

TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Marcie Nolan, Acting Development Services Director 954-797-1074

PREPARED BY: Le Nguyen, P.E., Town Engineer 954-797-1175

SUBJECT: Resolution

AFFECTED DISTRICT: 4

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ENTERING INTO AN INTERLOCAL AGREEMENT WITH THE TOWN OF SOUTHWEST RANCHES RELATING TO THE PERMITTING, MAINTENANCE, AND FUTURE CONVEYANCE OF S.W. 54TH PLACE; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: Southwest Ranches desires SW 54th Place be paved and redesigned to rural rodways criteria. It is located partially in Davie, partially in Southwest Ranches and the western portion resides totally in Southwest Ranches. This would require Southwest Ranches to maintain this roadway and to authorize the future conveyance through annexation and de-annexation of the roadway from Davie to Southwest Ranches.

PREVIOUS ACTIONS: None

CONCURRENCES: None

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

If yes, expected cost: \$

Account Name:

If no, amount needed: \$

What account will funds be appropriated from:

Additional Comments:

RECOMMENDATION(S): Staff finds the subject item compete and suitable for transmittal to Town Council for future consideration.

Attachment(s): Resolution and Interlocal Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ENTERING INTO AN INTERLOCAL AGREEMENT WITH THE TOWN OF SOUTHWEST RANCHES RELATING TO THE PERMITTING, MAINTENANCE, AND FUTURE CONVEYANCE OF S.W. 54th PLACE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Davie (the “Davie”) and the Town of Southwest Ranches (“Ranches”) desire to enter into an Interlocal Agreement pursuant the “Florida Interlocal Cooperation Act of 1969” relating to the permitting, maintenance, and future conveyance of S.W. 54th Place; and

WHEREAS, S.W. 54th Place is a rural dead end cul-de-sac roadway that only accesses a small parcel located within the Ranches; and

WHEREAS, S.W. 54th Place is generally located at the intersection of Volunteer Road (SW 148th Avenue) directly between Ivanhoe Estates (P.B. 100, Pg. 17) and Waterford (P.B. 116, Pg. 43), with no access to either community; and

WHEREAS, the eastern portion of S.W. 54th Place is located partially in Davie partially in the Ranches and the western portion resides totally in the Ranches; and

WHEREAS, Davie currently neither maintains nor services its portion of S.W. 54th Place; and

WHEREAS, Ranches desires S.W. 54th Place to be paved and redesigned in accordance with the Ranches rural roadways criteria, and

WHEREAS, since the Ranches’ rural roadway criteria differs from Davie’s roadway criteria, this Agreement is necessary to enable the Ranches to permit the installation of this roadway; and

WHEREAS, since S.W. 54th Place fails to access any parcels in Davie this Agreement also serves to require the Ranches to maintain this roadway and to authorize the future conveyance through annexation and de-annexation of this roadway from Davie to the Ranches; and

WHEREAS, Davie and Ranches have determined that it is mutually beneficial and in the best interest of the public to enter into this Interlocal Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The above recitals are true and correct and are incorporated herein by reference.

SECTION 2. The Town Council hereby approves the Interlocal Agreement between the Town of Davie and the Town of Southwest Ranches relating to the permitting, maintenance, and future conveyance of S.W. 54th Place, as specifically delineated in Exhibit "A", which has been attached hereto and has been incorporated herein by reference.

SECTION 3. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2008

MAYOR/COUNCILMEMBER

Attest:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 2008

INTERLOCAL AGREEMENT

BETWEEN

TOWN OF DAVIE

and

TOWN OF SOUTHWEST RANCHES

Providing for

PERMITTING, MAINTENANCE, and FUTURE CONVEYANCE OF S.W. 54th
PLACE

This Interlocal Agreement is made by and between TOWN OF DAVIE, a municipal corporation of the State of Florida (Hereinafter referred to as “DAVIE”), and the TOWN OF SOUTHWEST RANCHES, a municipality to Chapter 163.01, Florida Statutes, also known as corporation of the State of Florida (hereinafter referred to as “RANCHES”).

WHEREAS, this Agreement is entered into pursuant the “Florida Interlocal Cooperation Act of 1969;” and

WHEREAS, S.W. 54th Place is a rural dead end cul-de-sac roadway that only accesses a small parcel located within the RANCHES; and

WHEREAS, S.W. 54th Place is generally located at the intersection of Volunteer Road (SW 148th Avenue) directly between Ivanhoe Estates (P.B. 100, Pg. 17) and Waterford (P.B. 116, Pg. 43), with no access to either community; and

WHEREAS, the eastern portion of S.W. 54th Place is located partially in DAVIE partially in the RANCHES and the western portion resides totally in the RANCHES; and

WHEREAS, DAVIE currently neither maintains nor services its portion of S.W. 54th Place; and

WHEREAS, RANCHES desires S.W. 54th Place to be paved and redesigned in accordance with the RANCHES rural roadways criteria, and

WHEREAS, since the RANCHES’ rural roadway criteria differs from DAVIE’S roadway criteria, this Agreement is necessary to enable the RANCHES to permit the installation of this roadway; and

WHEREAS, since S.W. 54th Place fails to access any parcels in DAVIE this Agreement also serves to require the RANCHES to maintain this roadway and to

authorize the future conveyance through annexation and de-annexation of this roadway from DAVIE to the RANCHES.

WHEREAS, DAVIE and TOWN have determined that it is mutually beneficial and in the best interest of the public to enter into this Interlocal Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms and conditions set forth herein, and other good and valuable consideration, DAVIE and TOWN do hereby agree as follows:

ARTICLE I
BACKGROUND, PURPOSE AND INTENT

- 1.1 The above recitals are true and correct and incorporated herein as if set forth in full hereunder.
- 1.2 It is the purpose and intent of this Interlocal Agreement to provide for the permitting, maintenance, and the future conveyance of S.W. 54th Place.

ARTICLE 2
PERMITTING

- 2.1 DAVIE agrees that the RANCHES is hereby authorized and given the sole municipal jurisdiction and authority to permit the construction of S.W. 54th Place in accordance with the RANCHES Unified Land Development Code.

ARTICLE 3
MAINTENANCE

- 3.1 RANCHES agrees to maintain S.W. 54th Place in accordance with the requirements of its Unified Land Development Code regulations.

ARTICLE 4
INDEMNIFICATION

- 4.1 RANCHES agrees to indemnify, defend, protect and hold DAVIE, its officers, agents, and employees harmless from and against any and all costs, losses, liabilities and expenses arising in connection with any liability, claim, threatened claim, action, lawsuit, damages or any other matter which DAVIE would be required to reply and/or defend, as it may directly relate to the development and maintenance of S.W. 54th Place.

ARTICLE 5
CONVEYANCE OF S.W. 54th PLACE

- 5.1 RANCHES and DAVIE agree that S.W. 54th Place only services the RANCHES and that it is in the best interests of both parties for S.W. 54th Place to be in the sole jurisdiction of the RANCHES. Accordingly, both parties agree that those portions of S.W. 54th Place lying in DAVIE shall be de-annexed by DAVIE and annexed into the RANCHES. Said de-annexation/annexation shall occur in accordance with the requirements of Chapter 171, Florida Statutes, as may be amended from time to time, or through a Special Act of the Florida legislature.

ARTICLE 6
LIABILITY

- 6.1 TOWN and DAVIE are state agencies or political subdivisions as defined in Chapter 768.28, Florida Statutes, and agree to be fully responsible for acts and omissions of their respective agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter, whether arising out of this Interlocal Agreement or any other contract.

ARTICLE 7
TERMINATION

- 7.1 This Interlocal Agreement shall be terminated upon the finalization of the conveyance of S.W. 54th Place as delineated in Section 5 above.

ARTICLE 8
MISCELLANEOUS

- 8.1 Joint Preparation: The preparation of this Interlocal Agreement has been a joint effort of the parties hereto and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.
- 8.2 Merger: This Interlocal Agreement incorporates and includes all prior negotiations, correspondence, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Interlocal Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written. It is further agreed that no change, amendment, alteration or modification in the terms and conditions contained herein shall be effective unless contained in a written document

executed with the same formality and of equal dignity herewith by all parties to this Interlocal Agreement.

- 8.3 Contract Administrators: The Contract Administrators for this Interlocal Agreement are the Town of Davie's Town Administrator or designee for DAVIE, and RANCHES' Town Administrator or designee for RANCHES, in the implementation of the terms and conditions of this Interlocal Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the respective Contract Administrators.
- 8.4 Governing Law and Venue: This Interlocal Agreement shall be governed, construed and controlled according to the laws of the State of Florida without regard to the conflict of laws provisions. Any claim, objection or dispute arising out of the terms of this Interlocal Agreement shall be litigated in the Seventeenth Judicial Circuit in and for Broward County, Florida.
- 8.5 Severability: In the event a portion of this Interlocal Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless RANCHES or DAVIE elects to terminate this Interlocal Agreement. An election to terminate this Interlocal Agreement based upon this provision shall be made within seven (7) calendar days after the court determination becomes final. For the purposes of this section, "final" shall mean the expiration of time within which to file an appeal or the conclusion of any appellate proceeding and the granting of an order. In such an event, RANCHES and DAVIE agree to cooperate fully with the other to effectuate a smooth transition of services.
- 8.6 Notices: Whenever either party desires to give notice to the other, such notice must be in writing and sent by United States mail, return receipt requested, courier, evidenced by a delivery receipt or by an overnight express delivery service addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice. Notice shall be effective upon delivery.

FOR DAVIE:
Gary Shimun,
Town Administrator
Town of Davie
6591 Orange Drive
Davie, FL 33314

FOR RANCHES:
Christopher J. Russo,
Town Administrator
Town of Southwest Ranches
3111 Stirling Road
Ft. Lauderdale, FL 33312

- 8.7 Third Party Beneficiaries: Neither RANCHES nor DAVIE intend that any person shall have a cause of action against either of them as a third party beneficiary

under this Interlocal Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Interlocal Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Interlocal Agreement. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Interlocal Agreement.

- 8.8 Materiality and Waiver of Breach: DAVIE and RANCHES agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Interlocal Agreement and, therefore, is a material term hereof.

Either party's failure to enforce any provision of this Interlocal Agreement shall not be deemed a waiver of such provision or modification of this Interlocal Agreement. A waiver of any breach of a provision of this Interlocal Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Interlocal Agreement.

- 8.9 Compliance with Laws: The parties shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Interlocal Agreement.

- 8.10 Priority of Provisions: If there is a conflict or inconsistency between any term, statement, requirement, or provision of any Exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Interlocal Agreement by reference and a term, statement, requirement, or provision of this Interlocal Agreement, the term, statement, requirement, or provision contained in Articles 1 through 6 of this Interlocal Agreement shall prevail and be given effect.

- 8.11 Amendments: Except as expressly authorized in this Interlocal Agreement, no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Interlocal Agreement and executed by DAVIE and RANCHES.

- 8.12 Conflicts: Neither party nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with that party's loyal and conscientious exercise of judgment related to its performance under this Interlocal Agreement.

The parties agree that none of its officers or employees shall, during the term of this Interlocal Agreement, serve as an expert witness against the other in any legal or administrative proceeding related to performance under this Interlocal Agreement in which he or she is not a party, unless compelled by court process. Further, the parties agree that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse

or prejudicial to the interests of the other party or in connection with any such pending or threatened legal or administrative proceeding related to the performance under this Interlocal Agreement. The limitations of this section shall not preclude either party or any other persons from representing themselves in any action or in any administrative or legal proceeding related to the performance under this Interlocal Agreement.

8.13 Independent Contractor: RANCHES and DAVIE are independent contractors under this Agreement. Services provided by the parties shall be by employees, agents or approved subcontractors of the respective party and subject to supervision by that party. In providing such services, neither RANCHES' or DAVIE's officers, employees, agents or approved subcontractors shall act as officers, employees, or agents of the other party. This Agreement shall not constitute or make the parties a partnership or joint venture. Personnel policy, tax responsibilities, social security, health insurance, employee benefits, travel, per diem policy, purchasing policies and any other similar administrative procedures applicable to services rendered under this Agreement shall be those of the respective party.

IN WITNESS WHEREOF, the parties have made and executed this Interlocal Agreement on the respective dates under each signature: TOWN OF DAVIE through its Town Council, signing by and through its Mayor, authorized to execute same by its Town Council action on the _____ day of _____, 2008, and TOWN OF SOUTHWEST RANCHES, signing by and through its Mayor duly authorized to execute same by Council action on the _____ day of _____, 2008.

WITNESSES:

2008

ATTEST:

Russell C. Muniz, Town Clerk

(CORPORATE SEAL)

TOWN OF DAVIE

By:

Thomas Truex, Mayor

____ day of _____,

APPROVED AS TO FORM:

By:

John Rayson, Town Attorney

WITNESSES:
RANCHES

2008

Administrator

ATTEST:

Susan A. Owens, CMC, Town Clerk

(CORPORATE SEAL)

FTL_DB: 1109830_1

TOWN OF SOUTHWEST

By:

Mecca Fink, Mayor

____ day of _____,

By:

Christopher J. Russo, Town

APPROVED AS TO FORM:

By:

Gary A. Poliakoff, J.D
Town Attorney