

RESOLUTION NO. 2019-184

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ORMOND BEACH EXPRESSING ITS INTENTION TO CLARIFY THE UTILITY CONNECTION POLICY FOR PROPERTIES IN THE NORTH PENINSULA WATER DISTRICT; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:

WHEREAS, the State of Florida, the County of Volusia, and the City of Ormond Beach share a common interest in protecting water and other natural resources by facilitating the removal of underground septic systems; and

WHEREAS, a 2013 report from the Volusia County Health Department indicated that approximately 5,000 septic systems existed in the unincorporated north peninsula area of Volusia County (also known as “Ormond-by-the-Sea”), part of which is in the city’s North Peninsula Water District, and

WHEREAS, the 2013 Health Department report concluded that the North Peninsula area was least suited for septic system use; and

WHEREAS, the city commission desires to give thoughtful consideration to the possibility of coordinating and partnering with the State of Florida and Volusia County to eliminate septic systems in the North Peninsula Water District, and to provide centralized wastewater (sewer) service to properties situated therein, and

WHEREAS, residents in the North Peninsula Water District have expressed concern regarding the city’s policy for connecting to the city’s potable water system and/or connecting to a centralized wastewater (sewer) system if it is made available by the city; and

WHEREAS, the city commission desires to clarify its utility connection policy for properties in the North Peninsula Water District; and

WHEREAS, except for property owners in the North Peninsula Water District, the city's established historical policy for the extension of potable water and/or wastewater lines ("utility lines"), and for the provision of potable water and/or wastewater services ("utility services"), to property that is situated outside the city's municipal boundaries is for the property owner to either annex the property at the time of connection to the utility lines, if the property satisfies the legal requirements for annexation; or, if the property does not meet the legal requirements for annexation at the time of utility connection, to execute an annexation agreement as a condition to receiving utility services, agreeing to annex the property when it does meet the legal requirements for annexation ("utility connection policy"); and

WHEREAS, the city commission has determined that since 1979 the utility connection policy has not been applied as a condition for property owners in the North Peninsula to receive potable water service from the city:

(a) In 1964 and 1974, North Peninsula residents voted against referendum measures that would have provided for the removal of underground septic tanks and would have provided centralized wastewater (sewer) services from the city, conditioned on the annexation of their property into the city.

(b) Between 1972 and 1979, North Peninsula property owners who sought to receive potable water service from the city were required to execute an annexation agreement as a condition to receiving potable water service from the city, resulting in approximately 152 annexation agreements consistent with the city's utility connection policy.

(c) In 1979 the city commission approved Ordinance 79-45 establishing the North Peninsula Water District for the provision of potable water to 2,702 single family living units in a service area that extended from Tarpon Avenue south to the then present city limits.

(d) The last of the 152 annexation agreements was approved by the city commission at the same approximate time that it established the North Peninsula Water District, and no

additional annexation agreements were obtained from the other 2,702 single family living units in the service area.

(e) In fact, at the time the North Peninsula Water District was established by Ordinance 79-45, neither annexation nor the execution of an annexation agreement were required as a condition to receiving potable water from the city.

(f) The regulations for the North Peninsula Water District as established by Ordinance 79-45 were codified at Division 3, Chapter 22, of the Code of Ordinances and have remained unchanged since 1979, including the absence of a requirement that property owners comply with the utility connection policy.

(g) For 35 years after the establishment of the North Peninsula Water District, property owners in the North Peninsula service area were not required to comply with the utility connection policy as a condition to receiving potable water service from the city, with two limited exceptions: (i) two annexation agreements in November and December of 1995, and two such agreements in January and February of 1996; and (ii) approximately 39 agreements from 2014 to 2019, as a result of the misapplication of the general utility connection policy due to issues that were discovered during the course of the *Cheater's* litigation matter, a property that was situated in the North U.S. 1 corridor utility service area, a completely separate and distinct service area in which the utility connection policy did apply, unlike the conditions for properties in the North Peninsula service area.

(h) Based on the forgoing, the city commission has determined that the city commission, in 1979 and all city commissions subsequent thereto, made a deliberate decision to not require property owners in the North Peninsula service area to comply with the general utility connection policy as a condition to receiving potable water service from the city.

(i) Based on the foregoing, the city commission further expresses its intention to not require property owners in the North Peninsula service area to comply with the general utility connection policy as a condition to receiving centralized wastewater (sewer) service from the city in the event such service is provided by the city.

WHEREAS, the city commission desires to clarify its utility connection policy for properties in the North Peninsula Water District; now therefore,

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:

SECTION ONE. The city commission re-affirms the long-established historical policy regarding the provision of potable water service to properties in the North Peninsula Water

District, and affirmatively states that neither annexation nor the execution of an annexation agreement shall be required as conditions to connection to the city's potable water system.

SECTION TWO. In the event that the city commission determines to provide centralized wastewater (sewer) services to properties in the North Peninsula Water District, the city commission hereby further expresses its intention to not require property owners in that service area to annex their property or to execute an annexation agreement as a condition to receiving centralized wastewater (sewer) services.

SECTION THREE. The city manager and city attorney, by and through their designees, are hereby authorized and directed to take all reasonable and necessary action to initiate amendments to the city's comprehensive land use plan, land development code, and code of ordinances, to clarify the utility connection policy for property owners in the North Peninsula Water District.

SECTION FOUR. The City Clerk is hereby directed to transmit a certified copy of this resolution to the Chairman of the Volusia County Council.

SECTION FIVE. This resolution shall take effective immediately upon its adoption.

APPROVED AND AUTHENTICATED this 1st day of October, 2019.



BILL PARTINGTON
Mayor

ATTEST:



COLBY J. CILENTO
City Clerk