

RESOLUTION 21-R93

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE, FLORIDA, INITIATING CHAPTER 164, FLORIDA STATUTES, CONFLICT RESOLUTION PROCEEDINGS BETWEEN THE CITY AND ST. LUCIE COUNTY REGARDING ROAD IMPACT FEES AND PARK IMPACT FEES; DIRECTING THE CITY MANAGER AND THE CITY ATTORNEY TO IMPLEMENT SAID PROCESS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, impact fees are a source of funding for infrastructure improvements that local governments use to address the impacts of growth, as encouraged and regulated by Sections 163.3202(3) and 163.31801, Florida Statutes; and

WHEREAS, the City of Port St. Lucie (the “City”) currently has impact fees in place for roads, libraries, parks and public buildings; and

WHEREAS, pursuant to Interlocal Agreements, the City collects County impact fees on behalf of St. Lucie County (the “County”) for roads, fire/EMS, law enforcement, libraries, parks, and public buildings; and

WHEREAS, the County has established a single, countywide, impact fee benefit district, which appears to be the only countywide impact fee benefit district in the state and fails to comport with the requirements of state law; and

WHEREAS, the County’s collection and expenditure of county impact fees fail to meet the dual nexus test, as well as other indicia of legality; and

WHEREAS, the City Council of the City (the “Council”) has determined that there is a need for citizen input into the budgetary process to promote the health, safety, financial soundness and general welfare of the City; and

WHEREAS, on March 27, 2017, the Council duly approved and adopted Resolution 17-R22, which served to establish and organize the City Budget Advisory Committee (the “BAC”); and

WHEREAS, in 2020, the Council directed its BAC to review impact fees to ascertain where County impact fees are being expended and assess if the City received its equitable distribution of impact fees; and

WHEREAS, on December 14, 2020, the Council accepted the BAC’s recommendations; and

WHEREAS, road impact fees may only be spent on roadway improvements, but the transportation needs of the City’s residents, property owners and businesses also include pedestrian,

bicycle, and alternative vehicle mobility needs that are not addressed by vehicular roadway capacity; and

WHEREAS, Section 163.3180(5)(f),(h)2e and (i), Florida Statutes, and the Florida Department of Economic Opportunity’s Community Development website encourage the adoption of mobility fees in lieu of traditional road impact fees (See, <https://floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/transportation-planning>); and

WHEREAS, the use of impact fees to achieve and maintain state roadway levels of service for automobiles has resulted in multi-lane, congested roadways in urban areas to the exclusion of other modes of transportation; and

WHEREAS, on January 25, 2021, the City Manager notified the County of the City’s intent to terminate the Interlocal Agreements for Road Impact Fees and Park Impact Fees, effective September 30, 2021, and of its intent to consider mobility fees to replace road impact fees; and

WHEREAS, on January 26, 2021, the Council directed NUE Urban Concepts (the “Consultant”) to prepare a Mobility Plan (the “Plan”) and Mobility Fee Ordinance (the “Mobility Fee Ordinance” and, collectively with the Plan, the “Mobility Fee Project”) to become effective October 1, 2021; and

WHEREAS, the Mobility Fee Project is proceeding and public hearings on the Plan, the Fee and the Mobility Fee Ordinance are tentatively scheduled for Council consideration at public hearings in August – September, 2021; and

WHEREAS, on May 24, 2021, the County Administrator sent correspondence to the City Manager that suggested that the City intended to “interfere with the County’s collection of its road impact fees”; and

WHEREAS, the City and the County, therefore, have a dispute in connection with the City’s implementation of the Plan, the collection of the County’s road impact fees, the Interlocal Agreement, and all other related matters with respect to the City’s Mobility Fee and the County’s road impact fees (the “Road Impact Fee Dispute”); and

WHEREAS, on March 1, 2021, the City requested that the County negotiate a new Interlocal Agreement for Park Impact Fees and requested that the new Interlocal allocate a greater portion of collected park impact fees to City parks; and

WHEREAS, the City and the County have been unable to come to an agreement on the terms of a new Interlocal Agreement for Park Impact Fees (“Park Impact Fee Dispute”); and

WHEREAS, the scope of Chapter 164 “Governmental Disputes,” Florida Statutes, encompasses a wide range of governmental conflicts, including those involving levels of service

for public facilities (See Section 164.1051); and

WHEREAS, it is the intent of the Council to attempt to resolve the Road Impact Fee Dispute and the Park Impact Fee Dispute through good faith negotiations by adopting this Resolution to initiate Chapter 164 conflict resolution procedures, prior to considering whether to initiate court proceedings to resolve the conflict.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF PORT ST. LUCIE, FLORIDA:

Section 1. Ratification of Recitals. That each of the recitals stated above are hereby adopted and confirmed.

Section 2. Conflict Resolution and Implementation. That the Council hereby invokes the Chapter 164 conflict resolution process and directs the City Manager, the City Attorney, and their designees, to take all appropriate steps, while preserving all of the City's rights at law and in equity regarding the Road Impact Fee Dispute, the Park Impact Fee Dispute, and the structure and legality of the County's impact fee and its countywide impact fee benefit district generally. Further, the City Manager, the City Attorney, and their designees, are hereby authorized and directed to take all steps necessary and appropriate to implement the terms of this Resolution and to use all appropriate discretion in such implementation.

Section 3. Conflict. If any resolutions, or parts of resolutions, are in conflict herewith, this Resolution shall control to the extent of the conflicting provisions.

Section 4. Effective Date. That this Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Port St. Lucie, Florida, this _____ day of _____, 2021.

CITY COUNCIL
CITY OF PORT ST. LUCIE

By: _____
Shannon M. Martin, Vice Mayor

ATTEST:

Sally Walsh, City Clerk

APPROVED AS TO FORM:

James D. Stokes, City Attorney