

4B-4)

RESOLUTION NO. 2021-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, INITIATING INTERGOVERNMENTAL CONFLICT RESOLUTION PROCEDURES, PURSUANT TO CHAPTER 164, FLORIDA STATUTES, WITH INDIAN RIVER COUNTY, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Vero Beach (the “City”) and Indian River County (“County”) are parties to a water and sewer territorial service agreement dated August 18, 1989 (“Agreement”); and

WHEREAS, the parties are involved in a dispute over the language contained in the Agreement; and

WHEREAS, the City’s position is that under the clear and unambiguous terms of the Agreement, it has the exclusive right and duty to serve the Town of Indian River Shores (the “Town”) with water and sewer service on a permanent basis; and

WHEREAS, the Agreement states that the County shall not provide water or sewer service within the City’s service area without the City’s written approval; and

WHEREAS, the County contends that, notwithstanding the clear language of the Agreement, the term of the Agreement is not permanent but will expire upon termination of a franchise agreement between the City and the Town, which may be as soon as September 30, 2027; and

WHEREAS, the City must begin planning for the relocation, construction, and capacity of a new water and wastewater treatment plant off of the Indian River Lagoon; and

WHEREAS, the Florida Governmental Conflict Resolution Act (the “Act”), Chapter 164, Florida Statutes, sets forth the Legislature’s intent that conflicts between governmental entities be resolved to the greatest extent possible without litigation; and

WHEREAS, the purpose and intent of the Act is to enhance intergovernmental coordination efforts by creation of a conflict resolution procedure that can provide an equitable, expeditious, effective and inexpensive method for resolution of conflicts between and among local and regional governmental entities; and

WHEREAS, it is the intent of the City to initiate the conflict resolution procedures provided by the Act prior to proceeding with any litigation seeking a declaratory judgment, injunctive relief, and damages, to resolve the dispute concerning the Agreement,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1 – Adoption of “Whereas” clauses.

The foregoing “Whereas” clauses are hereby adopted and incorporated herein as forming the legislative findings, purpose, and intent of this Resolution.

Section 2 – Initiating Intergovernmental Conflict Resolution Procedures.

The City of Vero Beach, Florida, hereby initiates the conflict resolution process pursuant to Chapter 164, Florida Statutes, regarding the term of the territory service agreement with the County of Indian River as it relates to the utility services to the Town of Indian River Shores and unincorporated areas of Indian River County. The City relies on the plain wording of the agreement in support of its position that the service territory for its water, sewer, and reuse water in the Town of Indian River Shores and other areas of unincorporated Indian River County is permanent.

Section 3 – Notice.

Pursuant to Section 164.1052(1), Florida Statute, the City will send to the chief administrator of Indian River County, within five (5) days of the passage of this Resolution, a certified copy of the Resolution and a letter stating the nature of the conflict, the reason for initiating the conflict resolution process, the proposed date and location for the conflict assessment meeting, and suggestions regarding the officials who should be present at the conflict assessment meeting.

Section 4 – Effective Date.

This Resolution shall become effective upon final adoption by the City Council.

This resolution was heard on the _____ day of _____ 2021, after which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote of the City Council:

Mayor Robert Brackett _____
Vice-Mayor Rey Neville _____
Councilmember Honey Minuse _____
Councilmember Bob McCabe _____
Councilmember Richard Winger _____

ATTEST:

**CITY COUNCIL:
CITY OF VERO BEACH, FLORIDA**

Tammy K. Bursick
City Clerk

By: _____
Robert Brackett
Mayor

Seal:

Date: _____

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this _____ day of _____ 2021, by **Robert Brackett**, the Mayor, and attested by **Tammy K. Bursick**, the City Clerk, of the City of Vero Beach, Florida. Both are personally known to me.

Seal:

Notary Public, State of Florida at Large
Print Name: _____
Notary Commission No.: _____
My Commission Expires: _____

ADMINISTRATIVE REVIEW

(For Internal Use Only—Sec. 2-77 COVB Code)

Approved as to form and legal
sufficiency:

Approved as conforming to municipal
policy:

John S. Turner
City Attorney

Monte K. Falls, P.E.
City Manager