

ORDINANCE NO. F-399

AN ORDINANCE AMENDING SECTION 14(33) OF THE CITY CHARTER OF THE CITY OF FORT PIERCE, FLORIDA, (CHAPTER 57-1331, LAWS OF FLORIDA, AS AMENDED) CREATING AND ESTABLISHING THE FORT PIERCE UTILITIES AUTHORITY, CHANGING THE NAME AND DESIGNATION OF SAID AUTHORITY TO FORT PIERCE UTILITIES AUTHORITY IN LIEU OF FORT PIERCE UTILITIES COMMISSION, PRESCRIBING ITS POWERS, DUTIES AND AUTHORITY; PROVIDING THE MANNER, NUMBER AND TERMS, METHOD OF APPOINTMENT AND QUALIFICATIONS OF MEMBERS; PROVIDING THAT EMPLOYEE PENSION PLANS SHALL NOT BE AFFECTED; PROVIDING FOR A REFERENDUM; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, that:

SECTION 1. There is hereby created and made a part of the government of the City of Fort Pierce a utilities authority to be known and designated as "Fort Pierce Utilities Authority", City of Fort Pierce, Florida, which shall be responsible for the development, production, purchase and distribution of all electricity, gas, water, sanitary sewer collection and disposal, and such other utility services as may be designated by resolution by the City Commission. The Authority shall have exclusive jurisdiction, control and management of the utilities of the City and all its operations and facilities. The Authority shall have all the powers and duties possessed by the City to construct, acquire, expand and operate utility systems, and to do any and all acts or things that are necessary, convenient or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly, economic and businesslike administration of the utility systems. The Authority shall operate as a separate unit of the City government; and except as otherwise provided in this Ordinance, the Authority shall be free from the jurisdiction, direction, and control of other City officers and of the City Commission. The Authority may sue or be sued in its own name. All damage claims arising from the operations of the Authority and the utilities shall be the responsibility of and be liquidated by the Authority from the appropriate funds of the utility systems. For the purposes of this Ordinance, unless otherwise designated or the context requires, the word "Authority" shall mean the Fort Pierce Utilities Authority, the word "member" shall mean a member of the Fort Pierce Utilities Authority, and the word "City" shall mean the City of Fort Pierce.

SECTION 2. The Authority shall consist of five (5) members, one of whom shall be the Mayor. In the discretion of the City Commission, the City Manager may serve as an ex officio member without vote, and whose term shall be set by the City Commission.

(1) The City Commission shall, within fifteen (15) days upon this Ordinance becoming law, elect by a majority vote, four (4) citizens with such qualifications as are provided for herein, one of whom shall serve for one (1) year, one of whom shall serve for two (2) years, and one of whom shall serve for three (3) years, one of whom shall serve for four (4) years, each of such terms to commence the first day of each new fiscal year. Thereafter, the term of office of each member shall be for four (4) years, but each elected member shall hold such office until his successor has qualified and been elected and furthermore, the said Authority shall, by a majority vote, nominate, and the City Commission elect all new members of the Authority; however, no member shall vote to nominate his successor. No member shall serve more than two (2) consecutive terms.

(2) Any vacancy in the Authority shall be filled for the unexpired term in the same manner as provided for appointment after the initial appointments. No vacancy in the Authority shall impair the right of the remaining members to exercise all the powers of the Authority. Any member may be removed from office by the City Commission for malfeasance, misfeasance or nonfeasance in office, or upon conviction of a felony.

(3) No person shall be a member unless he shall be a qualified elector of the City. No person who holds any other public office or who is an employee of the City Government or who has any business relationship with the Authority other than as a consumer shall be a member, except the Mayor and the ex officio member. A member ceasing to possess any of these qualifications shall be removed from his office forthwith by the City Commission.

(4) Each member shall be paid Twenty Dollars (\$20.00) per meeting actually attended; provided that no member shall receive more than Five Hundred Dollars (\$500.00) in any one calendar year. Members may be reimbursed for travel expenses and other expenses incurred in carrying out their duties.

(5) The authority by majority vote shall elect from among its members a chairman, who shall preside over the meetings of the Authority, a vice-chairman who shall act for the chairman during his absence, and a secretary. An election of officers of the Authority shall be held at the first regular meeting at which all members are present following the appointment of a new member for a full term, but not later than the fourth meeting following the appointment. The Authority shall adopt rules for the conduct of its meetings. No action shall be taken by the Authority except by the affirmative vote of at least three (3) members. Three (3) members shall constitute a quorum. The Authority shall meet at least once each month. All meetings shall be open to the public and minutes shall be kept of all meetings, copies of such minutes shall be furnished members of the City Commission within seven (7) days of such meeting. Special meetings may be called upon six (6) hours written notice thereof by the chairman or any three (3) members.

(6) All contracts shall be executed by the chairman or vice-chairman and secretary. All other instruments in writing necessary to be signed by the Authority shall be executed by the chairman or vice-chairman and secretary, or by such officer, agent or employee of the Authority as it may designate.

SECTION 3. The Authority may establish separate divisions for the electric, water, and other utility operations, respectively. Separate accounts shall be kept for each division and as may be found practical by the Authority in accordance with the uniform systems of accounts for sanitary sewer, gas, electricity, water and other utilities, as promulgated by the Public Utilities Commission of the State of Florida or the Federal Power Commission and according to generally accepted public utility accounting principles. Each division may be operated independently of the others, except insofar as the Authority determines joint operations to be advisable and economical. Expenses incurred in joint operations shall be equitably prorated among the divisions by the Authority.

SECTION 4. The Authority shall have the power to appoint a utilities director to be responsible to the Authority and who shall serve at its pleasure. There shall be such other officers and employees as may be provided by the Authority. The officers shall be appointed or removed by the utilities director subject to confirmation by the Authority. The employees shall be appointed and removed by the utilities director. The Authority shall fix the salary of the utilities director and shall have, but may delegate to the utilities director, the power to fix the salaries of all other officers and employees of the Authority. The Authority shall also have the power to employ or appoint engineers, accountants, lawyers, and such other personnel as may be required for the operation and management of the utilities and to fix their compensation. Department heads shall be appointed by the Director subject to the approval of the Authority.

SECTION 5. The Authority may require surety bonds for any of the officers and employees in such amounts as the Authority deems necessary. The premiums for the bonds shall be paid in the same manner as any other operating expense.

SECTION 6. The Authority shall not have power to create or regulate a pension or retirement system, but shall utilize the existing City pension and retirement plans for its employees and shall make contribution to the cost of pension and retirement plans as may be, from time to time, required which cost shall be paid in the same manner as any other operating expense.

SECTION 7. The Authority may, in order to promote the efficient and economical operation of the utilities, with the approval of the City Commission, combine the operations of the utilities with other city operations, including, but not limited to, the following:

(1) Any officer or employee of the City at the time this act becomes effective, or who is appointed or employed thereafter, may serve as an officer or employee of the Authority, or in a dual or joint capacity, but in no event shall receive more than one salary as may be fixed by the Authority or by the City Commission, except the Mayor-Commissioner.

(2) Life, accident and health insurance plans for City employees may be utilized by the Authority for its officers and employees.

(3) Accounting, billing or any other operations or functions may be combined or operated jointly.

SECTION 8. The Authority in the efficient and economical operation of the city utilities, both inside and outside the city limits, shall have the following powers and duties.

(1) To sell its products and services to public and private corporations and to other consumers; construct plants, transmission lines and other facilities and purchase real estate in the name of the City and to enter into all contracts, leases, and agreements in furtherance hereof. Franchises may be purchased with the approval of the City Commission.

(2) The Authority may adopt regulations governing extensions of services both inside and outside the city limits. The regulations shall provide the conditions under which the extensions shall be made to render them compensatory. The Authority may provide for the form of refunds where advances by the persons benefitted are necessary to make extensions compensatory. Any such regulations promulgated shall recognize existing contracts, agreements or understandings.

(3) The Authority may contract with any public or private corporation or any individual, both inside and outside the City limits, for the joint use of poles and other property belonging either to the City or to the other contracting party or jointly to both parties; and with the approval of the City Commission for the joint acquisition of real property and franchises and the joint financing, construction, and operation of plants, transmission lines, and other facilities, whereby any property acquired may become the property of either or both the City and the other contracting party.

(4) The Authority may enter upon any land or water for the purpose of making surveys and may exercise the right of eminent domain on behalf of the City whenever public necessity or convenience requires inside and outside the city limits in the manner provided by law.

(5) The Authority may use the ground over, under or along any road, railroad, highway, street, sidewalk, thoroughfare, alley, waterway, or other public way, in the operations of the utilities but shall in all cases and subject to the applicable general regulations of the City, cause the surface of the public way to be restored to its usual condition.

(6) The Authority shall fix rates to be charged for gas, electricity, water, sanitary sewer, and other utilities services sold and services rendered. Rates shall be uniform for all consumers within the same class; but different rate schedules may be applied to different classes of consumers as determined by the Authority. Rates shall be sufficient to pay all operating and maintenance expenses of each respective utility operation, capital outlay, all bond interest and redemption

costs, and payments authorized by this Ordinance. The Authority may require deposits as security for the payment of charges for utility services and may provide for the return of the deposits when satisfactory consumer credit has been established.

(7) No money shall be drawn from the funds of the utilities nor shall any obligation for the expenditure of money be incurred except as authorized by the Authority. No claim against the Authority shall be paid unless evidenced by a voucher approved by the utilities director or by some other employee to be designated by him.

(8) The Authority shall have the right, power and authority by resolution to issue and sell revenue bonds or certificates in such amounts as shall be deemed necessary to finance all or part of the costs of acquisition, construction, repairs, replacements, improvements, additions and extensions of the city's utilities and equipment required therefor. All of such revenue bonds or certificates issued by the Authority shall be obligations of the City of Fort Pierce provided, however, the Authority shall have no power to pledge the full faith and credit of the City and nothing set forth herein shall be so construed. No referendum or freeholders election shall be required as a condition precedent to the issuance of such revenue bonds or certificates. The bonds, or revenue certificates, shall be dated, shall bear interest at such rate or rates not exceeding that established by state law, shall mature at such time or times not exceeding forty (40) years from their date or dates, as may be determined by the Authority, and may be redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds or certificates. The Authority shall determine the form of bonds, or certificates, including any interest coupons to be attached thereto, and the manner of execution, and shall fix the denomination or denominations, and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. The resolution authorizing the issuance of the bond, or certificates, shall contain such provisions relating to the use of the proceeds from their sale and for the protection and security of holders thereof, including their rights and remedies, and the rights, powers, privileges, duties and obligations of the Authority with respect to the same, as shall be determined by the Authority. In case any officer whose signature or facsimile of whose signature shall appear on any bonds, certificates or coupons shall cease to be such officer before the delivery of such bonds, or certificates, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds, or certificates, issued under the provisions of this Ordinance shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the law merchant and the Uniform Commercial Code-Investment Securities Law of the State of Florida. The bonds, or certificates, may be issued in coupon or in registered form, or both, as the Authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law. All revenue bonds, or certificates, issued hereunder shall be advertised for sale on sealed bids, which advertisement shall be published once a week for two (2) weeks, the first publication to be made at least fifteen (15) days preceding the date advertised for the reception of bids, in a newspaper published in the City of Fort Pierce and also in a financial paper designated by resolution. The Authority may reject any and all bids. If the revenue bonds, or certificates, are not sold pursuant to such advertisement and public bidding, they may be sold by the Authority at a private sale by negotiation or may be readvertised in the same manner for public sale. In the event of a private sale by negotiation, the Authority may sell said certificates or notes upon the best terms offered therefor. Revenue bonds, or certificates, issued under the provisions of this act shall be payable from the revenues derived from the operation of the City's utilities or services under the supervision, operation and control of the Authority and from any other funds legally available therefor. The Authority is authorized to provide by resolution for the issuance of refunding revenue bonds, or

certificates for the purpose of refunding any revenue bonds, or certificates heretofore issued by the City of Fort Pierce then outstanding or issued under the provisions of this Ordinance, providing, however, that any such refunding obligation shall only refund outstanding bonds and interest and redemption premiums therein at a lower net average interest cost rate; and to issue notes in anticipation of the receipt of the proceeds of the sale of any such bonds, or certificates. The Authority, with the consent of the City Commission, may pledge the proceeds of utilities service taxes, cigarette taxes, or franchise taxes (as defined in Chapter 159.02, Florida Statutes 1969) or any other excise taxes or other funds which such Authority is authorized to levy and collect or will have available, as additional security for the payment of the principle and interest on any revenue bonds or certificates issued hereunder, or for services for such debt services.

(9) The Authority may borrow money for periods not to exceed two (2) years and may issue negotiable notes, payable from the revenues of the utilities or a division thereof, as evidence of the loans, with the approval of the City Commission. The action of the Authority may be by resolutions which may be adopted at the same meetings at which introduced and shall take effect immediately upon adoption and public sale shall not be required.

(10) The Authority may authorize reasonable expenditures to advertise and otherwise promote the use of the utility services and to acquaint the public with the operations, programs, and planned expansion of the utilities.

(11) The Authority may invest idle funds in banks or savings institutions when qualified as city depositories, provided such investments are secured by direct obligations of the United States Treasury, or may invest idle funds in direct obligations of United States Treasury. The Authority may also invest such idle funds in investments secured by indirect obligations of the United States of America.

(12) The Authority, in addition to the reports and accounting it may otherwise be required by law to make, promptly after the close of the fiscal year, furnish the City Commission, its annual report which shall include the following statements as of the end of the preceding fiscal year; a balance sheet showing the financial condition of the utilities and each separate division, prepared as nearly as practical according to generally accepted public utility accounting principles; a statement of operations for each division of the utilities; and any additional supporting statements or schedules deemed necessary and desirable by the City Commission to make a clear and informative presentation of the financial position of the utilities. The reports shall be kept on file in the City Clerk's office and shall be open to public inspection. The funds and accounts of the utilities shall be audited annually by a certified public accountant appointed by the City Commission. The Authority shall also annually prepare and adopt a budget for the ensuing year and furnish a copy to the City Commission at least forty-five (45) days prior to the beginning of the next fiscal year. The fiscal year of the Authority shall be the same as the City of Fort Pierce. The annual budget shall contain an amount anticipated to be transferred to the general fund of the City.

SECTION 9. Contracts and obligations relating to the utility systems of the City incurred prior to the taking effect of this Ordinance shall be binding upon the Authority insofar as they apply to the Authority.

SECTION 10. The Authority shall have the exclusive power and authority to manage and operate its financial affairs in accordance with the provisions of existing revenue certificate ordinances and the provisions of Section 140 of the present City Charter of the City of Fort Pierce, except that transfers of net revenues by the Authority to the City may be made monthly to the City Commission at the option of the City Commission.

SECTION 11. Contracts for services, construction, materials, supplies, equipment, or machinery where the cost, value or amount

exceeds five thousand (\$5,000.00) dollars, shall not be entered into or purchases made without competitive bidding and advertisement by a notice published at least once a week for two (2) consecutive weeks before the award of any contract in a newspaper having a general circulation in the City. Bids shall not be required to purchase patented and manufactured products offered for sale in a noncompetitive market or when the product can be obtained only from a sole source of supply, or where services cannot be contracted for upon the basis of competitive bidding. The provisions of this section shall not apply to any contract or agreement between the Authority and any engineers, architects, accountants, attorneys, or for other professional services; or to agents, or investment bankers, relating to financing herein authorized; or to contracts of a continuing nature where an extension thereof without bids shall be in the best interest of the Authority.

SECTION 12. All employees of the City of Fort Pierce on the effective date of this Ordinance who shall be under the supervision of the Authority shall continue without any loss of right or benefits as employees under the pension plans and civil service merit system of the City existing on the effective date of this Ordinance or hereafter.

SECTION 13. The powers and authority granted in this Ordinance to issue and sell revenue bonds or certificates shall not be deemed exclusive and the Authority may issue revenue bonds and certificates and may exercise any of the powers granted to the City under general laws of the State of Florida for the development, production, purchase and distribution of electricity, gas, water, sanitary sewer collection and disposal, and other utility services, with the approval of the City Commission, when the same is not inconsistent with the provisions of this Ordinance.

SECTION 14. Any revenue bonds, certificates or other obligations issued pursuant to this chapter shall be and constitute legal investments for bonds, savings banks, trustees, executors, administrators and all other fiduciaries for all state, municipal and public funds and shall also be and constitute securities eligible for deposit as security for all state, municipal or other public funds notwithstanding the provisions of any other law or laws to the contrary.

SECTION 15. If any section, subsection, sentence, clause or provisions of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

SECTION 16. All laws or parts of laws in conflict herewith are repealed.

SECTION 17. Section 14(33) of the City Charter of the City of Fort Pierce (Chapter 57-1331, Laws of Florida, as amended) is hereby amended to delete the name "Fort Pierce Utilities Commission" from said section and to substitute in lieu thereof the name "Fort Pierce Utilities Authority."

SECTION 18. This Ordinance shall become effective only upon approval by a majority vote of the qualified electors of the City voting in a referendum election to be held in the City of Fort Pierce, Florida, on the thirtieth (30th) day of May, 1972. The determination of the election results by the City Commission of the City of Fort Pierce shall be conclusive.

In the event such election is not held as authorized and provided this Ordinance is void.

SECTION 19. This Ordinance shall take effect thirty (30) days after approval thereof by the electors as provided for in Section 18 hereof.

ATTEST:


CITY CLERK


MAYOR COMMISSIONER

(CITY SEAL)

STATE OF FLORIDA)
ST. LUCIE COUNTY) ss

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. F-399 was duly introduced, read and passed on first reading by title only by the City Commission of the City of Fort Pierce, Florida, on April 17, 1972; copy of said Ordinance was posted in the City Hall and copies were made available at the office of the City Clerk to the public upon request during the time between the first and second readings of the Ordinance; and was duly read and passed on second and final reading by title only on April 24, 1972, by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HERewith, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this the 25th day of April A.D., 1972.

Dennis B. Summerlin
MAYOR COMMISSIONER

R. L. James
CITY CLERK

(CITY SEAL)

EXCERPT FROM THE MINUTES OF A MEETING OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, HELD IN COMPLIANCE WITH THE CHARTER OF THE CITY OF FORT PIERCE, FLORIDA, AT 12:00 NOON, WEDNESDAY, MAY 31, 1972, IN THE CITY HALL CONFERENCE ROOM, 315 AVENUE "A", FORT PIERCE, FLORIDA.

Those present: Mayor Summerlin, Commissioners Lait and Padrick; City Manager Davis, City Attorney Brown and City Clerk James.
Those excused: Commissioners Caynon and Forbes. Also present: Supervisor of Elections Brooks.

Mayor Summerlin called the meeting to order.

CERTIFICATE OF THE BOARD OF CITY CANVASSERS
FORT PIERCE SPECIAL ELECTION HELD ON
THE 30TH DAY OF MAY, 1972

STATE OF FLORIDA)
ST. LUCIE COUNTY)

We, the undersigned, R. C. James, City Clerk, James P. Brooks, Supervisor of Elections, and Dennis B. Summerlin, Mayor-Commissioner of the Board of City Commissioners of said City, constituting the Board of City Canvassers of Elections in and for said City, do hereby certify that we met at the City Hall Conference Room on the 31st day of May, 1972, as shown by the returns on file in the office of said City Clerk and Supervisor of Elections, respectively, and we do hereby certify solely, exclusively and entirely from said returns that the whole number of votes cast

DO YOU FAVOR THE CREATION OF A UTILITIES
AUTHORITY OF THE CITY OF FORT PIERCE,
FLORIDA AS PROVIDED FOR IN ORDINANCE
NUMBER F-399

FOR THE ORDINANCE	1,367 votes
AGAINST THE ORDINANCE	466 votes
TOTAL VOTES CAST	1,834 votes

/s/ R. C. James,
City Clerk

/s/ James P. Brooks,
Supervisor of Elections

/s/ Dennis B. Summerlin,
Mayor Commissionr

Board of City Canvassers of
City of Fort Pierce, Florida

Motion was made by Commissioner Lait, seconded by Commissioner Padrick and unanimously carried that the results of the special election held on May 30, 1972 be certified as read by Supervisor of Elections James P. Brooks.

STATE OF FLORIDA
ST. LUCIE COUNTY
CITY OF FORT PIERCE

This is to certify that this is a true and correct copy of the records on file in this office.


CITY CLERK

DATE: October 2, 1985

(CITY SEAL)