

TAB 10

CITY OF PALMETTO, FLORIDA
RESOLUTION NO. 08-20

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA PERTAINING TO CONFLICT RESOLUTION PROCEEDINGS WITH THE PALMS OF TERRA CEIA COMMUNITY DEVELOPMENT DISTRICT; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR INTENT; DESIGNATING REPRESENTATIVES TO PARTICIPATE IN AN INITIAL CONFLICT ASSESSMENT MEETING; PROVIDING FOR AUTHORIZATION; SUPERSEDING RESOLUTIONS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions and render municipal services; and,

WHEREAS, Chapter 166, Florida Statutes, the "Municipal Home Rule Powers Act," implements the applicable provisions of the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof; and,

WHEREAS, Chapter 164, section 164.101 – 164.1061, Florida Statutes, entitled the "Florida Governmental Conflict Resolution Act" ("Act"), sets forth conflict resolution procedures pursuant to which governmental entities must attempt to resolve conflicts prior to filing a lawsuit; and

WHEREAS, for some time the Palms of Terra Ceia Community Development District ("CDD") and the City have sought to cooperatively resolve conflicts

pertaining to the operation and maintenance of stormwater systems located within the boundaries of the Palms of Terra Ceia Community Development District; and

WHEREAS, despite substantial time and effort being contributed by CDD board members and City personnel, no resolution has been achieved; and

WHEREAS, on May 13, 2008, the CDD adopted Resolution 2008-7 indicating its intent to initiate the conflict resolution process prescribed by the Act; and

WHEREAS, by certified letter dated May 14, 2008, the CDD formally notified the City of Palmetto ("City") of its intent to initiate conflict resolution procedures under the Act and proposed that an initial conflict assessment meeting be held on June 10, 2008, at 7:00 p.m. at the CDD conference room; and

WHEREAS, by email to Edwin Bennett, Chairman of the Board of Supervisors for the CDD, the City Clerk notified the CDD of the City's agreement to participate in an initial conflict assessment meeting on June 10, 2008, and related the City Commission's request that the meeting take place at City Hall with participation from the CDD Board of Supervisors and the City Commission; and

WHEREAS, by certified letter dated May 21, 2008, Mr. Bennett responded to the City's request, stating the CDD's position that the meeting should take place as originally proposed by the CDD; and

WHEREAS, pursuant to section 164.1031(8) of the Act, the City is a "primary conflicting governmental entity" for purposes of implementing the Act; and

WHEREAS, the Act requires that all primary conflicting governmental entities participate in good faith in the procedures provided in the Act;

WHEREAS, by adoption of this resolution the City seeks to express its intent to comply with the Act and to negotiate in good faith with the CDD to resolve the conflicts identified in the CDD's Resolution 2008 – 7 and May, 14, 2008 letter.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Palmetto, Florida, as follows:

Section 1. The above-referenced “WHEREAS” clauses are adopted herein as findings of fact.

Section 2. The City hereby expresses its intent to negotiate in good faith with the CDD to resolve all conflicts relating to the operation and management of stormwater systems located within the boundaries of the Palms of Terra Ceia Community Development District.

Section 3. The City Commission hereby designates the Mayor, the Director of Public Works and the City Attorney as the appropriate parties to represent the City in the initial conflict assessment meeting, to be held in accordance with section 164.1053, Florida Statutes.

Section 4. The Mayor and designated City representatives are authorized to take all steps necessary to carry out the intent of this resolution.

Section 5. Resolutions In Conflict. This resolution hereby supersedes all resolutions, or parts thereof, in conflict herewith to the extent of such conflict.

Section 6. Severability. It is the intent of this resolution to comply with the requirements of all applicable law and constitutional requirements. If any provision or portion of this Resolution is declared by any court of competent

jurisdiction to be void, unconstitutional or unenforceable, then such provision or portion shall be deemed null and void but all remaining provision and portions of this Resolution shall remain in full force and effect.

Section 7. Effective Date. This resolution shall take effect as provided by law.

PASSED AND DULY ADOPTED, in regular session, by the City Commission of the City of Palmetto, with a quorum present and voting, this 2nd day of June, 2008.

**CITY OF PALMETTO, FLORIDA, BY
AND THROUGH THE CITY COMMISSION
OF THE CITY OF PALMETTO**

By: _____
LAWRENCE E. BUSTLE, JR., MAYOR

ATTEST: James R. Freeman
City Clerk

By: _____
City Clerk/Deputy Clerk