

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: October 30, 2012 Consent [] Regular [X]
Public Hearing []

Department : Water Utilities Department

I. EXECUTIVE BRIEF

Motion and title: Staff recommends motion to approve: a Resolution of the Board of County Commissioners of Palm Beach County, Florida, finding that the acquisition of the water utility assets of Aqua America, Inc. located in Palm Beach County, Florida, is in the public interest; authorizing such acquisition by the Florida Governmental Utility Authority (FGUA); and providing for an effective date.


Summary: FGUA is a public utility created primarily to acquire private utility assets that cross political jurisdiction boundaries. FGUA has been tendered an offer to acquire privately owned Aqua America, Inc., which operates nearly 100 utility systems statewide, including a small, 465 customer water system that serves Lake Osborne Estates in Palm Beach County. Pursuant to Section 163.01 (7) (g) 1, Florida Statutes, such acquisition needs approval of the County. Staff recommends approval based on potential improvements in customer service, rate stabilization and ability of the County to better coordinate utility operations with the public entity. There is no financial impact to Palm Beach County. District 3 (MJ)

Background and Justification: Aqua America, Inc. owns and operates Aqua Utilities which serves Lake Osborne Estates. Aqua Utilities has a poor reputation for customer service and has received many complaints regarding its rates based on documentation presented to the Florida Public Service Commission (PSC). The acquisition of Aqua Utilities by FGUA would provide the 465 customers in Lake Osborne Estates with many potential benefits and is clearly in the public interest. A long term goal of FGUA would include eventual spinning off of the utility to an appropriate public utility, which in this case would likely be the City of Lake Worth which currently provides wholesale water to Aqua Utilities.

Attachments:

- 1. Resolution
- 2. Letter from FGUA

Recommended By:  10/25/12
Department Director Date

Approved By:  10/25/12
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2013	2014	2015	2016	2017
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Operating Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Budget Account No.: **Fund** **Dept.** **Unit** **Object**

Is Item Included in Current Budget? Yes ___ No ___

Reporting Category N/A

B. Recommended Sources of Funds/Summary of Fiscal Impact:

No Fiscal Impact

C. Department Fiscal Review: Delram West

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

<u>Susan Neary 10/25/12</u> OFMB <i>SB</i> <i>M/S chr 10/25</i>	<u>NA</u> Contract and Development Control
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B. Legal Sufficiency:

[Signature] 10/25/12
 Assistant County Attorney

C. Other Department Review:

 Department Director

RESOLUTION NO. 2012-_____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, FINDING THAT THE ACQUISITION OF THE WATER UTILITY ASSETS OF AQUA AMERICA, INC. LOCATED IN PALM BEACH COUNTY, FLORIDA, IS IN THE PUBLIC INTEREST; AUTHORIZING SUCH ACQUISITION BY THE FLORIDA GOVERNMENTAL UTILITY AUTHORITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Governmental Utility Authority, a legal entity and public body organized and existing under the laws of the State of Florida (the "Authority") was established pursuant to an Interlocal Agreement, dated as of December 1, 2000, among Sarasota County, Polk County, Nassau County, and Citrus County, for the purpose of acquiring, owning, improving, operating and maintaining water and wastewater utility facilities within the State of Florida; and

WHEREAS, subsequently Sarasota County and Nassau County left the Authority and Pasco, Hendry, Lee and DeSoto Counties joined the Authority; and

WHEREAS, the Authority currently manages and operates utility systems located in Collier, Hillsborough, Lee, and Pasco Counties; and

WHEREAS, the Authority has received an offering letter, dated as of September 20, 2012, from Aqua America, Inc. ("Aqua") for the Authority to acquire all of the utility assets and systems owned by Aqua located in the State of Florida; and

WHEREAS, Aqua owns and operates more than ninety (90) water and wastewater utility systems located in nineteen (19) counties and two (2) municipalities in the State of Florida; and

WHEREAS, the voluntary acquisition by the Authority of all the Florida utility assets and systems owned by Aqua is in the public interest and serves the paramount public purpose of placing such individual utility assets and systems in public ownership; and

WHEREAS, in accordance with section 163.01(7)(g)1., Florida Statutes, the Authority has notified Palm Beach County (the "County"), as a Host Government, of the contemplated acquisition; and

WHEREAS, it is the desire of the Board of County Commissioners of Palm Beach County to assist and cooperate with the Authority and approve the acquisition of the utility assets and systems of Aqua located within the County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. FINDINGS. It is hereby found and determined that:

(A) The above recitals are true and correct and are hereby incorporated herein by reference.

(B) Aqua owns and operates the utility assets and utility systems known as the Lake Osborne Estates system within the unincorporated areas of the County (the "Palm Beach System").

(C) The operation of the Palm Beach System by Aqua within the County is subject to the regulatory authority granted to the Florida Public Service Commission under section 367.011, Florida Statutes.

(D) Public ownership and control of the Palm Beach System will provide an opportunity to: (1) further develop a county-wide approach to the comprehensive supply, distribution, and treatment of water; (2) achieve economies of scale relative to utility operations, maintenance, customer service and management; (3) provide current and future users of the Palm Beach System with cost efficient services at reasonable rates by a governmental entity; (4) provide that the operation and maintenance of water facilities is done in a proactive and environmentally responsible manner; (5) stabilize rates over the long term, reduce inefficient expansion and extension of service capacities and avoid the proliferation of smaller facilities and sites; (6) focus upon the appropriate expansion and interconnection of existing facilities and the construction of future facilities in a coordinated and uniform manner which avoids special or disproportionate benefit to investor-owned utility operators or special interests at the expense of present or future customers; and (7) offer an opportunity for local government to not only coordinate the expansion and extension of facilities consistent with the County's comprehensive plans, but to operate the affected utility system as part of a larger community system.

(E) Aqua has heretofore determined that it will not entertain any offers to purchase its utility assets or systems on a piecemeal basis but will sell all of its Florida utility assets or none of them. Accordingly, any efforts by the County to acquire through voluntary acquisition the Palm Beach System will not be entertained by Aqua. As a consequence, the most cost effective manner of putting the Palm Beach System assets in public ownership is through the acquisition efforts of the Authority in the manner contemplated in this Resolution.

SECTION 2. PARTICIPATION IN AUTHORITY IN THE ACQUISITION OF PALM BEACH SYSTEM. The County hereby agrees to assist and cooperate with the Authority in acquiring the Palm Beach System located within the County. The County Administrator or his designated representative, is hereby directed to consult and meet with the staff and consultants of the Authority to assist in the acquisition of the Palm Beach System by the Authority.

SECTION 3. APPROVAL OF ACQUISITION.

(A) The Authority, pursuant to section 163.01, Florida Statutes, and the Interlocal Agreement, as amended, possesses the authority to acquire the Palm Beach System and further possesses the power and authority to provide potable water and wastewater infrastructure and service throughout the State of Florida.

(B) The County hereby approves the acquisition by the Authority of the Palm Beach System and authorizes the Authority to complete the acquisition.

SECTION 4. EFFECTIVE DATE. This Resolution becomes effective immediately upon its adoption.

The foregoing Resolution was offered by Commissioner
who moved its adoption. The motion was seconded by Commissioner
, and upon being put to a vote, the vote was as follows:

Commissioner Shelley Vana, Chair	-
Commissioner Steven L. Abrams, Vice Chair	-
Commissioner Karen T. Marcus	-
Commissioner Paulette Burdick	-
Commissioner Burt Aaronson	-
Commissioner Jess R. Santamaria	-
Commissioner Priscilla A. Taylor	-

The Chair thereupon declared the Resolution duly passed and adopted this
_____ day of _____, 20__.

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK, CLERK & COMPTROLLER

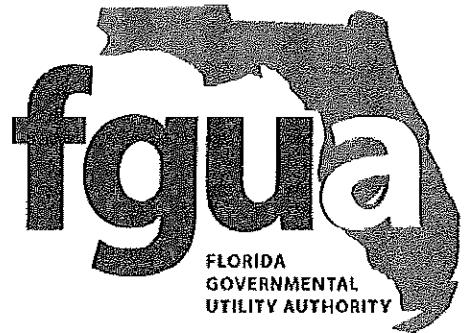
By: _____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
County Attorney

Via Certified Mail

October 18, 2012



The Honorable Shelley Vana
Chair, Board of County Commissioners
Palm Beach County, Florida
301 North Olive Ave., Suite 1201
West Palm Beach, FL 33401

Dear Chair Vana:

Representatives from the Florida Governmental Utility Authority ("FGUA") recently contacted representatives of Palm Beach County to discuss the potential acquisition by the FGUA of the utility facilities owned by Aqua Utilities Florida, Inc., ("AUF") within your county, which facilities consist of the Lake Osborne Estates water system.

Public ownership and control of these facilities may provide significant benefits to the County, including the opportunity: (1) to further develop a county-wide approach to the comprehensive supply, distribution, and treatment of water; (2) to achieve economies of scale relative to utility operations, maintenance, customer service and management; (3) to provide current and future users of these systems with cost efficient services at reasonable rates by a governmental entity; (4) to provide that the operation and maintenance of water facilities is done in a proactive and environmentally responsible manner; (5) to stabilize rates over the long term, reduce inefficient expansion and extension of service capacities and avoid the proliferation of smaller facilities and sites; (6) to focus upon the appropriate expansion and interconnection of existing facilities and the construction of future facilities in a coordinated and uniform manner which avoids special or disproportionate benefit to investor-owned utility operators or special interests at the expense of present or future customers; and (7) for local government to not only coordinate the expansion and extension of facilities consistent with the County's comprehensive plans, but to operate the affected utility system as part of a larger community system.

LEA ANN THOMAS, CHAIR
Polk County

DOUG MEURER, P.E.
Lee County

KEN CHEEK, P.E.
Citrus County

SHANE PARKER, P.E.
Hendry County

MICHELE BAKER
Pasco County

MICHAEL VUOLO
DeSoto County

FGUA OPERATIONS OFFICE

Government Services Group, Inc.
280 Wekiva Springs Rd., Ste 2000
Longwood FL 32779

877/552-3482 Toll Free
407/629-6900 Tel
407/629-6963 Fax

The FGUA is required under section 163.01(7)(g)3., Florida Statutes, to notify you in writing of this potential acquisition, and we are seeking your County's consent. The County may consent by adopting a resolution to that effect, or as provided in the statute, the County can simply take no action. If the County takes no action on this notice within 30 days of its receipt, the FGUA is authorized to proceed with the acquisition.

The statute also requires the FGUA to include with this notice certain information about the utility that is subject to acquisition. This information includes AUF's most recent available income and expense statement, balance sheet, and statement of rate base for regulatory purposes and contributions-in-aid-of-construction.

Due to AUF's size and its partially consolidated rate structure, the Florida Public Service Commission only requires it to maintain this information at the Company level and according to its consolidated rate groupings. Consequently, the FGUA has provided this consolidated information to you in order to comply with its statutory notice requirement, though we understand that the information may be of limited use to you.

If you need any additional information or have any additional questions, please contact Assistant System Manager, Stephen Spratt, (407) 629-6900, sspratt@govmserv.com, or by mail at: 280 Wekiva Springs Road, Suite 2000, Longwood, Florida, 32779.

Very truly yours,

Florida Governmental Utility Authority



Robert Sheets
Secretary-Treasurer and System Manager

cc: Bevin Beaudet, Director WUD
Debra West, Asst. Director WUD

w/ attachments