



Board of County Commissioners

2401 SE Monterey Road
Stuart, Florida 34996

Agenda Item Summary

File ID: 23-0884

DEPT-4

Meeting Date: 6/6/2023

PLACEMENT: Departmental

TITLE:

REQUEST FOR PRIVATE ATTORNEY-CLIENT SESSION CONCERNING THE CASE OF R. ERIK, LLC V. MARTIN COUNTY; CASE NO. 23-14109-CIV-CANNON U.S. DIST. COURT, SDFL

EXECUTIVE SUMMARY:

The County Attorney desires to meet with the Board of County Commissioners and the County Administrator in a private attorney-client session, in accordance with Section 286.011(8), Florida Statutes, to obtain advice about strategy related to litigation expenditures in the case of R. Erik, LLC v. Martin County; Case No. 23-14109-CIV-CANNON.

DEPARTMENT: County Attorney

PREPARED BY: **Name:** Sarah W. Woods
Title: County Attorney

REQUESTED BY:

PRESET: **2:30 PM**

PROCEDURES: None

BACKGROUND/RELATED STRATEGIC GOAL:

On April 17, 2023, Plaintiff R. Erik, aka Wags About You pet store, filed a federal lawsuit. The case is in the U.S. Southern District Court of Florida, before Judge Aileen Cannon. On April 24, 2023, Plaintiff filed an Amended Complaint. On May 10, 2023, Plaintiff filed its Second Amended Complaint, which is the operative Complaint.

The lawsuit challenges County Ordinance 1192 regarding pet stores selling dogs pursuant to the 14th Amendment due process violations, and violation of state statutes, namely § 823.14, (Florida Right to Farm Act) and claiming the County is preempted under § 163.3162 (farm operations on agricultural land) and Chapter 828 (animal care and control) from enforcement of the Ordinance.

On May 18, 2023, Plaintiff filed a motion for a preliminary injunction to temporarily stop the enforcement date (June 30, 2023) by which pet stores must stop selling cats, dogs, and rabbits.

On May 22, 2023, the County filed its Motion to Dismiss.

On May 23, 2023, the Court issued an order directing the parties appear for a hearing on the request

for a preliminary injunction. The hearing is set for June 1, 2023.

ISSUES:

Issues concerning litigation and strategy will be discussed during the attorney-client session.

LEGAL SUFFICIENCY REVIEW:

This item has been reviewed for legal sufficiency to determine whether it is consistent with applicable law, has identified and addressed legal risks, and has developed strategies for legal defensibility.

RECOMMENDED ACTION:

RECOMMENDATION

Recommend that the Board agrees to meet with Don Donaldson, County Administrator; Sarah W. Woods, County Attorney; Elysse Elder, Deputy County Attorney; Melissa Pietrzyk, Senior Assistant County Attorney, in a private attorney-client session for approximately one hour, or less, in accordance with Section 286.011(8), Florida Statutes, for a strategy session regarding litigation expenditures concerning the case of R Erik, LLC v. Martin County; Case No. 23-14109-CIV-CANNON.

ALTERNATIVE RECOMMENDATIONS

None

FISCAL IMPACT:

RECOMMENDATION

None at this time.

ALTERNATIVE RECOMMENDATIONS

None

DOCUMENT(S) REQUIRING ACTION:

- | | | |
|--|---------------------------------------|---|
| <input type="checkbox"/> Budget Transfer / Amendment | <input type="checkbox"/> Chair Letter | <input type="checkbox"/> Contract / Agreement |
| <input type="checkbox"/> Grant / Application | <input type="checkbox"/> Notice | <input type="checkbox"/> Ordinance |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Resolution | |

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