

REQUESTED COMMISSION ACTION:

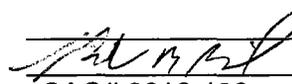
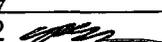
Consent Ordinance Resolution Consideration/ Discussion Presentation

SHORT TITLE A RESOLUTION OF THE CITY OF POMPANO BEACH, FLORIDA, SUPPORTING THE BROWARD METROPOLITAN PLANNING ORGANIZATION (MPO) AND THE CITY OF HOLLYWOOD IN ITS EFFORT TO COORDINATE THE CREATION OF A QUIET ZONE ALONG A PORTION OF THE FLORIDA EAST COAST RAILWAY CORRIDOR.

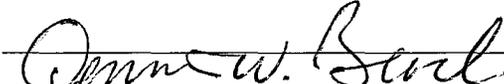
Summary of Purpose and Why:

The Broward County Metropolitan Planning Organization (MPO) has been coordinating an effort to establish a Quiet Zone along the Florida East Coast (FEC) rail road tracks within Broward County. There are eight (8) Cities participating in the formal application for a Quiet Zone and the City of Hollywood is the lead applicant. Administrative Memo #15-539 (attached) provides additional details regarding the Broward County Quiet Zone effort. Each of the participating municipalities must approve a resolution providing support to the application. Staff recommends the City Commission adopt this resolution showing support for the creation of a Quiet Zone. The attached resolution references a previous resolution regarding crossing agreements, which is also attached. Should the City adopt the resolution, the MPO and the City of Hollywood will then submit the Quiet Zone application.

- (1) Origin of request for this action: City of Pompano Beach
- (2) Primary staff contact: Robin M. Bird/ Maggie Barszewski Ext. 7921
- (3) Expiration of contract, if applicable: N/A
- (4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Dev. Services	11/13/15	Approval	
City Attorney	11/17/15		CAC# 2016-192 

Planning and Zoning Board
 City Manager 



ACTION TAKEN BY COMMISSION:

<u>Ordinance</u>	<u>Resolution</u>	<u>Consideration</u>	
<u>Workshop</u>			
1 st Reading	1 st Reading	Results:	Results:
2 nd Reading			

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY OF POMPANO BEACH, FLORIDA SUPPORTING THE BROWARD METROPOLITAN PLANNING ORGANIZATION (MPO) AND THE CITY OF HOLLYWOOD IN ITS EFFORT TO COORDINATE THE CREATION OF A QUIET ZONE ALONG A PORTION OF THE FLORIDA EAST COAST RAILWAY CORRIDOR.

WHEREAS, the Florida East Coast (FEC) Railway traverses many local government jurisdictions in Broward County; and

WHEREAS, All Aboard Florida (AAF) proposes to initiate passenger rail service on the FEC corridor in Broward County; and

WHEREAS, it is deemed in the public interest to mitigate the impacts of the anticipated additional train traffic on the FEC rail corridor; and

WHEREAS, all trains are required to sound their horn upon approaching each grade crossing; and

WHEREAS, a "quiet zone" in which trains are not required to sound a horn at grade crossings is an effective mitigation method; and

WHEREAS, the creation of a continuous quiet zone from the Miami-Dade border to the Palm Beach border within Broward County will provide the highest level of community benefit; and

WHEREAS, AAF intends to install additional supplemental safety measures at predetermined crossings to meet the federal requirements for the creation of a quiet zone; and

WHEREAS, the City of Pompano Beach through a previous resolution (No. 2015-59) approved an amendment to FEC crossing agreements for Quiet Zone-required railroad crossing improvements and any additional railroad crossing improvements consistent with their agreement with FEC Railway; and

WHEREAS, affected local governments are required to apply for quiet zone designation either individually or through a joint application; and

WHEREAS, the Broward MPO has offered to improve efficiency by assisting local governments and by coordinating the application for quiet zone designation.

WHEREAS, the City of Hollywood has offered to be the lead applicant for a county-wide quiet zone; now, therefore,

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That it hereby supports partnering with Broward County local government jurisdictions to seek designation of a continuous quiet zone that includes all grade crossings on the FEC Railway.

SECTION 2. That it hereby supports the Broward MPO in its effort to coordinate the application for quiet zone.

SECTION 3. That it hereby joins the City of Hollywood as the lead applicant in a county-wide quiet zone.

SECTION 4. That it hereby directs the City Clerk to transmit an executed copy of this resolution to the Cities of Deerfield Beach, Oakland Park, Wilton Manors, Fort Lauderdale, Dania Beach, Hollywood and Hallandale Beach, and to Broward County Government and to the Broward Metropolitan Planning Organization.

SECTION 5. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this _____ day of _____, 2015.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

MEB:jrm
11/17/15
l:reso/2016-47



MEMORANDUM

Development Services

MEMORANDUM NO. 15-539

DATE: September 30, 2015
TO: Robin Bird, Development Services Director
FROM: Maggie Barszewski, AICP, Planner *MB*
SUBJECT: Quiet Zone Update

Background

In preparation of the future passenger-rail service along the FEC corridor, and the subsequent increase in train horn usage, the Broward Metropolitan Planning Organization (MPO) had originally partnered with the Palm Beach MPO and applied for a Transportation Investment Generating Economic Recovery (“TIGER”) grant to fund the installation of mitigation measures at every FEC grade crossing that would enable the provision of a dual-county Quiet Zone. That grant was not awarded; therefore, the MPO has proceeded to cover the cost of coordinating the multi-jurisdictional effort to have a Broward Countywide Quiet Zone for the FEC corridor.

Status

The following Cities of Broward County are intersected by the Florida East Coast (FEC) Tracks: Pompano Beach; Deerfield Beach; Fort Lauderdale; Oakland Park; Wilton Manors; Dania Beach; Hollywood; and Hallandale Beach. With the coordination of the MPO, each affected Broward City has adopted resolutions amending previous FEC Crossing Agreements to allow All Aboard Florida (AAF) to install safety provisions at grade crossings within each city as it also builds the second track. AAF will be spending \$4.2 million to construct such safety improvements. In order to approve a Quiet Zone, Federal Railroad Administration (FRA) requires that targeted high-risk crossings be improved with Supplementary Safety Measures (SSMs) according to the FRA’s risk index. Within Pompano Beach, the targeted high-risk FEC crossings warranting SSMs are at Atlantic Boulevard and Sample Road.

Next Steps

At the September 22 Quiet Zone Workshop, the MPO explained that for multi-jurisdictional Quiet Zone Applications, there must be one lead city. For Broward County’s Application, the lead city will be Hollywood. They said the next steps to implementing the Quiet Zone are as follow:

1. Prior to January 1st 2016, all affected FEC cities within Broward Co. must adopt a resolution that follows the sample provided by the MPO (attached);

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Quiet Zone Update Continued

2. Hollywood will then submit the Application as the lead agency and the improvements will be installed concurrently (SSMs, lights, gate alarms, signage, etc.);
3. Then a “Notice of Intent” will be “filtered out” from the City of Hollywood listing which crossings will be included in the Quiet Zone (in this case, all those within the Broward FEC alignment), at which time all recipients will have a 60-day comment period;
4. Then a second notice is sent, referred to as a “Notice of Establishment,” with a specific day indicating when horns will cease.

Just for accuracy, however, number 2 above should be clarified to say that construction of improvements have actually started within the FEC Right-of-Way. Furthermore, I have been contacted by a consultant for All Aboard Florida to process an application for a “Maintenance of Traffic Permit” (MTF) to close streets at certain FEC crossings in Pompano Beach. Their last communication with me regards the intent to file MTF applications for the following streets with the respective closure schedule; Atlantic – closure 10/16/15; and NE 6th St – closure 10/24/15.

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER AMENDMENT WITH THE FLORIDA EAST COAST RAILWAY, L.L.C. AND ALL ABOARD FLORIDA OPERATIONS LLC TO AMEND THE CITY'S EXISTING CROSSING AGREEMENTS WITH FLORIDA EAST COAST RAILWAY, L.L.C. TO ALLOW ALL ABOARD FLORIDA OPERATIONS LLC TO MAKE IMPROVEMENTS AT CROSSINGS GOVERNED BY THE EXISTING AGREEMENTS AND FOR THEM TO INCUR THE INITIAL EXPENSES FOR INSTALLATION OF THOSE IMPROVEMENTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, All Aboard Florida (AAF) will be making certain upgrades at crossings in order to meet minimum standards to have passenger trains on the Florida East Coast (FEC) tracks; and

WHEREAS, these upgrades include rail improvements, asphalt modifications and signal upgrades; and

WHEREAS, under the terms of existing crossing agreements previously executed between the City and the FEC, the City would be financially responsible for these improvements, but AAF is willing to pay for these improvements if the City timely executes its proposed letter agreement attached hereto, by the end of October 2014; and

WHEREAS, the City Commission concurs that the initial development improvements should be paid for by AAF; and

WHEREAS, the amendment to the agreement indicates that while AAF will be paying for the initial development improvements, their doing so does not waive FEC's rights to charge for crossing improvements in the future; and

WHEREAS, pursuant to the existing crossing agreements previously approved by the City Commission, the City will be liable for any and all other maintenance costs of the improvements due subsequent to AAF paying the initial development cost; and

WHEREAS, the City Commission of the City of Pompano Beach deems it to be in the best interest of the citizens and residents of the City, to accept the proposed amendments to the crossing agreements, and authorizes the City Manager to execute the amendment as attached to effectuate the project; now, therefore,

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That the Letter Amendment to the existing railroad crossing agreements to effectuate the current upgrade project at AAF's expense, a copy of which is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

SECTION 2. That the City Manager is hereby authorized to execute said Letter Amendment.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this 28th day of October, 2014.



LAMAR FISHER, MAYOR

ATTEST:



MARY L. CHAMBERS, CITY CLERK

MEB/jrm
10/8/14
l:reso/2015-03



Robert B. Ledoux
Senior Vice President, General Counsel
and Corporate Secretary

June 14, 2014 VIA FEDEX

City of Pompano Beach
Mr. Dennis Beach
City Manager
100 West Atlantic Blvd.
Pompano Beach, FL 33060

Re: Agreement between Florida East Coast Railway, L.L.C. ("FECR"), City of Pompano Beach (the "Licensee") and All Aboard Florida – Operations LLC ("AAF") with regard to the documents listed on Exhibit A hereto (as amended and assigned to date, the "Crossing Agreements") relating to the crossings referenced therein (the "Crossings")

Dear Mr. Beach:

This letter shall serve to memorialize the agreement reached between Licensee, FECR and AAF relating to the Crossing Agreements in existence that govern the Crossings (as such Crossings are more particularly defined in the Crossing Agreements) and terms relating to the construction, maintenance and safety of such Crossings. Specifically, and without modification to any other term, obligation or condition set forth in the Crossing Agreements, Licensee, FECR and AAF hereby agree to the following terms and conditions, in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties:

AAF is developing an intercity passenger rail service from Miami to Orlando (the "Project").

AAF shall incur the necessary and reasonable capital investments to complete the initial installation of crossing improvements at the Crossings to the extent required for the Project to comply with currently applicable laws regarding safety at public crossings and commence passenger rail service (the "Initial Development Cost"). It is acknowledged and agreed, however, that the AAF's commitment to cover the Initial Development Cost for the installation of crossings improvements at the Crossings for the Project shall not encompass the cost of any other improvements to the Crossings, including any improvements required or desired by Licensee such as those related to the establishment of quiet zones. The Initial Development Cost expressly excludes any and all costs related to such other improvements.

In consideration of the foregoing, Licensee confirms the following:

- The Crossings, as improved for the Project, shall continue to be governed by the Crossing Agreements.
- The Licensee shall not be responsible for the Initial Development Cost, but shall be liable for any and all other costs due under the Crossing Agreements with respect to the Crossings as improved, provided, however, that Licensee shall be entitled to receive an estimate of any and all costs or expenses to be paid by Licensee pursuant to the Crossing Agreements at least ninety (90) days in advance of the date by which payment shall be due.

- AAF is an intended third-party beneficiary of the Crossing Agreements, with the right to enforce the terms and conditions thereof.
- Except as expressly provided herein with regard to the planned improvements to the Crossings, the Initial Development Cost and AAF's beneficiary status, all of the terms, conditions, covenants, agreements and understandings contained in the Crossing Agreements shall remain unchanged and in full force and effect, and the same are hereby expressly ratified and confirmed by the Licensee. This includes, without limitation, the Licensee's continuing obligations related to construction, maintenance, safety, future changes and upgrades to the Crossings and the reimbursement of costs, all of which would continue to be governed by the Crossing Agreements, provided, however, that Licensee shall be entitled to receive an estimate of any and all costs or expenses to be paid by Licensee pursuant to the Crossing Agreements at least ninety (90) days in advance of the date by which payment shall be due.

If these terms are acceptable, please sign this letter in the space provided at the end of this signature page and return that signed document to us. To facilitate this process, it is agreed that this letter will be executed in counterparts, each of which will be deemed to be an original copy of this letter and all of which, when taken together, will be deemed to constitute one and the same agreement. It is also agreed that signed counterparts may be transmitted electronically (as an Adobe PDF file) or by facsimile, and that delivery in that way shall have the same force and effect as the delivery of original signatures. Also, this letter will be construed in accordance with the laws of the State of Florida, without regard to conflict of laws principles. Please understand, however, that the terms of this letter and any offer presented herein will expire and shall be null and void on the date that is 60 days of the date hereof if it has not been executed and returned to us by then. Further, if the improvements at the Crossings for the Project are not completed by December 31, 2018, the terms of this letter and any offer presented herein will expire and will be null and void.

We do hope to hear from you soon and look forward to working together. If you should have any questions, please contact our team at your convenience.

Sincerely,

Florida East Coast Railway, L.L.C.

By: Robert B. Ledoux
 Print Name: ROBERT B. LEDOUX
 Print Title: SVP

All Aboard Florida – Operations LLC

By: Donald C. Robina
 Print Name: DONALD C. ROBINA
 Print Title: PRESIDENT + COO

**AGREED, ACKNOWLEDGED
AND CONFIRMED:**

City of Pompano Beach

By: SEE ATTACHED CITY SIGNATURE PAGE

Print Name: _____

Print Title: _____

Cc: Robert Ledoux, FECR
Margarita Martinez Miguez, AAF
Gordon Linn, Esq., City Attorney

"CITY":

Witnesses:

CITY OF POMPANO BEACH

Betty J. Moses

By: [Signature]
LAMAR FISHER, MAYOR

Christine Kendel

By: [Signature]
Dennis Beach
CITY MANAGER

Attest:

[Signature]
MARY L. CHAMBERS
CITY CLERK

(SEAL)

Approved As to Form:

[Signature]
GORDON B. LINN
CITY ATTORNEY

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 12th day of November, 2014 by LAMAR FISHER, as Mayor, DENNIS BEACH, as City Manager and MARY L. CHAMBERS, as City Clerk of the City of Pompano Beach, a municipal Florida corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:

[Signature]
NOTARY PUBLIC, STATE OF FLORIDA



KRYSTAL AARON
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE874865
Expires 2/14/2017

Krystal Aaron
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

EXHIBIT A
LIST OF CROSSING AGREEMENTS

N.E. 10th Street – DOT# 272526A

N.E. 6th Street – DOT# 272528N

Hammondville Road – DOT# 272531W

S.W. 2nd Street – DOT# 272534S