

RESOLUTION 2003 - 03

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS EXPRESSING THE NECESSITY OF ACQUIRING, BY THE EMINENT DOMAIN PROCEDURES OF FLORIDA STATUTES, CHAPTER 73, THE FLORIDA WATER SERVICES FACILITY IN THE UNINCORPORATED AREA OF AMELIA ISLAND, FLORIDA; DIRECTING THE CLERK OF THE COURT, COUNTY ATTORNEY, AND COUNTY STAFF TO FORTHWITH PROCEED PURSUANT TO FLORIDA STATUTES, CHAPTER 73; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Nassau County is a Florida County with powers pursuant to Florida Statutes, Chapter 125; and

WHEREAS, pursuant to Florida Statutes, Chapter 125, the "County Home Rule Powers Act", the Legislature recognizes that counties are to be secured the broad exercise of home rule powers granted by the Florida Constitution; and

WHEREAS, pursuant to Florida Statutes, Section 125.01, the Legislature recognizes a county's right to exercise all powers and privileges not specifically prohibited by law.

NOW, THEREFORE, BE IT RESOLVED this 13th day of January, 2003, by the Board of County Commissioners of Nassau County, Florida, as follows:

SECTION 1: FINDINGS

A. State and Federal law mandate treatment of wastewater in a manner that ensures protection of the environment including that of the unincorporated areas of Nassau County.

B. The County does not have a central wastewater collection, treatment, disposal, or reclaimed water system.

C. The County is committed to providing the citizens of Nassau County with an efficient wastewater system that complies with all applicable State and Federal laws, and that will remain in compliance.

D. Adequate water and wastewater service is an integral part of land-use planning.

E. The economic reality of the water and wastewater utility business is that cost-effective and efficient operation of a wastewater utility system is aided by the concurrent ownership of a water utility system.

F. A wastewater system is most efficiently operated with all components thereof in top working order.

G. The unincorporated area of Amelia Island currently receives its water service from Florida Water Services Corporation ("Florida Water"), which service is delivered via real and personal property currently possessed in and about the south end of Amelia Island by Florida Water (the "Water System").

H. The Water System, a very old, stand-alone, central potable water system running within the unincorporated areas of Amelia Island, has, on information and belief, not been subject to any substantial capital

improvements by Florida Water for several years, yet the system is in need of significant improvement and upgrading in order to be economically efficient for the health, safety, and welfare of the area citizens and their environment.

I. Florida Water has demonstrated no intention to improve the Water System and has, for all practical purposes, abandoned any commitment to do so, as evidenced, in part, by its failure to upgrade the Water System in combination with its making public its desire to divest itself of said system.

J. The County possesses the financial resources for the benefit of current and future residents in and about the unincorporated areas of Nassau County on Amelia Island and to upgrade and operate the Water System, which resources and expertise will benefit the County, its current and future residents, and those current and future residents in areas surrounding the County.

K. The County intends to promptly and efficiently, develop, own, operate, and provide wastewater and, where economically feasible, reuse water service necessary for the current and future benefit, health, safety, and welfare of current and future citizens of the County and

surrounding areas, reasonably and necessarily requiring the acquisition of the Water System.

L. Ownership and operation of the subject water and wastewater systems by local government will allow renovation, maintenance, operation, and expansion thereof to be made in a forward-looking, long-term, environmentally responsible manner.

M. It is of the utmost public interest and benefit that the citizens of the County possess a degree of oversight of the water and wastewater system to ensure that said system remains up to date.

N. Public acquisition, upgrading, and ownership of the current Water System will provide local citizens a stronger voice than other alternatives, as the Board of County Commissioners, elected by, and answering to, the citizens of Nassau County, will control the system.

O. The County has utilized information received from the Florida Governmental Utility Authority ("FGUA") in arriving at a good-faith valuation of the Water System.

P. All of the foregoing, in combination with the Recitals above, made it necessary that the County acquire the Water System.

SECTION 2: DIRECTIVE

The Clerk of the Court, as Chief Financial Officer, the County Attorney, and County Staff, including, but not limited to, the County Coordinator, are separately and collectively hereby directed to tender, forthwith and in accordance with Florida Statutes, Chapter 73, a written, good-faith offer to purchase the Water System from Florida Water upon the following terms and conditions:

Price: \$14,814,764.00, payable upon delivery of a Warranty Deed and Bill of Sale and execution of such other documents as may be necessary to transfer free and clear title to the Water System and such other rights of service as are necessary to operate the system.

Should the Clerk, the County Attorney, and the County Coordinator be unable to negotiate a good-faith acquisition of the Water System within thirty (30) days of tendering the offer as outlined above (or, if the offer is returned by the postal service as undeliverable pursuant to Florida Statutes, Section 73.015(1)(c)), the County Attorney shall forthwith initiate a court action to condemn the subject real and personal property.

SECTION 3: CONSTRUCTION

If this Resolution is construed to conflict in any way with any prior Resolution of the County, the terms of this Resolution shall supersede such prior Resolution only to the extent necessary to give this Resolution its expressed full force and effect.

SECTION 4: EFFECTIVE DATE

This Resolution shall become effective immediately upon its adoption by the Nassau County Board of County Commissioners.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



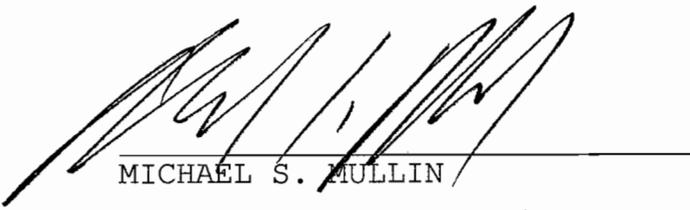
VICKIE SAMUS
Its: Chairman

ATTEST:



J. M. "CHIP" OXLEY, JR.
Its: Ex-officio Clerk

Approved as to form by the
Nassau County Attorney



MICHAEL S. MULLIN

h/anne/res/fla-water-condemn-res