

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Enact an Ordinance Removing Property from the Rural Area

**DEPARTMENT:** CAO **DIVISION:** \_\_\_\_\_

**AUTHORIZED BY:** Robert McMillan, County Attorney **CONTACT:** Kim Laucella, Asst. County Attorney **EXT.** 7253

<b>Agenda Date</b> <u>7/25/2006</u>	<b>Regular</b> <input type="checkbox"/>	<b>Consent</b> <input type="checkbox"/>	<b>Work Session</b> <input type="checkbox"/>	<b>Briefing</b> <input type="checkbox"/>
	<b>Public Hearing – 1:30</b> <input checked="" type="checkbox"/>		<b>Public Hearing – 7:00</b> <input type="checkbox"/>	

**MOTION/RECOMMENDATION:**

- 1) Enact an Ordinance Removing Property from the Rural Area; Amending the Rural Boundary; Providing for Codification; and Providing for an Effective Date.
- 2) Continue the item to a time and date certain.

**BACKGROUND:**

On September 2, 2004, the Board of County Commissioners adopted Ordinance No. 2004-36 proposing to the electors an amendment to the Seminole County Home Rule Charter that would establish a Rural Area within the County (the "Charter Amendment"). In establishing the proposed rural area, the Board of County Commissioners carefully excluded existing incorporated land. However, on October 25, 2004, the City of Winter Springs annexed certain property that was included within the proposed Rural Area (the "Rook Property") by City Ordinance No. 2004-48. Thereafter, the Charter Amendment was approved by referendum vote at the general election of November 2004.

After the Charter Amendment was approved by Seminole County voters, litigation ensued between the City and County regarding the legality of the annexation of the Rook Property as well as the validity of the Charter Amendment. The circuit court confirmed that the annexation was valid and therefore, the Rook Property is currently incorporated within the City. In a separate action, the circuit court also declared the Charter Amendment invalid. The County appealed that judgment to the Fifth District Court of Appeal, which issued a decision in favor of the County, and reversed that part of the circuit court's judgment invalidating the Charter Amendment. Therefore, the Rook

<b>Reviewed by:</b>
<b>Co Atty:</b> _____
<b>DFS:</b> _____
<b>Other:</b> _____
<b>DCM:</b> _____
<b>CM:</b> <u>CA</u>
<b>File No.:</b> <u>PHCAI</u>

Property currently remains within the Rural Area as established by the Charter Amendment.

The City has submitted a letter from Mayor Bush, dated June 12, 2006, requesting that the Board of County Commissioners adopt an ordinance removing the Rook Property from the Rural Area in exchange for the City's dismissal of pending litigation related to the Charter Amendment and a commitment by the City that it will forego future appeal of the decision by the Fifth District Court of Appeal. A copy of the City's letter is attached.

Pursuant to Article V, Section 1.2(b) of the Home Rule Charter, the Board of County Commissioners may remove property from the Rural Area by county ordinance, without need of further charter amendment.

On June 13, 2006, the Board directed the County Attorney's Office to return with an ordinance removing the Rook property from the Rural Area. A copy of the ordinance is attached.

Attachments:

6/12/2006 Letter  
Ordinance

**AN ORDINANCE REMOVING PROPERTY FROM THE RURAL AREA;  
AMENDING THE RURAL BOUNDARY; PROVIDING FOR  
CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS on September 2, 2004, the Board of County Commissioners adopted Ordinance No. 2004-36 proposing to the electors an amendment to the Seminole County Home Rule Charter that would establish a Rural Area within the County (the "Charter Amendment");

WHEREAS the Board of County Commissioners assiduously excluded existing incorporated land from the proposed Rural Area;

WHEREAS on October 25, 2004, certain property within the proposed Rural Area (the "Rook Property") was annexed into the City of Winter Springs by City Ordinance No. 2004-48;

WHEREAS, the Charter Amendment was approved by referendum vote at the general election of November 2004;

WHEREAS, the City of Winter Springs filed a civil action against Seminole County seeking to invalidate the Charter Amendment;

WHEREAS, the Circuit Court of the Eighteenth Judicial Circuit entered a final judgment declaring the Charter Amendment invalid;

WHEREAS, Seminole County appealed the Final Judgment of the Eighteenth Judicial Circuit to the Fifth District Court of Appeal;

WHEREAS, the Fifth District Court of Appeal reversed that part of the circuit court's judgment invalidating the Charter Amendment;

WHEREAS, the City of Winter Springs has requested that the Board of County Commissioners adopt an ordinance removing the Rook Property from the Rural Area in exchange for the City's immediate dismissal of pending litigation related to the Charter Amendment and the City's commitment to forego future appeal of the decision by the Fifth District Court of Appeal;

WHEREAS, pursuant to Article V, Section 1.2(b) of the Home Rule Charter, the Board of County Commissioners may remove property from the Rural Area, without need of further charter amendment, by county ordinance.

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:**

**Section 1. Removal of Property from the Rural Area and Amendment of the Rural Boundary.** Pursuant to Article V, Section 1.2(b) of the Home Rule Charter, the Rook Property, as specifically set forth in Exhibit A attached hereto and incorporated fully herein by this reference, is removed from the

Rural Area as of the effective date of this ordinance, and the Rural Boundary is accordingly amended.

**Section 2. Codification.** This Ordinance shall not be codified.

**Section 4. Effective Date.** This Ordinance shall take effect upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners.

**ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2006.

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

By: \_\_\_\_\_  
CARLTON D. HENLEY, Chairman

**EXHIBIT A**



METES & BOUNDS DESCRIPTION:

The North 1/2 of the Northeast 1/4 of the Southwest 1/4 of the Northwest 1/4 of Section 3, Township 21 South, Range 31 East, Seminole County, Florida, less the north 70.00 feet thereof, as described in Official Records Book 3137, Page 0122, Public Records of Seminole County, Florida,

Together with the North 70.00 feet of the West 165.00 feet of the Northeast 1/4 of the Southwest 1/4 of the Northwest 1/4 of Section 3, Township 21 South, Range 31 East, Seminole County, Florida, as described in Official Records Book 2856, Page 1376, Public Records of Seminole County, Florida,

Together with the North 70.00 feet of the East 165.00 feet of the West 330.00 feet of the Northeast 1/4 of the Southwest 1/4 of the Northwest 1/4 of Section 3, Township 21 South, Range 31 East, Seminole County, Florida, as described in Official Records Book 3569, Page 1133, Public Records of Seminole County, Florida, and being more particularly described as follows:

Beginning at the southeast corner of that parcel described in Official Records Book 3137, Page 0122, Public Records of Seminole County, Florida, being a point on the westerly right of way line of DeLeon Street and 30.00 feet west of the east line of the North 1/2 of the Northeast 1/4 of the Southwest 1/4 of the Northwest 1/4 of Section 3, Township 21 South, Range 31 East; thence run N 89°57'27" W along the south line of said North 1/2 a distance of 629.52 feet to the southwest corner of said parcel, being a point on the west line of said North 1/2; thence, N 00°09'38" W along said west line a distance of 332.07 feet to the northwest corner of that parcel described in Official Records Book 2856, Page 1376 Public Records of Seminole County, Florida, being the northwest corner of said North 1/2; thence, S 89°58'54" E along the north line of said North 1/2 a distance of 330.00 feet to the northeast corner of that parcel described in Official Records Book 3569, Page 1133, Public Records of Seminole County, Florida; thence, leaving said north line, run S 00°09'37" E a distance of 70.00 feet; thence, S 89°58'54" E along the south line of the north 70.00 feet of said North 1/2 a distance of 299.65 feet to the northeast corner of the aforesaid parcel described in Official Records Book 3137, Page 0122, being a point on the aforesaid westerly right of way line; thence S 00°07'55" E 30.00 feet west of and parallel with the east line of said North 1/2 and along said right of way line a distance of 262.34 feet to the Point of Beginning.

Containing 4.320 acres, more or less.



**JOHN F. BUSH**  
OFFICE OF THE MAYOR

## CITY OF WINTER SPRINGS, FLORIDA

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1126 EAST STATE ROAD 434  
WINTER SPRINGS, FLORIDA 32708-2799  
City Telephone: 407-327-5956  
Facsimile: 407-327-4753  
Personal Mobile: 407-256-6987  
Email: [jfbush@winterspringsfl.org](mailto:jfbush@winterspringsfl.org)  
City Website: [www.winterspringsfl.org](http://www.winterspringsfl.org)

June 12, 2006

*Via Hand Delivery*

Carlton Henley  
Chairman  
Seminole County Commission  
Sanford, Florida

**Re: Proposed Final Settlement of Seminole County v. City of Winter Springs**

Dear Chairman Henley:

This letter is to advise the Seminole County Commission (SCC) of the decision made on June 12, 2006 by the City Commission of Winter Springs to extend what the City believes could be a mutually acceptable proposal to bring a final solution to the aforementioned litigation related to the East Rural Area Charter Amendment.

The City Commission of Winter Springs respectfully requests that the SCC adopt an ordinance removing the Rook Property located within the City of Winter Springs from the East Rural Area as defined in the Charter Amendment. This action on the part of SCC would have the effect of removing all lands located within the corporate limits of Winter Springs from the East Rural Area, and thus, all lands already located within the corporate limits of the City of Winter Springs will not be subject to the East Rural Area Charter Amendment.

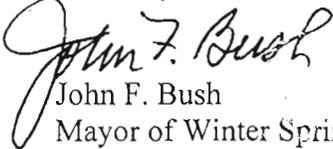
Upon adopting the ordinance removing the Rook Property from the East Rural Area, the City will immediately dismiss the aforementioned pending litigation related to the East Rural Area Charter Amendment and forego any future appeal of the recent decision by the Florida 5<sup>th</sup> District Court of Appeal.

In addition, the City would like to reiterate and confirm that the Winter Springs City Commission has already adopted a formal policy, by ordinance, establishing the eastern boundary of the City at Deleon Street. Further, the City Commission has committed to state this formal policy declaration in its Comprehensive Plan during the City's next Comprehensive Plan cycle.

It is the Winter Springs City Commission's desire that this settlement proposal will be mutually acceptable to the SCC and bring a final resolution to this issue which has divided the County and the City for a long period of time.

I understand that you will bring this proposal to the attention of the SCC at its regular meeting on June 13, 2006. The City would appreciate a response as soon as possible.

Sincerely,

A handwritten signature in black ink that reads "John F. Bush". The signature is written in a cursive style with a large, looping initial "J".

John F. Bush  
Mayor of Winter Springs

Cc: City Commission  
City Manager  
City Attorney