

RESOLUTION No. 21-192

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AUTHORIZING THE CITY ATTORNEY TO COMMENCE LITIGATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, On December 21, 2020, the City of Doral (“City”) submitted to Miami-Dade County (“County”) an application to annex Sections 35 & 36, Township 53, Range 39 (“Annexation Application”); and

WHEREAS, on December 31, 2020, the Clerk of the Board sent a written notification to the City advising that its Annexation Application would be heard by Miami-Dade Board of County Commissioners (“BCC”) for referral to the Planning Advisory Board on the January 20, 2021; and

WHEREAS, the Annexation Application was not heard by the BCC on January 20, 2021 but, despite repeated requests by the City for it to be heard by the BCC, it was not placed on the BCC agenda until May 4, 2021; and

WHEREAS, on the same May 4, 2021, BCC agenda the Chairman of the BCC sponsored an ordinance, which purported to substantively amend the County criteria for consideration of annexation applications, including but not limited to establishing a new definition of the term “*contiguous*” for boundary changes (“Proposed Ordinance”); and

WHEREAS, the new contiguity criterion of the Proposed Ordinance was ostensibly crafted to target and disqualify the City’s Annexation Application, while other substantive revisions patently advantage a competing application for annexation of the same unincorporated area by the City of Sweetwater (“Sweetwater Application”); and

WHEREAS, over the City's due process and other objections, the BCC adopted the Proposed Ordinance on July 20, 2021 ("New Annexation Ordinance"); and

WHEREAS, the New Annexation Ordinance on its face, purports to retroactively apply the substantive amendments to County annexation standards to both the Annexation Application and the competing Sweetwater Application which were pending prior to its adoption; and

WHEREAS, despite requests by the City to schedule hearings on its Annexation Application, the County has refused further processing of the Annexation Application while continuing to process the Sweetwater Application expeditiously, and on information and belief, the City's representatives have been informed by County staff that the Sweetwater Application may be scheduled for final hearing before the BCC as soon as September 2021; and

WHEREAS, the pre-suit requirements of the Florida Governmental Conflict Resolution Act, codified at Section 164.101 Fla. Stat. et seq. ("Act") could not be satisfied prior to the time that, on information and belief, the County BCC will consider the Sweetwater Application for final approval without the City having had a meaningful opportunity to have its Annexation Application also heard on the merits, free from improper retroactive application of new (disqualifying) regulations. The statutory timeframes for notice and initial mandatory meetings under Act (not to mention additional time required to properly notice and convene additional public meetings to approve and implement any conceivable resolution) exceed the timeframe during which the County BCC is likely to proceed with a hearing on the Sweetwater Application, potentially rendering moot the City's legal objections to retroactive application of new substantive

law. Accordingly, the City's due process right to a meaningful opportunity to be heard on its Annexation Application without the improper retroactive application of new substantive law will be compromised if a court proceeding does not take place before the normal pre-suit provisions of the Act are complied with, and

WHEREAS, the City Council has consulted with the City Attorney with respect to the foregoing and is advised that section 164.1041(2) Fla. Stat. sets forth an exemption to complying with the pre-suit requirements of the Act under such circumstances; and

WHEREAS, the City Attorney has advised the City Council to the rights and responsibilities of the City and Council has considered the advice of the City Attorney.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are confirmed, adopted, and incorporated herein and made part hereof by this reference.

Section 2. Authorization. Pursuant to Section 164.1041(2) of the Act, the City Council, by three fourths vote, hereby finds that the City's significant legal rights will be compromised if the City does not proceed to court to challenge the retroactive application of the County's New Annexation Ordinance to disqualify and otherwise prejudice the City's Annexation Application, prior to the BCC's consideration of the Sweetwater Application alone, and further, that as of the date the New Annexation Ordinance was adopted, it was not possible to satisfy the normal pre-suit requirements of the Act ahead of the time that, on information and belief, the County BCC will consider the Sweetwater Application. Accordingly, the City Attorney is authorized to take such steps as shall be necessary to

protect the legal rights of the City including commencing litigation upon passage of this resolution, as allowed by Section 164.1041(2), Florida Statutes.

Section 3. **Effective Date.** This Resolution shall be effective immediately upon adoption.

The foregoing Resolution was offered by Councilmember Cabral who moved its adoption.
The motion was seconded by Vice Mayor Cabrera and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Pete Cabrera	Yes
Councilwoman Digna Cabral	Yes
Councilwoman Claudia Mariaca	Yes
Councilman Oscar Puig-Corve	Absent/Excused

PASSED AND ADOPTED this 25 day of August 2021.



JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



CONNIE DIAZ, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



LUIS FIGUEREDO, ESQ.
CITY ATTORNEY