



## Legislation Text

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File #: 20-831, Version: 1

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**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Department  
**THROUGH:** Jennifer Alvarez, Interim City Manager  
**DATE:** November 17, 2020

ORDINANCE NO. 46-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ANNEXING INTO THE CITY OF DELRAY BEACH, ONE PARCEL OF LAND LOCATED IMMEDIATELY WEST OF BARWICK ROAD AND IMMEDIATELY SOUTH OF CANAL L-30 AT 13029 BARWICK ROAD, WITH THE SAME BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS HEREIN; COMPRISING APPROXIMATELY ONE ACRE IN SIZE AND SITUATED CONTIGUOUS TO THE EXISTING MUNICIPAL LIMITS OF THE CITY OF DELRAY BEACH; PROVIDING FOR INCLUSION OF THIS ONE (1) PARCEL INTO THE CITY AND A REDEFINITION OF THE CITY BOUNDARIES PURSUANT TO SUB-SECTION 171.044(2), FLORIDA STATUTES; PROVIDING FOR CONFORMANCE WITH ALL VOLUNTARY ANNEXATION PROCEDURES AS SET FORTH IN SECTION 171.044, FLORIDA STATUTES; PROVIDING FOR FILING WITH PALM BEACH COUNTY AND THE DEPARTMENT OF STATE; PROVIDING A CONFLICTS CLAUSE; AND A SEVERABILITY CLAUSE, PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (SECOND READING)

### **Recommended Action:**

Review and consider Ordinance No. 46-20, a privately initiated request for annexation of a parcel of land located at 13029 Barwick Road, subject to Florida Statutes Section 171 and the City of Delray Beach Land Development Regulations Section 2.4.5(C)(1).

### **Background:**

The applicant has requested annexation from unincorporated Palm Beach County to the City of Delray Beach. The subject property measures one-acre and is currently vacant. The intended use of the property, which was previously used as a tree farm, is single family residential. This annexation request has been submitted concurrently with a land use designation and rezoning requests. The annexation request shall be considered prior to the land use designation and rezoning requests.

### **Land Development Regulations and Florida Statutes Governing Annexations:**

Pursuant to **Land Development Regulations (LDR) Section 2.4.5 (C)(1), Annexation of territory: Rule**, *"the owner of land may seek the annexation of contiguous property, under his ownership" pursuant to Florida Statutes. Section 171.044* of the Florida Statutes indicates that *"the owner or owners of real properties in an unincorporated area of the County, which is contiguous to a municipality and reasonably compact, may petition the governing body of said municipality that said property be annexed to the municipality."* A petition for voluntary annexation was submitted by Keiser Legal, PLLC (Agent), on behalf of and Robert and Andrea Keiser (Applicant and Property Owner of record).

Pursuant to **F.S. 171.044(5)** *"land shall not be annexed through voluntary annexation when such annexation results in the creation of enclaves."* Pursuant to **F.S. 171.031, Definitions** - (13) defines "Enclave" as *"(a) Any unincorporated improved or developed area that is enclosed within and bounded on all sides by a single municipality; or (b) Any unincorporated improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality."*

The subject property is contiguous to the City of Delray Beach boundary line on three sides (south, east and west sides). The only vehicular access to the property is through Barwick Road, which is under the City of Delray Beach jurisdiction. The granting of this request will not create an enclave as it will eliminate an existing enclave located within this area, as shown on Map AD-1, Planning Area (attached).

### **Comprehensive Plan Regulations Governing Annexation:**

The subject property is located within the City of Delray Beach Planning Area; see Map AD-1. The Official Planning Area is the area for which most calculations and projections in the City's Comprehensive Plan are predicated upon. It is also considered the City's ultimate boundaries.

### **Designated Annexation Areas:**

The territory to be annexed is located within the North Military Trail/Barwick Road Area as identified on Map AD-23, Annexation Areas. Annexation of the subject territory is consistent with the Neighborhoods, Districts and Corridors Element Policy NDC 3.3.1, which calls for annexation of eligible properties through voluntary annexations as the opportunities arise.

### **Provision of Services:**

When annexation of property occurs, services are to be provided in a manner that is consistent with services provided to other similar properties already in the City (Policy NDC B-3.2.1). A detailed review of the services, with respect to public health, safety, and welfare, is provided in the Planning and Zoning Board staff report. Below is a summary of the review.

*Police, Fire and Emergency Services:* The annexation of this property will not require additional manpower. Should the property be redeveloped into a different use or a more intense development, manpower allocation would be reevaluated.

### **Financial Impacts:**

*Ad Valorem Tax Revenue.* At the 2019/2020 City operating millage of 6.6611 mills and debt rate of 0.2034 mills, the property will pay approximately \$545.74 more (or 2.81 millage difference) in total taxes (ad valorem and non-ad valorem) per year. Under the annexation, the City will receive approximately \$5,117.42 per year in taxes. The City can also anticipate the receipt of the Communication Service Tax (Cable and Telephone of 5.22%); Electric and Gas Tax of 10% and Utility Franchise Fee on Electric of 6%.

*Non-Ad Valorem Tax Revenue:* The Lake Worth Drainage District manages the water resources in southeast Palm Beach County and is supported by an annual non-ad valorem assessment. This fee will remain the same with annexation. The Delray Beach Stormwater Utility is a new non-ad valorem tax and will apply upon annexation. This amount is dependent upon the development of the property based upon the percentage of impervious area of the structures, buildings, parking areas, etc.

A table depicting the current assessed Palm Beach County value along with estimated tax values for the proposed annexation of the property into the City of Delray Beach is included in the Planning and Zoning Board staff report provided as an attachment.

The Planning and Zoning Board Reviewed Ordinance No. 46-20 at the August 17, 2020 meeting and unanimously recommended approval (6-0).

**City Attorney Review:**

Ordinance No. 46-20 was approved to form and legal sufficiency.

**Funding Source/Financial Impact:**

Under the annexation, at the 2019/2020 City operating millage of 6.6611 mills and debt rate of 0.2034 mills, the property will pay \$545.74 in total taxes (ad valorem and non-ad valorem) per year.

**Timing of Request:**

Ordinance No. 46-20 must be approved prior to approving Ordinance Nos. 47-20 and 48-20.