

RESOLUTION NO. 2019-106

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA REPEALING AND RESCINDING RESOLUTION NO. 2015-22 (FEB. 17, 2015) THAT SUPPORTED THE TOWN OF MIAMI LAKES IN ITS EFFORTS TO CONVERT THE 154 STREET OVERPASS AS A PASSIVE PARK; AND DIRECTING THE CITY ATTORNEY TO RESEARCH THE VALIDITY OF THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF HIALEAH AND THE TOWN OF MIAMI LAKES DATED JULY 11, 2007.

WHEREAS, on April 19, 2006, Miami-Dade County Board of County Commissioners adopted Ordinance No. 06-43 that approved an application filed by the City of Hialeah to amend the Miami-Dade County Comprehensive Development Master Plan to extend the Urban Development Boundary to encompass approximately 1140.8 gross acres located between NW 97 Avenue and the Homestead Extension of the Florida Turnpike and north of NW 154 Street (land located in the Cities of Hialeah and Hialeah Gardens and unincorporated Miami-Dade County); and

WHEREAS, the Town of Miami Lakes intervened and objected to the opening for vehicular traffic of the 154 Street Overpass that traverses I-75 and connects within the extended Urban Development Boundary the City of Hialeah on the west and the Town of Miami Lakes on the east; and

WHEREAS, due to Miami Lake's objection to the City of Hialeah's Urban Boundary application, the Town of Miami Lakes and the City of Hialeah settled their differences by entering into an Interlocal Agreement; and

WHEREAS, the City Council of the City of Hialeah passed Resolution No. 2007-78 (June 26, 2007) approving an Interlocal Agreement with the Town of Miami Lakes which prohibits the City, among other things, from advocating or supporting the use of the 154 Street Overpass for vehicular traffic; and

WHEREAS, on February 17, 2015, the City Council adopted Resolution 2015-22 supporting the Town's effort to convert the N.W. 154 Street Overpass; and

WHEREAS, the U.S. Supreme Court has ruled that elected officials enjoy full first amendment protections so that they can freely express themselves on matters of current public importance; and

WHEREAS, the manifest function of the First Amendment in a representative government requires that legislators be given the widest latitude to express their views on issues of policy; and

WHEREAS, No individual member of a legislative body or city council speaks for the body itself; and

WHEREAS, the incontrovertible truth is that legislation or agreements that once seemed wise and just when adopted by one legislative body or at a particular time, may be found unwise, rendered obsolete, ineffective, or even harmful by subsequent changes, and for these reasons the possibility of repeal or amendment must be preserved at all costs; and

WHEREAS, no council can divest future councils of their primary power to legislative in the best interest of the public; and

WHEREAS, the notion that a legislative body could pass laws that cannot be repealed by a subsequent council and thereby permanently restricting that duly constituted body from advocating in the best interest of its constituents is contrary to our democratic principles of a representative government; and

WHEREAS, such a prohibition on advocacy inevitably leads to tyranny, unquestionably results in the potential for enormous harm, denies its citizens of their representative government and the ability to address the issues of the day; and

WHEREAS, the Interlocal Agreement encompasses a matter that is within the legislative prerogative of the City; and

WHEREAS, more recently, the Town has publicly renewed its objections of the opening of the N.W. 154 Street overpass and seeks to enforce the prohibition on advocacy against the City by seeking injunctive relief in a court of law; and

RESOLUTION NO. 2019-106

3

WHEREAS, although the City Council has not as a collegial body breached the Interlocal Agreement, and until this Resolution had not spoken on the opening of the overpasses, this Council now questions the validity of the prohibition on advocacy and further questions a court's ability to enjoin this Council from advocating in the best interest of its residents as against the doctrine of separation of powers; and

WHEREAS, the Town now also objects to N.W. 170 Street overpass generally on the grounds that vehicular traffic from the City cannot flow east to the Town from either overpass; and

WHEREAS, as such, this Council now objects to the dedication of the 154 Street Overpass for park purposes or the construction of a passive park developed and controlled by the Town of Miami Lakes; and

WHEREAS, the City of Hialeah believes the Town administration and elected officials would not be a fair and impartial trustee of a park intended to benefit both communities; and

WHEREAS, based on the continued development approvals in the Town of Miami Lakes as well as the area in general, the City of Hialeah believes that dedication of the 154 Street Overpass for park purposes forecloses its use for vehicular traffic forever and this is neither wise nor prudent and against the interests of its residents.


THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1. Hialeah, Fla. Resolution No. 2015-22 (February 17, 2015) is hereby repealed and rescinded.

Section 2. The City Attorney is hereby directed to research whether the prohibition on advocacy provides sufficient grounds or whether any other legal grounds exist to terminate the Interlocal Agreement between the Town of Miami Lakes and the City of Hialeah governing the 154 Street Overpass.


Section 3. The City Clerk is hereby directed to transmit a copy of this Resolution to the Town of Miami Lakes, the Miami-Dade County Board of County Commissioners, Florida Senator Manny Diaz, Jr. and Florida House of Representatives Speaker Jose Oliva, Bryan Avila, and Cindy Polo.

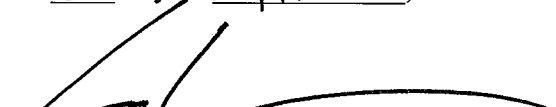
PASSED AND ADOPTED this 27 day of August, 2019.


Katharine E. Cue-Fuente
Councilmember

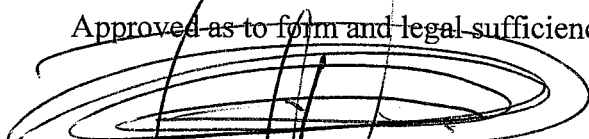
Attest:

Approved on this 3 day of September, 2019.


Marbelys Fatjo, City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


Lorena E. Bravo, City Attorney

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Resolution was adopted by a 5-0-2 vote with Councilmembers, Cue-Fuente, Lozano, Caragol, Hernandez and Zogby voting "Yes" and with Councilmembers Casáls-Muñoz and Garcia-Martinez absent.