

RESOLUTION NO. 11-17

A RESOLUTION CHOOSING TO EXERCISE ITS POWER TO MAINTAIN A CIVIL SUIT AGAINST FOUNTAINBLEAU AND ANY OTHER PERSON OR ENTITY THAT MAY BE OR MAY HAVE BEEN COMPLICIT IN THE VIOLATION OF CHAPTER 26 OF THE TEXAS WATER CODE AND/OR CHAPTER 382 OF THE HEALTH AND SAFETY CODE; GRANTING AUTHORITY TO THE MAYOR TO EXECUTE SAID RESOLUTION, AND AUTHORIZING CITY SECRETARY TO AUTHENTICATE MAYOR'S SIGNATURE TO SAID RESOLUTION. GRANTING AUTHORITY TO THE CITY MANAGER TO EXECUTE ANY AND ALL OTHER INSTRUMENTS REQUISITE IN IMPLEMENTING SAID RESOLUTION, AND AUTHORIZING CITY SECRETARY TO AUTHENTICATE CITY MANAGER'S SIGNATURE TO ANY AND ALL OTHER INSTRUMENTS REQUISITE IN IMPLEMENTING SAID RESOLUTION.

A regular meeting of the City Council of the City of Commerce, Texas, was held in Commerce, Texas, at City Hall on the 17th day of May 2011, at 6:00 p.m.; a majority of Council Members being present and constituting a quorum, the following resolution was adopted;

WHEREAS, Fountainbleau Management, hereinafter, "Fountainbleau" operates a multi-unit housing complex named Live Oak Apartments at 2224 Live Oak Street; and

WHEREAS, In April, 2008, one of the buildings in the complex was destroyed by a fire; and

WHEREAS, despite specific warnings that such behavior was illegal, Fountainbleau and others made a financial decision to illegally store, dump and bury toxic materials found inside the burned building. These actions were committed in clear violation of the Texas Health and Safety Code and the Texas Water Code; and

WHEREAS, the intentional actions of Fountainbleau and others have threatened and continue to threaten the health, safety and welfare of the citizens of Commerce, Texas; and

WHEREAS, in order to exercise its right to maintain a civil suit for violation of Chapter 26 of the Texas Water Code and/or Chapter 382 of the Health and Safety Code, a Texas municipality must adopt a resolution authorizing that power under Texas Water Code section 7.352.

WHEREAS, authority to exercise this power was granted to the law firm of Scott, Money, Ray and Thomas, PLLC. through a contract approved by the Commerce City Council, the purpose of this resolution is to ensure compliance with Texas Water Code Section 7.352.

NOW THEREFORE BE IT RESOLVED by the City of Commerce that the City hereby chooses to exercise its power to maintain a civil suit against Fountainbleau and any other person or entity that may be or may have been complicit in the violation of Chapter 26 of the Texas Water Code and/or Chapter 382 of the health and Safety Code.

BE IT FURTHER RESOLVED, that the Mayor of the City of Commerce, Texas, be authorized and he is hereby authorized to execute said resolution.

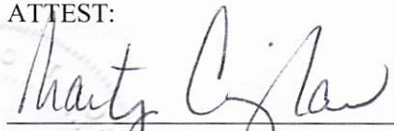
BE IT FURTHER RESOLVED, that the City Secretary be authorized and she is hereby authorized to authenticate the signature of the Mayor to said resolution.

BE IT FURTHER RESOLVED, that the City Manager of the City of Commerce, Texas, be authorized and he is hereby authorized to execute on behalf of the City of Commerce any and all instruments requisite to implementing said resolution.

BE IT FURTHER RESOLVED that the City Secretary be authorized and she is hereby authorized to attest to the signature of the City Manager to any and all instruments requisite to implementing said resolution.

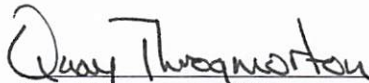
PASSED BY THE GOVERNING BODY of the City of Commerce, Texas, at a regular meeting of the City Council of the City of Commerce, Texas, on the 17th day of May 2011.

ATTEST:

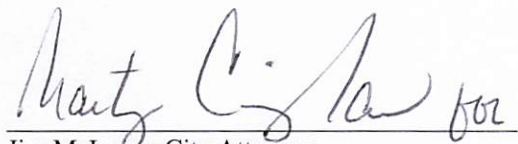

Marty Cunningham, City Secretary

(Seal)

CITY OF COMMERCE, TEXAS

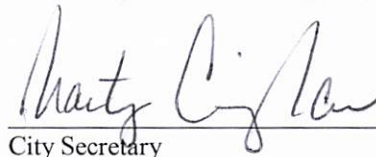

Quay Throgmorton, Mayor

APPROVED AS TO FORM:


Jim McLeroy, City Attorney

I, Marty Cunningham, City Secretary of the City of Commerce, Texas, do hereby certify that the above is a true and correct copy of a resolution, and that the same has not been repealed and is in full force and effect.

(seal)


City Secretary
City of Commerce, Texas

Sworn to and subscribed before me, on this the 18th day of May, 2011 to certify which witness my hand and seal of office.

(seal)


Notary Public
State of Texas

