



April 16, 2021

**RE: Solid Waste District**

Dear Colleagues:

As you may be aware, the Broward County Solid Waste Working Group, at its March 1, 2021 meeting, voted in favor of pursuing an Independent Solid Waste District to address Broward County's many current solid waste disposal and recycling issues and to ensure that we have the necessary facilities and capacity far into the future. The conclusion, after months of study, was that we need a system in place whose sole purpose is addressing solid waste in Broward County and it needs to cover the entirety of the County. A system where cities opt in and out will not be effective.

Historically, the approach to solid waste management in Broward County has been shortsighted and poorly planned. The best example of this would be the fact that through the now dissolved Resource Recovery Board (RRB), the public paid for the construction and operation of Waste-to-Energy (WTE) facilities yet did not retain ownership of them. Now we find ourselves in a situation where Waste Management, the original owner of the two WTE plants, has sold one to another private entity and more importantly, while still operational, closed down the other one. All this, at a time when the County continues to grow and produce more trash than ever.

As elected officials, we should all be extremely concerned of the fact that we are landfilling more and recycling less. We should recognize that our counterparts in Palm Beach County and other localities have done a far better job managing their solid waste disposal needs and learn from them. We need to put aside any differences and ensure we have a plan for the disposal of solid waste and recycling for the long term.

Therefore, in Coconut Creek, we fully support the recommendations of the Consultant (Arcadis) and the Technical Advisory Committee, and support the Solid Waste Working Group's decision. We hope that you will do the same.

Broward County Municipalities

Page 2

April 15, 2021

As there has been much discussion over the past year and a half regarding the pros and cons of the various types of governance structures, it is clear that processing all that information can be confusing and time consuming. To that end, I have attached an FAQ document for your review that I believe clarifies any misconceptions regarding an Independent District and provides a more complete picture. A copy of our recently passed Resolution in support of the Solid Waste Working Group's recommendation is also included.

Thank you for your time and consideration. It is greatly appreciated. I look forward to working with you on this important issue.

Best Regards,



REBECCA A. TOOLEY

Mayor

cc: Coconut Creek City Commission  
Broward County Commission  
Municipal Elected Officials  
Broward County City Managers  
Bertha Henry, Broward County Administrator  
Karen M. Brooks, City Manager  
Terrill C. Pyburn, City Attorney



## **WHY AN INDEPENDENT SOLID WASTE DISTRICT FREQUENTLY ASKED QUESTIONS**

### **Why choose an Independent District over a Dependent District or an Interlocal Agreement?**

An Independent District ensures that all cities in Broward County participate, providing for lower per capita costs and greater economies of scale, as well as, ensuring County-wide flow control. Whereas, the Dependent District and Interlocal Agreements do not ensure that all cities participate, as participation is optional. More importantly, control of the assets is critical in any future governance structure. Due to the lack of ownership of assets with the Resource Recovery Board (RRB) ILA, a much needed Waste-to-Energy plant was closed and the processing of recycling in Broward County has been monopolized. If not for the initiative and efforts of the municipalities a couple of years ago, the Solid Waste Working Group would not exist today.

### **Can an Independent District be formed through an Interlocal Agreement?**

Technically, yes but it is really semantics. You can call it an Independent District, Independent Authority, etc. but it only has the same force and effect of an Interlocal Agreement. And an Interlocal Agreement does not ensure full participation by all cities to achieve the greatest benefit for the entire County.

### **What is flow control and why is it important?**

Regulatory flow control is a legal provision that allows state and local governments to designate the places where municipal solid waste (MSW) is taken for processing, treatment, or disposal. This is not to be confused with “economic flow control.” Regulatory flow control is important when trying to obtain financing and/or bonds for new facilities like Waste-to-Energy Plants and Material Recovery Facilities (MRF’s). Flow control ensures that these facilities receive enough materials to keep them functioning and financially viable. Ensuring that all the cities in Broward County participate is important in this regard and can only be guaranteed through the formation of an Independent District.

### **How is the Independent District funded?**

An Independent District has its own taxing authority and would receive funding through ad-valorem taxes and/or special assessments. While the Dependent District has the same funding options as an Independent District, it differs in that its taxing authority is subjected to and goes against Broward County’s millage cap limits. An entity created by Interlocal Agreement does not have taxing authority, it can only special assess.

### **How is the governance of an Independent District determined?**

The governance structure, operational plan, budgeting methods, etc. would be determined locally in the form of a local Bill to be brought before the State Legislature for approval. This would be a collaborative effort between Broward County and its municipalities through the Solid Waste Working Group. The language in the local Bill could be narrowly tailored to provide for a governing structure that is agreed to by the municipalities and the County, limits Tallahassee’s ability to interfere, and provides for even greater local control than an ILA or an dependent district.

## **Can the State Legislature change/edit or not approve the Bill?**

Yes they can. However, the Technical Advisory Committee (TAC) to the Solid Waste Working Group explored this issue extensively and was unable to identify any case regarding solid waste districts in which the State Legislature rejected and/or interfered in any manner, including the Solid Waste Authority of Palm Beach County, which was initially formed as an Independent District and has been in existence for over 40 years. Nor could the TAC identify any valid reason why the State Legislature would interfere in the formation of this particular type of District. If it were to occur, the difficult work associated with developing the detailed governance structure will have already been negotiated and could be used to move forward with an alternative form of governance.

## **Should we be worried about the State Legislature stepping in and taking local control away from the Independent District?**

Some would argue that the State Legislature has been hostile towards Broward County due to differences in political ideology, and in some cases there might be some truth behind that argument. However, as noted above there is no case history to support this ever happening with regards to a solid waste district nor has the State ever shown interest in getting into the business of solid waste. In fact, Florida Statutes delegate responsibility for solid waste to local County government:

### **403.706 Local government solid waste responsibilities.—**

- (1) The governing body of a county has the responsibility and power to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county.

To that end, even though the possibility exists, the likelihood of the State stepping in to take control of a local solid waste district, short of misfeasance or malfeasance, is highly improbable.

## **What is the vision for handling Broward County's solid waste in the future?**

Broward County must create a balanced vision for solid waste and recycling. The balance must include aggressive recycling, protection of the environment and the participation of all Broward County municipalities. That is why an independent body whose sole focus is solid waste and recycling is so critical.

## **Why an Independent Solid Waste District?**

For all the reasons noted herein, supplemented by the recommendations of the Solid Waste Working Group's expert Consultant (Arcadis) and our very own experts, the Technical Advisory Committee, which is made up of public works professionals that have many years of experience with solid waste and recycling and practical knowledge of the history of solid waste disposal in Broward County. An Independent District would be best suited to address the many solid waste issues facing Broward County now, and far into the future.



**RESOLUTION NO. 2021-061**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, SUPPORTING THE BROWARD COUNTY SOLID WASTE WORKING GROUP'S VOTE IN FAVOR OF AN INDEPENDENT SOLID WASTE DISTRICT IN BROWARD COUNTY FOR THE PURPOSE OF PROVIDING COUNTYWIDE SOLID WASTE DISPOSAL AND RECYCLING PROCESSING SERVICES; URGING BROWARD COUNTY AND BROWARD CITIES TO MOVE FORWARD THE NECESSARY BILL DRAFTING FOR THE INDEPENDENT SOLID WASTE DISTRICT; PROVIDING FOR DISTRIBUTION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, in 2018, the City of Coconut Creek, along with Broward County and its municipalities, procured a study from Arcadis U.S., Inc. to study and evaluate solid waste and recycling issues in Broward County, and make recommendations regarding the development of a regional integrated solid waste and recycling system in Broward County; and

**WHEREAS**, based on the recommendations of the aforementioned study, Broward County requested that interested municipalities execute a Memorandum of Understanding (MOU) to guide the process of developing a regional solid waste and recycling management system moving forward; and

**WHEREAS**, on August 8, 2019, the City Commission approved the aforementioned MOU between Broward County and the City of Coconut Creek to provide for the establishment of the Broward County Solid Waste & Recycling Working Group to form a collaborative and cooperative effort towards the development of a regional integrated solid waste and recycling system; and

**WHEREAS**, on December 6, 2019, the members of the Broward County Solid Waste & Recycling Working Group nominated and elected a Board of voting members from amongst the elected officials for the member cities; and

**WHEREAS**, the aforementioned Working Group members established a Technical Advisory Committee (TAC) consisting of solid waste professionals from the member cities to review, research, and provide professional expertise regarding the various types of governing structures provided for in the Arcadis report; and

**WHEREAS**, an independent district is the only form of governance which guarantees countywide flow control, as well as has full taxing authority independent of Broward County's millage cap; and

**WHEREAS**, on March 1, 2021, after much discussion and careful thought of all the reports and presentations, the Broward County Solid Waste & Recycling Working Group voted in favor of pursuing an Independent Solid Waste District for Broward County; and

**WHEREAS**, the City Commission of the City of Coconut Creek believes it is in the best interest of the City to support the formation of an Independent Solid Waste District for the purpose of providing a regional integrated system to manage solid waste disposal and recycling processing services in Broward County, Florida.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA:**

**Section 1:** That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this resolution.

**Section 2:** That the City Commission of the City of Coconut Creek, Florida supports the formation of an Independent Solid Waste District for the purpose of providing a regional integrated system to manage solid waste disposal and recycling processing services in Broward County, Florida.

**Section 3:** That the City Commission of the City of Coconut Creek urges the Public, Broward County, and its municipalities to support an Independent Solid Waste District and begin drafting the necessary legislation to effectuate such district.

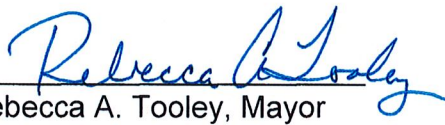
**Section 4:** That the City Manager, or designee, is hereby authorized to take any appropriate steps and actions necessary on behalf of the City to assist with the formation of the aforementioned independent district.

**Section 5:** That the City Clerk is hereby directed to distribute copies of this resolution to Broward County, all its municipalities, and the Broward League of Cities.


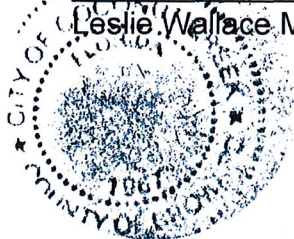
**Section 6:** That if any clause, section, other part or application of this resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or in application, it shall not affect the validity of the remaining portion or applications of this resolution.

**Section 7:** That this resolution shall be in full force and effect immediately upon its adoption.

Adopted this 8th day of April, 2021.

  
Rebecca A. Tooley, Mayor

Attest:

  
Leslie Wallace May, City Clerk  


Tooley	<u>Aye</u>
Rydell	<u>Aye</u>
Sarbone	<u>Aye</u>
Welch	<u>Aye</u>
Railey	<u>Aye</u>