert Meador II	<u>yes</u>
Councilmember Nick Perdomo	<u>absent</u>
Councilmember Nancy Simon	<u>yes</u>
Councilmember George Lopez	<u>yes</u>



Michael Pizzi
MAYOR

ATTEST:



TOWN CLERK

Approved as to form and legality for the use
and benefit of the Town of Miami Lakes only:



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