

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: February 4, 2020

Consent

Regular

Ordinance

Public Hearing

Department: County Attorney's Office

Submitted By: County Attorney's Office

I. EXECUTIVE BRIEF

Motion and Title: Staff Recommends Motion to: adopt a Resolution initiating intergovernmental conflict resolution procedures, as set forth under Chapter 164, Florida Statutes, to resolve the County's conflict with the City of Palm Beach Gardens over the City of Palm Beach Gardens' adoption of Ordinance 16, 2019; Ordinance 19, 2019; and Resolution 57, 2019.

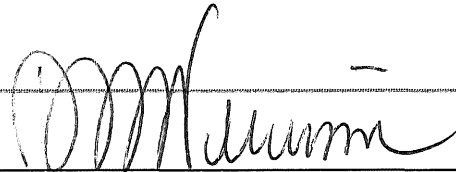
Summary: On September 5, 2019, the City adopted Ordinance 16, 2019 and Resolution 57, 2019 to approve a Mobility Plan and Mobility Fee Technical Report and to terminate the interlocal agreement with County regarding traffic concurrency procedures. On September 19, 2019, the City adopted Ordinance 19, 2019 which amended the City's impact fee schedule consistent with the Mobility Fee Technical Report. Ordinance 16, 2019; Ordinance 19, 2019; and Resolution 57, 2019 unlawfully replaced the County's road impact fee and transportation concurrency. Based on the City's unlawful official actions, staff recommends the Board of County Commissioners authorize the commencement of intergovernmental conflict resolution procedures pursuant to Chapter 164, Florida Statutes. Countywide (KP)

Background and Policy Issues: In June of 2019, the County was made aware that the City proposed to unilaterally implement a mobility fee system to the exclusion of County traffic concurrency, proportionate fair-share, and road impact fees. On June 11, 2019, representatives of the City met with representatives of the County. At this meeting, the City provided the County with copies of the City Mobility Fee Technical Report and Mobility Plan, which identified a Mobility Fee Assessment Area in which the Mobility Fee would be imposed. The Assessment Area was defined as all lands within the jurisdictional boundaries of the City east of the Beeline Highway. The Mobility Fee Technical Report stated that new development and redevelopment within the Assessment Area "would no longer pay Palm Beach County's road impact fee" and would "no longer be subject to . . . County transportation concurrency policies or proportionate fair-share requirements." That evening, the Mobility Plan and Mobility Fee Technical Report were presented to the City Planning, Zoning, and Appeals Board, which voted to recommend approval to the City Council. (Continued on Page 3).

Attachments:

- 1. Resolution

Recommended By: _____



Department Director

1/28/2020

Date

Approved By: _____

N/A

County/Deputy/Asst. County Administrator

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT					
# ADDITIONAL FTE					
POSITIONS (CUMULATIVE)					

Is Item included in current budget? Yes No

Does this Item include the use of federal funds? Yes No

Budget Account No.:

Fund _____ Department _____ Unit _____ Object _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development & Control Comments:

Robert Brewer 1/29/2020

OFMB *3/1/21*

A. S. Jacoby 1/30/2020

Contract Dev. & Control
1/30/20 *TS*

B. Legal Sufficiency

[Signature]

Assistant County Attorney

C. Other Department Review

Department Director

On September 5, 2019, the City adopted City Ordinance 16, 2019, which, in relevant part, approved and adopted the Mobility Plan and Mobility Fee Technical Report, and adopted City Resolution 57, 2019, which terminated the Interlocal Agreement adopted by City Resolution 82, 1999 and County Resolution 99-1132. On September 19, 2019, the City Council adopted City Ordinance 19, 2019, which, in relevant part, amended the City impact fee schedule to account for the Mobility Fee. The City has no legal authority to unilaterally repeal County ordinances implementing the County's traffic performance standards and road impact fees.

At all relevant times, the County has consistently objected to these unlawful actions by the City. Despite the County's repeated objections and numerous invitations to work collaboratively to develop a lawful mobility plan, the City has consistently reaffirmed its intent to take these unlawful actions.

Staff requests that the Board of County Commissioners authorize the commencement of intergovernmental conflict resolution procedures pursuant to Chapter 164, Florida Statutes.

RESOLUTION NO. 2020 __

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, DECLARING ITS INTENT TO INITIATE INTERGOVERNMENTAL CONFLICT RESOLUTION PROCEDURES WITH THE CITY OF PALM BEACH GARDENS TO RESOLVE CONFLICT OVER THE CITY OF PALM BEACH GARDENS' ADOPTION OF ORDINANCE 16, 2019; ORDINANCE 19, 2019; AND RESOLUTION 57, 2019.

WHEREAS, Article 12 of the County Unified Land Development Code contains ordinances relating to Palm Beach County's traffic concurrency system, including level of service standards, and is applicable to all roads within Palm Beach County that are not the responsibility of any municipality; and

WHEREAS, Article 13 of the County Unified Land Development Code contains ordinances relating to Palm Beach County impact fees, including a requirement that a municipality shall ensure that Palm Beach County impact fees are properly collected and remitted to Palm Beach County; and

WHEREAS, on June 11, 2019, the City Planning, Zoning, and Appeals Board recommended approval to the City Council of a Mobility Plan and Mobility Fee, implementation of which unlawfully replaces the County's road impact fees with a City Mobility Fee within the City's Mobility Fee Assessment Area, defined as all lands within the jurisdictional boundaries of the City east of the Beeline Highway; and

WHEREAS, on July 11, 2019, the City Council approved the first reading of Ordinance 16, 2019, which would adopt the City's Mobility Plan and Mobility Fee Technical Report; and

WHEREAS, on July 11, 2019, the City Council also authorized the City Mayor to provide notice to the County to terminate an existing interlocal agreement ("Interlocal Agreement") between the City and County relating to the procedure for processing traffic concurrency review for developments located in the City; and

WHEREAS, on September 5, 2019, the City Council approved the second reading and adoption of Ordinance 16, 2019, which adopted the City's Mobility Plan and Mobility Fee Technical Report; and

WHEREAS, on September 5, 2019, the City Council also approved Resolution 57, 2019, which terminated the Interlocal Agreement between the City and the County; and

WHEREAS, on September 5, 2019, the City Council additionally approved the first reading of Ordinance 19, 2019, which would revise the City's Impact Fee Schedule to impose the City's Mobility Fee in the Mobility Fee Assessment Area; and

WHEREAS, on September 19, 2019, the City Council approved the second reading and adoption of Ordinance 19, 2019; and

WHEREAS, the City has no legal authority to unilaterally repeal ordinances implementing the County's traffic performance standards and road impact fees; and

WHEREAS, the City has refused to repeal all aspects of Ordinance 16, 2019; Ordinance 19, 2019; and Resolution 57, 2019, that are unlawful, and has instead affirmed its intent to circumvent its duty to ensure all development applications within the City will comply with the County's traffic performance standards and County road impact fees, as required by County ordinance; and

WHEREAS, the City has taken these unlawful actions even though the County has objected to the City's unlawful actions; and

WHEREAS, the City has taken these unlawful actions even though the County has expressed its desire to work with the City to support efforts to provide multi-modal transportation network options for the mutual interest of both parties, and the County plans to hold a countywide mobility workshop to address opportunities for the future of transportation throughout the County to benefit all County citizens and visitors; and

WHEREAS, Section 164.1052, Florida Statutes (2019), requires the passage of a resolution, declaring the local government's intent to initiate government conflict resolution procedures.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The recitals above are true and correct and form a part of this Resolution.
2. It is the intent of the Board of County Commissioners of Palm Beach County to initiate intergovernmental conflict resolution procedures, pursuant to Chapter 164, Florida Statutes

(2019), to resolve the conflict over the City of Palm Beach Gardens' adoption of Ordinance 16, 2019; Ordinance 19, 2019; and Resolution 57, 2019.

3. Pursuant to Section 164.1052(1), Florida Statutes (2019), the County will send to the City of Palm Beach Gardens, within five 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.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

District 1	Commissioner Hal R. Valeche	_____
District 2	Commissioner Gregg K. Weiss	_____
District 3	Commissioner Dave Kerner, Mayor	_____
District 4	Commissioner Robert S. Weinroth, Vice-Mayor	_____
District 5	Commissioner Mary Lou Berger	_____
District 6	Commissioner Melissa McKinlay	_____
District 7	Commissioner Mack Bernard	_____

The Mayor thereupon declared the Resolution duly passed and adopted this _____ day of _____, 2020.

PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:  _____
Assistant County Attorney