



MIAMI BEACH

OFFICE OF THE CITY ATTORNEY

JOSE SMITH, CITY ATTORNEY

COMMISSION MEMORANDUM

**TO: MAYOR MATTI HERRERA BOWER
MEMBERS OF THE CITY COMMISSION
CITY MANAGER JORGE M. GONZALEZ**

FROM: CITY ATTORNEY JOSE SMITH *DPB*

DATE: DECEMBER 8, 2010

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, INITIATING CONFLICT RESOLUTION PROCEDURES PROVIDED BY SECTION 164.1052 OF THE FLORIDA STATUTES PRIOR TO INITIATING LITIGATION AGAINST THE CITY PENSION FUND FOR FIREFIGHTERS AND POLICE OFFICERS IN THE CITY OF MIAMI BEACH ("PENSION FUND") WITH REGARD TO THE PENSION FUND'S POSITION NOT TO IMPLEMENT THE TERMS OF CITY OF MIAMI BEACH ORDINANCE NO 2010-3705 AS THEY RELATE TO PENSION FUND MEMBERS.

Based upon the conflict created by the position of the Firefighters and Police Officers Pension Fund not to implement the collectively bargained changes to its pension fund as adopted in Ordinance No. 2010-3715, the dispute resolution procedures set forth in the Florida Governmental Conflict Resolution Act are necessary prior to the initiation of court proceedings against the Pension Fund by the City. Therefore, the attached Resolution is submitted for consideration by the Mayor and City Commission so that the appropriate dispute resolution procedures may be initiated.

Agenda Item C7H
Date 12-8-10

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, INITIATING CONFLICT RESOLUTION PROCEDURES PROVIDED BY SECTION 164.1052 OF THE FLORIDA STATUTES PRIOR TO INITIATING LITIGATION AGAINST THE CITY PENSION FUND FOR FIREFIGHTERS AND POLICE OFFICERS IN THE CITY OF MIAMI BEACH ("PENSION FUND") WITH REGARD TO THE PENSION FUND'S POSITION NOT TO IMPLEMENT THE TERMS OF CITY OF MIAMI BEACH ORDINANCE NO. 2010-3705 AS THEY RELATE TO PENSION FUND MEMBERS.

WHEREAS, on November 17, 2010, the City of Miami Beach adopted Ordinance No. 2010-3705 which enacted changes to the Pension Fund affecting members of the Pension Fund; and

WHEREAS, the City of Miami Beach has been notified by the Pension Fund that it has taken the position that it will not implement the changes adopted in Ordinance No. 2010-3705 as such changes pertain to its members; and

WHEREAS, the Florida Governmental Conflict Resolution Act, in Section 164.1052 of the Florida Statutes, provides that the governing body of a governmental entity shall initiate conflict resolution procedures through the passage of a resolution by its members which states that it is the intention of the governing body to initiate conflict resolution procedures prior to initiating court proceedings.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that it is the intention of the Mayor and City Commission to initiate conflict resolution procedures, as provided in Section 164.1052 of the Florida Statutes, against the City Pension Fund for Firefighters and Police Officers in the City of Miami Beach prior to the initiation of court proceedings to resolve the conflict created by the Pension Fund's position that it will not implement the terms in Ordinance No. 2010-3705 as they relate to Pension Fund members.

PASSED and ADOPTED this _____ day of December, 2010.

ATTEST:

MATTI HERRERA BOWER
MAYOR

ROBERT PARCHER, CITY CLERK
CITY CLERK

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

Donna P... 12/1/10

CITY ATTORNEY DATE