

RESOLUTION NO. 02-32

A RESOLUTION FINDING THAT SIGNIFICANT LEGAL RIGHTS OF THE CITY OF MARCO ISLAND WILL BE COMPROMISED IF A COURT PROCEEDING DOES NOT TAKE PLACE BEFORE THE PROVISIONS OF THE FLORIDA GOVERNMENTAL CONFLICT RESOLUTION ACT, CHAPTER 164, FLORIDA STATUTES, ARE COMPLIED WITH; 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 Florida Water Services Authority, a self described authority of the City of Gulf Breeze and the City of Milton pursuant to Section 163.01(7)(g), Florida Statutes has asserted its intention to acquire, own, operate, manage, and regulate no later than December 15, 2002, the water and wastewater facilities within the boundaries of the City of Marco Island which presently provide drinking water and wastewater service to the citizens of the City of Marco Island. The Florida Water Services Authority intends to assert operational, rate setting and regulatory responsibilities with regard to the water and wastewater facilities in the City of Marco Island and to assume the power of determining in its sole discretion what rates and charges will be imposed on the citizens of Marco Island for water and wastewater services.

B. On September 30, 2002 this Council passed Resolution No. 02-29 finding, among other things, that the creation of the Florida Water Service Authority and the acquisition of water and wastewater facilities in the City of Marco Island did not include meaningful notice or public input; is contrary to good public policy; is repugnant to the concepts of interlocal cooperation; serves no valid public purpose; withheld consent to the transaction and the transfer of powers it represents; demanded that the Florida Water Service Authority cease and desist in attempting such acquisition; and directed and authorized City officials to initiate the conflict resolution process provided for in Chapter 164, Florida Statutes.

C. The governmental dispute resolution process set forth in Chapter 164, Florida Statutes calls for notice, a conflict assessment meeting within 30 days, an opportunity for participation by affected third party governments, a joint public meeting of the governing bodies of the affected governments within 50 days, initiation of a formal mediation process within 14 days of the joint public meeting, and sufficient time for the mediation process to run its course. There is a substantial likelihood that the timeframe necessary for the government dispute resolution process to run its course, successful or not, will extend

beyond the December 15, 2002 deadline established by the FWSA for the acquisition of utility assets serving Marco Island.

D. The interest of the citizens of Marco Island cannot be protected during the pendency of a governmental conflict resolution proceeding under Chapter 164, Florida Statutes, if the Florida Water Services Authority proceeds in accordance with its stated intent to publicly offer and issue over \$500,000,000 in tax-exempt bonds, pay the purchase price for the water and sewer facility assets in Marco Island, close on the transaction, and secure ownership and control of the utility facilities serving the City of Marco Island with no regulatory oversight on or before December 15, 2002.

SECTION 2. Action to Protect the Public Interest and Direction to City Staff. The City, pursuant to Section 164.1041(2), Florida Statutes determines by not less than a three-fourths vote of this Council that an immediate danger to the health, safety, or welfare of the public is threatened as a result of the Florida Water Services Authority transaction which requires immediate action on the part of the City and that significant legal rights will be compromised if a court proceeding does not take place before the provisions of the Florida Governmental Conflict Resolution Act set forth in Chapter 164, Florida Statutes, are complied with. The City Manager, the City Attorney, or their designee, is hereby directed and authorized to bypass the dispute resolution process set forth in 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.

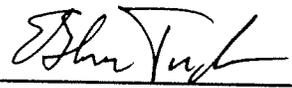
SECTION 3. Effective Date. This resolution shall become effective immediately upon its adoption.

Passed in open and regular session of the City Council of the City of Marco Island, Florida, this 21st day of October 2002.

Attest:



A. William Moss, City Manager



E. Glenn Tucker, Chairman