

RESOLUTION NO. 2012 - 027

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 CITY OF PEMBROKE PINES, ARISING FROM THE CITY'S BREACH OF THE AGREEMENT BETWEEN THE CITY OF PEMBROKE PINES AND THE TOWN OF SOUTHWEST RANCHES FOR DELIVERY OF EMERGENCY MEDICAL FIRE PROTECTION AND FIRE PREVENTION SERVICES (THE "AGREEMENT"); FINDING SPECIFICALLY THAT THE CITY OF PEMBROKE PINES IS IN BREACH OF SECTION 22.20 OF THE AGREEMENT THROUGH ITS FAILURE TO EXPEDITIOUSLY APPROVE A WATER/WASTE WATER UTILITY AGREEMENT WITH CORRECTIONS CORPORATION OF AMERICA; FINDING THAT A CONFLICT EXISTS WITH THE CITY OF PEMBROKE PINES CONCERNING ITS FAILURE TO PROVIDE WATER AND SEWER SERVICES TO A SECTION OF THE TOWN THAT IS WITHIN ITS PUBLIC UTILITY SERVICE AREA; FINDING THAT THE CITY OF PEMBROKE PINES NEGOTIATED AND ENTERED INTO THE AGREEMENT IN BAD FAITH; FINDING THAT A CONFLICT EXISTS WITH THE CITY OF PEMBROKE PINES CONCERNING ITS PROVISION OF WATER AND SEWER SERVICES WITHIN THE TOWN OF SOUTHWEST RANCHES, WITHOUT THE CONSENT OF THE TOWN OF SOUTHWEST RANCHES; FINDING THAT A CONFLICT EXISTS WITH THE CITY OF PEMBROKE PINES CONCERNING ACTIONS THAT THE CITY HAS TAKEN TO TORTIOUSLY INTERFERE WITH THE AGREEMENT BETWEEN THE TOWN OF SOUTHWEST RANCHES AND CORRECTIONS CORPORATION OF AMERICA; DIRECTING THE TOWN ADMINISTRATOR TO PREPARE AND TO FORWARD A CERTIFIED COPY OF THIS RESOLUTION AND THE REQUIRED CERTIFIED LETTER TO THE CITY OF PEMBROKE PINES AND TO 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, on June 27th 2011 the Town of Southwest Ranches ("Town") entered into an Agreement with the City of Pembroke Pines ("City") providing for the delivery of emergency medical, fire protection, and fire prevention services (the "Agreement"); and

WHEREAS, Section 22.20 of the Agreement requires the City to expeditiously approve a water/waste water utility agreement with Corrections Corporation of America; and

WHEREAS, although Corrections Corporation of America submitted its completed application to the City on December 29, 2011, the City has failed to expeditiously approve such application; and

WHEREAS, instead, the City has purposely and intentionally worked to find a way to not approve such application, including the hiring of independent legal counsel to devise a way in which the application could be rejected; and

WHEREAS, the Town believes the City negotiated and entered into the Agreement in bad faith; and

WHEREAS, on March 7, 2012, instead of considering the application, the City of Pembroke Pines terminated the Agreement and voted to file a legal action in an attempt to not furnish water and sewer service to Corrections Corporation of America; and

WHEREAS, although the City has terminated its Agreement with the Town, the termination is not effective until nine months from the termination date; and

WHEREAS, as such, under the Agreement, the City is still required to expeditiously approve a water/waste water utility agreement with Corrections Corporation of America; and

WHEREAS, the Town believes that the City's failure to provide water and sewer services to a section of the Town that falls within the City's public utility service area is in clear violation of well settled law; and

WHEREAS, the Town believes that the City may be providing water and sewer services within the Town to properties outside of its public utility service area without the consent of the Town; and

WHEREAS, the Town believes that the actions taken by Pembroke Pines to prevent the development of Corrections Corporation of America's property

tortiously interferes with the Town's agreement with Corrections Corporation of America; and

WHEREAS, as a direct result of Pembroke Pine's intentional actions Southwest Ranches has been financially impacted; 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; and

WHEREAS, this Resolution seeks to comply with the statutory requirements.

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 City of Pembroke Pines concerning: the City of Pembroke Pine's breach of the Agreement with the Town for the Delivery of Emergency Medical Fire Protection and Fire Prevention Services; the City's failure to provide water and sewer services to a portion of the Town that is within the City's public utility service area; the City's failure to obtain the Town's approval for the provision of water and sewer service to a portion of the Town that is outside of the City's public utility service area; the City's negotiation and entry into the Agreement in bad faith; and for the City's tortious interference with the agreement between the Town of Southwest Ranches and the Corrections Corporation of America.

Section 3. The Town Council of the Town of Southwest Ranches finds that it has a conflict with the City of Pembroke Pines. The issues in conflict include those delineated in Section 2, above.

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 City Manager of the City of Pembroke Pines, 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 Southwest Ranches and the City of Pembroke Pines;
- 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 City of Pembroke Pine'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.

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 8th day of March 2012, on a motion by Council Member Breitkreuz and seconded by Council Member Fisikelli.

Nelson	<u>YES</u>	Ayes	<u>5</u>
McKay	<u>YES</u>	Nays	<u>0</u>
Breitkreuz	<u>YES</u>	Absent	<u>0</u>
Fisikelli	<u>YES</u>	Abstaining	<u>0</u>
Jablonski	<u>YES</u>		


for Jeff Nelson, Mayor

ATTEST:


Erika Gonzalez-Santamaria, CMC, Town Clerk

Approved as to Form and Correctness:


Keith Poliakoff, Town Attorney

ACTIVE: 3745160_1

Certification



I certify this to be a true and correct copy of the record. WITNESSETH my hand and official seal of the Town of Southwest Ranches, Florida this 13th day of March 2012 Town Clerk





Town of Southwest Ranches

Kenneth Fields
Town Administrator
13400 Griffin Road
Southwest Ranches, FL 33330
Phone: (954) 434-0008
Fax: (954) 434-1490

March 13, 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Sent via Certified, Regular Mail, & Facsimile

Mr. Charles F. Dodge, City Manager
City of Pembroke Pines
10100 Pines Blvd.
Pembroke Pines, FL 33026

Re: INITIATION OF CONFLICT RESOLUTION

Dear Mr. Dodge:

On March 8, 2012, in accordance with the requirements of Section 164.1052, Florida Statutes, the Town of Southwest Ranches (the "Town") passed Resolution No. 2012-027, requesting the initiation of conflict resolution proceedings with the City of Pembroke Pines (the "City"). A copy of Town Resolution No. 2012-027, is attached hereto and incorporated herein by reference as Exhibit "A".

Specifically, the Town finds that a conflict exists with the City arising from the City's breach of Section 22.20 of the Agreement between the Town and the City for Delivery of Emergency Medical Fire Protection and Fire Prevention Services (the "Agreement"), which requires the City to "expeditiously approve a water/waste water utility agreement" to provide water/waste water services to the Corrections Corporation of America's ("CCA") Property. Although CCA submitted an application and an agreement, in the form approved by the City, on December 29, 2011, to date the agreement has not even be scheduled for City Commission review and approval. In fact, to the contrary, on March 7, 2012, the City approved a motion to file a Declaratory action to have the courts determine if the provision of water and sewer service to the CCA property is legally required. As such the Town finds that the City is in breach of the Agreement for its failure to expeditiously approve the utility agreement. The Town also finds that the City is a public utility and that even if the Agreement were not in affect, the provision of such service is legally required. Further, the City currently services numerous properties within the Town, outside of the City's designated service area, without the consent of the Town. In addition, on March 7, 2012, the City also terminated the Agreement with the Town, which it negotiated and entered into in

Mayor Jeff Nelson • Vice Mayor Doug McKay
Council Member Steve Breikreuz • Council Member Gary Jablonski • Council Member Freddy Fisikelli
Town Administrator Kenneth Fields

bad faith, with unclean hands, and terminated the Agreement solely as a means to interfere with the development of the CCA property. The Town finds that the City's actions, including but not limited to the City's refusal to process CCA's application for the provision of water and sewer services to the CCA Property, the numerous actions taken by the City to dissuade the construction of the CCA Property including meetings with various ICE officials and letters and telephone calls to the federal government, amounts to a tortious interference with the Town's agreement with CCA, and that the date of such activities even breached the now terminated agreement between the Town and the City relating to Roadways and Other Matters due to the City's interference in the development of the CCA Property.

As a direct result of the City's interference, the Town of Southwest Ranches has been economically impacted.

This letter serves to comply with the requirements of Section 164.1052, Florida Statutes, to place the City on Notice of this Conflict.

The Town adopted Resolution No. 2012-027 due to the Town's inability to resolve these issues with the City.

Pursuant to Section 164.1052 (1), the Town proposes that the initial conflict assessment meeting be held at the Town of Southwest Ranches' meeting room located at 13400 Griffin Road, Southwest Ranches, Florida 33330 on April 10, 2012 at 1:00 p.m. We suggest that the City's Manager, and its legal counsel attend this meeting.

The Town does not believe that any additional governmental entity is affected by this dispute.

We look forward to amicably resolving this matter.

Very truly yours,



Kenneth Fields
Town Administrator

Attachments (as stated)

Cc: Mayor and Council Members
Keith Poliakoff, Town Attorney

ACTIVE: 3749577_1