

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, OPPOSING THE BROWARD COUNTY INSPECTOR GENERAL'S PROPOSAL TO AMEND SEC. 1-19 OF THE BROWARD COUNTY CODE OF ETHICS FOR ELECTED OFFICIALS, RELATING TO LEGAL ADVISORY OPINIONS (SAFE HARBOR OPINIONS); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on August 20, 2010, the Board of County Commissioners ("Board") enacted Ordinance No. 2010-22, a "Code of Ethics for the Broward County Commissioners" (Codified as Sec. 1-19 of the Broward County Code of Ordinances) ; and

WHEREAS, on November 2, 2010, Broward County's voters approved an amendment to the Broward County Charter providing that County ordinances shall prevail over municipal ordinances whenever the County acts to regulate the conduct of elected officials, appointed officials, and public employees in Broward County through an enacted code of ethics; and

WHEREAS, also on November 2, 2010, the County's voters approved an amendment to the Broward County Charter that created a charter-based Office of Inspector General ("OIG"); and

WHEREAS, on October 11, 2011, the Board enacted Ordinance No. 2011-19, which was effective January 1, 2012, amending the Code of Ethics for the Broward County Commissioners to expand the Code of Ethics to municipal officials; and

WHEREAS, Sec. 1-19 (c)(8) sets forth that any elected official may request an advisory opinion (Safe Harbor Opinion) from their respective City Attorney relating to how the Broward County Code of Ethics applies to his or her situation and such advisory opinions shall be binding on the conduct of the elected official covered by the opinion unless material facts were omitted or misstated in the request for the advisory opinion; and

WHEREAS, on October 13, 2016, the OIG submitted a memorandum to the members of the ethics subcommittee of the Broward Charter Review Commission which set forth the OIG's observations and findings regarding matters under the Commission's purview relating to the Code of Ethics suggesting that and such reforms be placed on the 2018 ballot; and

WHEREAS, Appendix G of the October 13, 2016, memo set forth the OIG's recommendation for the creation of an Ethics Officer who would be independent of the OIG's office, for the "uniform adjudication, training and guidance in relation of the Code of Ethics" which would have the Ethics Officer as the centralized authority to provide binding legal advisory opinions for all elected officials, as requested; and

WHEREAS, on December 2, 2016, the Broward County Inspector General Selection & Oversight Committee, at its hearing, voted unanimously to recommend adoption/approval of all seven (7) revisions proposed by the OIG; and

WHEREAS, the Ethics Subcommittee will discuss, and possibly vote to forward, the OIG recommendations to the Charter Review Commission during its January 23, 2017; and

WHEREAS, Article VII of the City of Hollywood Charter, specifically Section 7.02 (b)(1), states that the city attorney shall "Act as the legal advisor to and counselor for the municipality, and all of its officers, in matter relating to their official duties"; and

WHEREAS, Section 166.021, Florida Statutes sets forth the powers of a municipality pursuant to the Municipal Home Rule Act and Section 166.021(1) expressly states that "As provided in s.2(b), Art. VIII of the State Constitution, municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as prohibited by law; and

WHEREAS, the OIG's proposal to amend Sec. 1-19(c)(8) to eliminate the ability of the City Attorney to render legal advice to their elected officials directly conflicts with both the City of Hollywood's Charter and the Municipal Home Rule Act; and

WHEREAS, at the December 2, 2016, meeting, Mayor Stermer of Weston, as Chair of Broward League of Cities Ethics Task Force, addressed the Ethics Subcommittee as to the position of the League and stated that the League's position is that there is not a problem that merits having an Ethics Commission; and

WHEREAS, the OIG's proposal would usurp the attorney/client privilege between the elected officials and their counsel, the ability of one Ethics Officer to timely render opinions for 32 municipalities and 1 county is of great concern, and there is no direct evidence that the current structure has caused any conflicts or issues in accordance with the Code of Ethics;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

SECTION 1: That the foregoing recitals are hereby ratified and confirmed as true and correct by the City Commission and incorporated herein.

SECTION 2: That the City Commission urges each member of the Ethics Subcommittee of the Broward County Charter Commission to vote against recommending adoption/approval of the OIG's proposals, as set forth in his October 16, 2016 memorandum.

SECTION 3: That the appropriate City officials are hereby authorized and directed to cause a copy of this Resolution to be delivered to each member of the Ethics Subcommittee of the Broward County Charter Review Commission.

SECTION 4: That this Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017.

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JOSH LEVY, MAYOR

ATTEST:

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PATRICIA A. CERNY, MMC  
CITY CLERK

APPROVED AS TO FORM AND LEGALITY  
for the use and reliance of the  
City of Hollywood, Florida, only.

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JEFFREY P. SHEFFEL, CITY ATTORNEY