

RESOLUTION NO. 5-08

A RESOLUTION BY THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA (U.C.), DECLARING THE U.C.'S INTENT TO CREATE AND PROVIDE A PROPOSED EASEMENT IN AND OVER PROPERTY CURRENTLY OWNED BY THE CITY OF NEW SMYRNA BEACH, FLORIDA, FOR THE U.C.'S EXISTING RECLAIMED WATER OUTFALL INFRASTRUCTURE AND ASSOCIATED FACILITY LOCATED ON THE FORMER WASTEWATER PLANT SITE ON THE NORTH CAUSEWAY, INCLUDING NECESSARY ACCESS AND PIPING, INGRESS AND EGRESS FOR MAINTENANCE OF SAME, AND REQUEST APPROVAL OF SAME, RESCINDING ALL RESOLUTIONS, OR PORTIONS THEREOF, IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Utilities Commission, City of New Smyrna Beach, Florida (U.C.), was duly created and validly existing under and by virtue of Chapters 67-1754 and 85-503, Laws of Florida, as the governing body of the utility system of the City of New Smyrna Beach, Florida; and

WHEREAS, the Utilities Commission formerly operated a Wastewater Treatment Plant at 20 North Causeway (address now 120 North Causeway), a City of New Smyrna Beach property site, and which plant was subsequently expanded and upgraded to a U.C. property site west of town, at 3019 S.R. 44, (address now 207 Williamson Blvd.); and

WHEREAS, the Utilities Commission has existing reclaimed water outfall infrastructure and an associated facility located on this North Causeway former plant site. Said infrastructure and facility is required and an integral part of the U.C.'s consumptive use permitting; and

WHEREAS, the City of New Smyrna Beach has now authorized a referendum question regarding the possible sale of this site to be placed on the ballot in November, 2008; and

WHEREAS, the Utilities Commission desires to protect the reclaimed water outfall infrastructure and facility if a future sale of this property is ultimately approved, and believes it is prudent and fiscally responsible to protect this vital asset.

NOW, THEREFORE, BE IT RESOLVED BY THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, AS FOLLOWS:

SECTION 1: The U.C.'s legal counsel will prepare and submit for approval a proposed easement to the City of New Smyrna Beach for the U.C.'s reclaimed water outfall infrastructure and associated facility existing and located at 120 North Causeway.

SECTION 2: If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 3: All Resolutions, or portions thereof, in conflict herewith are hereby rescinded and superseded.

SECTION 4: This resolution was approved by the Utilities Commission during a Regular U.C. Meeting held September 15, 2008, and took effect immediately upon passage.

THE ABOVE AND FOREGOING RESOLUTION was introduced at a regular meeting of the Utilities Commission, City of New Smyrna Beach, Florida, held on September 15, 2008, by Commissioner Diesen, who moved its adoption, which motion was seconded by Commissioner Reynolds, and upon roll call vote of the Commission was as follows:

CHAIRMAN

Kalter Allen yes

VICE CHAIRMAN

William E. Hall yes

SECY.-TREAS.

Warren Reynolds yes

COMMISSIONER

Carol Zell yes

COMMISSIONER

Jessie H. Wilson yes

APPROVED:

Kalter Allen
CHAIRMAN

ATTEST:

Warren Reynolds
SECRETARY-TREASURER

S E A L

APPROVED AS TO FORM AND CORRECTNESS:

William E. Hall
Utilities Commission Attorney