

JAN 29 2008 TSBS

RESOLUTION

of the

ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS

regarding

**INITIATING CONFLICT RESOLUTION
PROCEDURE UNDER CHAPTER 164,
FLORIDA STATUTES, REGARDING
TOWN OF WINDERMERE ORDINANCES
2007-12 AND 2007-13**

Resolution No. 2008-M-02

WHEREAS, on January 8, 2008, the Town Council for the Town of Windermere, over the County's objections, adopted Ordinance No. 2007-12, annexing unincorporated territory known as Isleworth, as generally described in Ordinance No. 2007-12;

WHEREAS, on January 8, 2008, the Town Council for the Town of Windermere, over the County's objections, also adopted Ordinance No. 2007-13, annexing unincorporated territory known as Butler Bay, Unit 1, as generally described in Ordinance No. 2007-13;

WHEREAS, the County objected in part to each ordinance because the Town is not prepared to offer Isleworth or Butler Bay, Unit I, fire rescue service and emergency medical service in a manner that will ensure that lives and property will be protected to the extent, and anywhere near the extent, that lives and property are protected within the rest of the Town and in those unincorporated areas today;

WHEREAS, the County also objected to Ordinance No. 2007-12 because, contrary to Section 171.0413 of the Florida Statutes, which requires the referendum to “be held at the next regularly scheduled election following the final adoption of the ordinance . . . or at a special election called for the purposes of holding the referendum,” Ordinance No. 2007-12 improperly seeks to extend its effectiveness (and the ability to hold a referendum) through December 31, 2012, notwithstanding the fact that the Ordinance identified a “special election date” of March 11, 2008, and the next regularly scheduled election is August 26, 2008.

WHEREAS, the County raised other objections to Ordinance Nos. 2007-12 and 2007-13; and

WHEREAS, according to Florida’s annexation law, and in order to preserve the County’s rights to challenge these annexation ordinances in circuit court, the County must first initiate and complete the dispute resolution procedure described in Chapter 164 of the Florida Statutes, known as the “Florida Governmental Conflict Resolution Act.”

NOW, THEREFORE, PURSUANT TO CHAPTER 171 AND CHAPTER 164 OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY HEREBY RESOLVES AS FOLLOWS:

Section 1. Intention to Initiate and Complete Conflict Resolution Procedure. It is the intention of the Board of County Commissioners of Orange County to initiate and complete in good faith the conflict resolution procedures described in Chapter 164 of the Florida Statutes, known as the “Florida Governmental Conflict Resolution Act,” prior to initiating circuit court proceedings pursuant to Chapter 171 of the Florida Statutes, to attempt to resolve the conflict with the Town of Windermere generally described in the recitals and in Section 2.

Section 2. Nature of the Conflict. The nature of the conflict regarding Town of Windermere Ordinance Nos. 2007-12 and 2007-13 is that the Town failed to comply with statutory and other legal requirements for annexation, including but not limited to the following:

A. The Town did not properly set forth plans to ensure that adequate fire rescue service and emergency medical service can be provided to the annexed areas if and when the annexations become effective, on substantially the same basis and in the same manner as such services are provided within the rest of the Town or within those affected unincorporated areas today;

B. The annexation reports filed by the Town as required by Section 171.042, Florida Statutes, including the portions thereof addressing fire rescue and emergency medical services, are legally defective.

C. Ordinance No. 2007-12, contrary to the requirements of law, including but not limited to Section 171.0413 of the Florida Statutes, improperly extends the sunset of the Ordinance through December 31, 2012, well beyond the identified special election date of March 11, 2008, or the next regularly scheduled election date of August 26, 2008. Even if the Ordinance had not identified a “special election date,” the Ordinance, by seeking to extend the sunset of the Ordinance through December 31, 2012, is in contravention of the purpose, intent, and procedures set forth in Chapter 171 of the Florida Statutes and the due process required by the United States and the Florida Constitutions and law.

D. Also with respect to Ordinance No. 2007-12, the legal description and map that form a material part thereof conflict and are not consistent with each other.

E. The Town did not afford the County procedural due process as required by the United States and Florida Constitutions and by Chapter 171 of the Florida Statutes.

F. The annexation consent forms distributed by the Town to property owners inside the Isleworth community are vague, ambiguous, overbroad, and otherwise legally defective.

Section 3. Effective date. This Resolution shall become effective upon the date of its adoption.

ADOPTED this 29th DAY of JANUARY, 2008.

Orange County, Florida
By: Board of County Commissioners

By: Richard T. Crotty
Richard T. Crotty
Orange County Mayor

ATTEST: Martha O. Haynie, Orange County Comptroller
as Clerk of the Board of County Commissioners

By: _____
Deputy Clerk
Print Name: MARLENE JOHNSON

