

RESOLUTION NO. 02-29

A RESOLUTION DIRECTING AND AUTHORIZING THAT NOTICE BE IMMEDIATELY GIVEN TO THE CITY OF GULF BREEZE, FLORIDA, THE CITY OF MILTON, FLORIDA, THE FLORIDA WATER SERVICES AUTHORITY AND ALLETE, INC. THAT THE MARCO ISLAND CITY COUNCIL DOES NOT CONSENT TO THE TRANSFER OF ANY POWER TO PROVIDE WATER OR WASTEWATER SERVICES OR FACILITIES BY THE CITY OF GULF BREEZE, FLORIDA, THE CITY OF MILTON, FLORIDA, OR THE FLORIDA WATER SERVICES AUTHORITY IN MARCO ISLAND, FLORIDA, OR THE ACQUISITION OF ANY WATER OR WASTEWATER FACILITIES LOCATED IN MARCO ISLAND, FLORIDA, BY THE FOREGOING GOVERNMENTAL ENTITIES; PROVIDING THAT APPROPRIATE CITY OFFICIALS SHALL PREPARE TO INITIATE THE CONFLICT RESOLUTION PROCESS PROVIDED FOR IN CHAPTER 164, FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE FOR THIS RESOLUTION.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA , that:

SECTION 1. Findings. It is hereby ascertained, determined and declared that:

A. The Marco Island City Council ("City Council") has been apprised that the City of Gulf Breeze, Florida, ("Gulf Breeze") and the City of Milton, Florida ("Milton") have collaborated with Florida Water Services, Inc. and its parent, Allete, Inc. ("Allete") without notice or consultation with City Council or other substantially affected local governments throughout the State of Florida to create by interlocal agreement under Section 163.01, Florida Statutes, (the "Interlocal Act") a separate legal entity known as the "Florida Water Services Authority" (hereinafter, the "FWSA") for the purpose of acquiring all of the water and wastewater utility facilities owned or controlled by Allete in the State of Florida. Allete owns and controls approximately one hundred fifty (150) water and wastewater systems throughout the State; one (1) of which is located within the City of Marco Island.

B. Allete, Gulf Breeze and Milton appear to have hastily collaborated to orchestrate and design a transaction (the "Transaction") which will, among other things, pay over to Gulf Breeze and Milton an amount equal to not less than two percent (2%) of the annual gross revenues of the Allete utilities acquired throughout the State of Florida, but in no event, less than 1.5 MILLION DOLLARS (\$1,500,000) each year.

C. The creation of the FWSA, the Transaction and the actions of Allete, Gulf Breeze and Milton appear to be coordinated and the result of collaboration which did not include meaningful notice or input by the public, other affected local governments throughout the State of Florida, appears to have been hastily assembled without regard for affected consumers and violative of Florida law and the Florida Constitution. The Transaction and the creation of the FWSA to implement the Transaction are contrary to good public policy, is repugnant to the concepts of interlocal cooperation, and serve no

reasonable public purpose other than creating an opportunity for a private corporation to over price water and wastewater utility assets throughout the State of Florida, inappropriately access tax-exempt financing, and inadvisably appeal to the desire for lucre by Gulf Breeze and Milton as local government sponsors in an unlawful, unconstitutional, and irresponsible manner.

SECTION 2. Consent Withheld.

(A) The Marco Island City Council does not consent to the Transaction. City Council has given no resolution and will give no resolution consenting to the Transaction. Neither Gulf Breeze, Milton, nor the FWSA has any power to own or provide water or wastewater utility facilities or services within the City of Marco Island. City Council does not and will not authorize the transfer of any such power within the City of Marco Island to Gulf Breeze, Milton, or the Florida Water Services Authority.

(B) City Council hereby demands that Gulf Breeze, Milton and the FWSA cease and desist in attempting to provide water or wastewater services or facilities in the City of Marco Island, Florida, or effecting any transaction concerning the sale to or acquisition by Gulf Breeze, Milton or the FWSA of any water or wastewater facilities or services located or provided in the City of Marco Island, Florida.

SECTION 3. Direction to Provide Notice.

(A) The City Manager, the City Attorney, or their designee, is hereby directed and authorized to immediately provide a certified copy of this Resolution to Gulf Breeze, Milton, the FWSA, and Allete.

(B) The City Manager, the City Attorney, or their designee, is hereby directed and authorized to prepare and coordinate appropriate resolutions required by Chapter 164, Florida Statutes, and take all reasonable and expediate actions necessary to file, prosecute, or defend any required lawsuits or other actions, either alone or in concert with other affected local governing bodies and their representatives throughout the State of Florida, who have similar interests and do not consent to the Transaction, or any other similar transaction without the consent of all affected local governments throughout the State of Florida.

SECTION 4. Effective Date. This resolution shall become effective immediately upon its adoption.

Passed in open and regular session of the City Council of the City of Marco Island, Florida, this 30th day of September, 2002.

Attest:



A. William Moss, City Manager



E. Glenn Tucker, Chairman