

GOLDEN BEACH, FLORIDA

RESOLUTION NO. 977.96

RESOLUTION NO. 977.96 OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA; REQUESTING THE TOWN OF GOLDEN BEACH AND THE OTHER PARTY PLAINTIFFS TO VOLUNTARILY DISMISS THEIR FEDERAL COURT ACTION IN TOWN OF GOLDEN BEACH. BIODIVERSITY ASSOCIATES, THE AMERICAN LITTORAL SOCIETY, INC., RICHARD JACKSON, AND DONALD J. DUERR V. DISTRICT ENGINEER, U.S. ARMY CORPS OF THE ENGINEERS, ET AL., AND TO COOPERATE IN THE EFFORTS TO RENOURISH THE BEACHES IN THE CITY OF MIAMI BEACH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of Golden Beach (hereinafter "Golden Beach") has received through legal counsel a copy of Resolution 96-21885 passed on February 7, 1996 by the City of Miami Beach City Commission (hereinafter "Miami Beach"), and

WHEREAS, Resolution No. 96-21885 is urging Golden Beach and the other Plaintiffs to voluntarily dismiss their action in the case of Town of Golden Beach, Biodiversity Associates, The American Littoral Society, Inc., Richard Jackson, and Donald J. Duerr v. District Engineer, U.S. Army Corps of the Engineers, et al., U.S. District Court for the Southern District of Florida, Case No. 94-1816-CIV-UNGARO-BENAGGES; and

WHEREAS, the Army Corps of Engineers embarked on a course without adequate studies. This is a classic example where an Environmental Impact Study should have been done along with the Environmental Assessment.

WHEREAS, each time beach renourishment offshore dredging had occurred in the past, substantial damage to the reefs was done by the contractor, even though it had been assured that reef damage would not be caused; the actions spoke louder than the words of the contractor; and

WHEREAS, it is acknowledged that only approximately 25% of the project was completed before the Preliminary Injunction was entered by the court, stopping the work, but the dredging to that point caused extensive documented damage to the reefs and much more damage would have occurred had the project been permitted to continue; and

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WHEREAS, the excavation site offshore from the Town of Golden Beach is the last available borrow area and offers only a temporary solution with permanent damage, and alternative borrow areas will again be needed in a few years; and

WHEREAS, the Army Corps of Engineers moved in January 1996 to expedite the litigation and then moved for extensions of time for filing pleadings which were due in February 1996. Thus delaying the April 1996 trial to June 1996 causing further delay and uncertainty in this process;

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

Section 1. That the above preambles are hereby adopted.

Section 2. That Golden Beach shares the concern of Miami Beach that the beach should be renourished in a responsible way.

Section 3. That Miami Beach is urged to support an alternative source of sand than the borrow areas offshore of Golden Beach since Bahamian Aragonite sand and inland Florida sources are available. If further testing of Bahamian sand is needed, then the test sites should be on Miami Beach where the renourishment of the beach will benefit Miami Beach.

Section 4. That the Town Clerk is authorized and directed to provide copies of this resolution to the Miami Beach City Commission and the other officials listed in Resolution No. 96-21885.

Section 5. Effective Date. That this Resolution shall become effective upon approval of the Town Council.

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The Motion to adopt the foregoing Resolution on first reading was offered by Councilman Rosenthal, seconded by Vice Mayor Fistel and on roll call the following vote ensued:

Mayor Cuenca	<u>Aye</u>
Vice Mayor Fistel	<u>Aye</u>
Councilman Addicott	<u>Aye</u>
Councilwoman Lowrance	<u>Absent</u>
Councilman Rosenthal	<u>Aye</u>

PASSED AND ADOPTED on second reading this 30th day of

April, 1996.

Judy Cuenca
MAYOR JUDY CUENCA

ATTEST:
Pat Mongiello
TOWN CLERK PAT MONGIELLO
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

CERTIFICATION

I certify this to be a true and correct copy of the record in Town Hall files.
WITNESSETH my hand and official seal of the Town of Golden Beach, Florida, this 16th day of May, 1996

Pat Mongiello
TOWN CLERK

Jon M. Henning
JON M. HENNING
TOWN ATTORNEY