

**Ruth Nettles**

090459-WS

**From:** Theresa Fontana [TFontana@cityofpsl.com]  
**Sent:** Thursday, October 22, 2009 4:44 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Theresa Fontana; Jesus Merejo; Brad Macek; Donna Rhoden; Roger Orr  
**Subject:** Objection to Application of Bluefield Utilities, LLC; Docket No. 090459-WS  
**Attachments:** Objection to Bluefield Utilities.pdf

Theresa J. Fontana, Assistant City Attorney, City of Port St. Lucie, 121 S.W. Port St. Lucie Blvd., Port St. Lucie, FL 34984, 772-344-4386. tfontana@cityofpsl.com

Docket No. 090459-WS, In re: Application of Bluefield Utilities, LLC to Operate a Water and Wastewater Utility in Martin and St. Lucie Counties, Florida

City of Port St. Lucie

9 pages

Objection of the City of Port St. Lucie to Application for Original Certificates for Proposed Water and Wastewater System and Request for Initial Rates and Charges.

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10/23/09  
R.V.N.

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FPSC-COMMISSION CLERK

10/22/2009

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Docket No. 090459-WS

In re: Application of Bluefield Utilities, LLC  
To operate a Water and Wastewater Utility  
In Martin and St. Lucie Counties, Florida.

Objection of the City of Port St. Lucie  
to Application for Original Certificates  
for Proposed Water and Wastewater System and Request  
for Initial Rates and Charges

The City of Port St. Lucie, by and through its undersigned attorney, hereby objects to the Bluefield Utilities, LLC ("Bluefield") Application for Original Certificates to operate a proposed water and wastewater system in western St. Lucie County on the following grounds:

- 1) The City of Port St. Lucie Utility Systems Department is ready, willing, and able to serve the area within five miles of its western boundary and has adopted Ordinance 07-22 (Exhibit "A"), codified at City of Port St. Lucie Code of Ordinances, 63.24(a), which provides in part that the City's utility service area shall extend five miles from the corporate limits of the City's western municipal boundary and it shall be the exclusive provider within that area. The Bluefield application includes property located within the area that the City is ready to serve.
- 2) To date, the City of Port St. Lucie Utilities Systems Department has not received an application or request to provide water and/or wastewater service to any of the properties proposed to be served by Bluefield.
- 3) It is not in the public's interest, environmentally sound, nor cost effective or efficient, to duplicate water and wastewater services in western St. Lucie County. The City of Port St. Lucie has existing state-of-the-art water and wastewater facilities with adequate capacity and within close proximity to several of the properties proposed to be served by Bluefield.

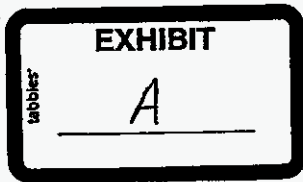
- 4) In addition, the City objects to Bluefield's Application in order to preserve the City's water withdrawal rights to serve the current and future citizens of Port St. Lucie until such time that Bluefield is able to provide the City adequate assurance that certification of Bluefield will not have a material adverse impact upon the amounts of water that the City can withdraw from its well fields.

Based upon the foregoing grounds, The City of Port St. Lucie objects to the Bluefield Utilities, LLC Application and requests that the commission deny the Application, to the extent of removing the St. Lucie County area from consideration for certification by the Commission.

s/Theresa J. Fontana  
Theresa J. Fontana  
Florida Bar No. 0644463  
Assistant City Attorney  
City of Port St. Lucie  
121 S.W. Port St. Lucie Blvd.  
Port St. Lucie, Florida 34984  
Telephone: 772-344-4386  
Fax: 772-344-4398

I hereby certify that on the 22<sup>nd</sup> day of October, 2009, this Objection was electronically filed with the Office of the Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 and was mailed to Bluefield Utilities, LLC, 660 Beachland Boulevard, Suite 301, Vero Beach, Florida 32963.

s/Theresa J. Fontana  
Theresa J. Fontana



COUNCIL ITEM 12B DATE 3/26/07 COUNCIL ITEM 8A DATE 3/19/07 COUNCIL ITEM 8B DATE 3/12/07

ORDINANCE 07 -22

COUNCIL ITEM 10b DATE 2/20/07

AN ORDINANCE AMENDING THE PORT ST. LUCIE CITY CODE: AMENDING SECTION 63.02, COUNCIL FINDINGS; AMENDING SECTION 63.03, DEFINITIONS; AMENDING SECTION 63.24, SERVICE AREAS; PROVIDING AN EFFECTIVE DATE.

THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

That Section 63.02, Port St. Lucie City Code, is hereby amended as follows:

Section 1. Sec. 63.02. Council findings.

~~In adopting this ordinance, the city council~~ The City Council hereby makes the following findings:

(a) The city deems it necessary to establish rules so that water and wastewater service may be made available and extended to new customers on an equitable basis.

(b) The city declares that these service availability and extension rules have, as their goal, the establishment of a uniform method of determining contributions in aid of construction such that all such contributions shall be nondiscriminatory against consumers in the service area of the utility and shall be applied as nearly as possible with uniformity to all consumers and prospective consumers in the service area of the city.

(c) The city has full and exclusive authority over the management, operation, and control of all of the city's water and wastewater utilities and the authority to prescribe rules and regulations governing the use of such facilities whenever such are provided by the city, and to make such changes from time to time in such rules and regulations as it deems necessary.

(d) The construction of water and wastewater system improvements and extensions is an essential utility service.

~~(e) The city recognizes that there are current obligations to certain entities covered by developer agreements assumed by the city in the transfer of the system from St. Lucie County.~~ The City recognizes that there is

Additions to text are indicated by underline; deletions by ~~strikeout~~.

a need for water and wastewater sewer outside our municipal boundaries that is not being met.

(f) ~~The city has provided the required public notice and held the necessary public hearing(s) in order to adopt these rules.~~ The City has the current ability to meet the water and wastewater needs of certain properties outside its municipal boundaries.

(g) In order to protect the health, safety, and welfare of the community's residents, the City may provide water and wastewater utility service to properties located within and without its municipal boundaries consistent with federal and state law and the City's Code of Ordinances governing its utility.

Section 2. Sec. 63.03. Definitions.

That Section 63.03, Port St. Lucie City Code, is hereby amended as follows:

Sec. 63.03. Definitions.

Unless specifically defined below, words or phrases used in these rules shall be interpreted consistent with chapter 61 of this title, and to give these rules the most reasonable application, consistent with state and federal law. The following words and phrases shall have the following meanings unless the context requires otherwise.

*Contributions-in-aid-of-construction.* The sum of money and/or the value of property represented by the cost of certain water and wastewater facilities contributed to the city in advance of construction by a developer so that the city may provide service to a specific development.

*Developer's agreement.* A contract between the developer and the city which outlines the responsibilities of each party concerning the provisions of water service and/or wastewater service to a property.

*Directly ~~benefitted~~ benefited property.* A property will be deemed to be directly ~~benefitted~~ benefited by a utility main line if it is not currently re-

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ORDINANCE 07 - 22

ceiving the type of utility service provided by the main line and is able to connect to that utility line by using a "service line."

*Main line.* A main line shall be a utility line which is equal to the size of, or greater in size than, a "minimum size line," as determined by the city for the particular type of utility service being provided. *Minimum size lines.*

- (1) For water service: six inches.
- (2) For wastewater service using a grinder pump: two and one-half inches.
- (3) For wastewater service using a gravity system: eight inches.

*Off-site facilities.* Water and/or wastewater lines, force mains and lift stations including water distribution and transmission and wastewater collection and transmission facilities constructed to connect on-site facilities with the nearest approved point in the existing water and/or wastewater system (as appropriate) at which adequate capacity is available to meet the requirements of the new services.

*On-site facilities.* The services, water and/or wastewater lines, force mains and lift stations, including water distribution and transmission and wastewater collection and transmission facilities installed within a residential, commercial or industrial development; including those facilities in peripheral streets and easements constructed wholly or in part for use by such development.

*Service areas.* Those areas, both within and without the corporate limits of the city, as indicated in the ~~chapter 62 appendix~~ Section 63.24, where water and wastewater services are, or will be, exclusively provided by the city to its utilities customers.

*Service line.* A service line shall be a utility line which is smaller in size than a minimum size line and connects a customer's property to a utility main line.

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ORDINANCE 07 -22

*Wastewater permit.* A permit issued by the city providing for the disposal of wastewater pursuant to city rules and regulations.

*Wastewater facilities.* All wastewater collection, transmission, treatment, and effluent disposal facilities, including all interceptors, lines, pipes, meters, couplings, pumps, force mains, and appurtenant equipment necessary to provide water and/or wastewater service capacity or wastewater service capacity.

*Water facilities.* All water distribution, transmission, treatment, storage, and production facilities, including all pipes, lines, meters, couplings, pumps, force mains, and appurtenant equipment necessary to provide water service capacity.

*Water permit.* A permit issued by the city providing for the receipt of water pursuant to city rules and regulations.

Section 3. That Section 63.24, Port St. Lucie City Code, is hereby amended as follows:

Sec. 63.24. Service areas.

(a) ~~The city hereby confirms that its water and wastewater service areas have been designated as shown in the chapter 62 appendix. The area shall be defined as the~~ The "City of Port St. Lucie Water and Wastewater Utility Service Areas" and shall include identifies all areas within and without the corporate boundaries of the City of Port St. Lucie pursuant to the Agreement of Transfer dated June 28, 1994 as amended by the First Amendment to Agreement of Transfer dated September 27, 1994 and exclude those areas currently provided service by other utilities. Said Utility Service Area shall also extend five (5) miles from the corporate limits of the City's western municipal boundary and north of Midway Road to State Road 70. The ~~where the city~~ City shall be the exclusive provider of water and wastewater services in this area. As such, the city shall have all the rights provided to it by law.

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ORDINANCE 07 -22

(b) The City of Port St. Lucie Water and Wastewater Service areas ~~Area de shall~~ not include any area within the city limits of any other incorporated municipality nor shall it include areas currently provided service by another utility.

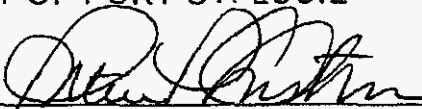
(c) ~~A Full~~ maps of the City of Port St. Lucie Water and Wastewater Service Areas are is on file with the city clerk and ~~is in the utility offices~~ the Utility Systems Department, and are is available for inspection and review.

(d) Wherever in title VI of this Code reference is made to service area or areas or service area or areas, such reference shall be deemed to, and shall, refer to the City of Port St. Lucie Water and Wastewater Service Areas.

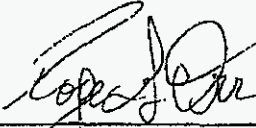
Section 4. This ordinance shall become effective upon adoption.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this 26<sup>th</sup> day of MARCH, 2007.

CITY COUNCIL  
CITY OF PORT ST. LUCIE

By:   
Patricia P. Christensen, Mayor

ATTEST:  
  
Karen A. Phillips, City Clerk

APPROVED AS TO FORM:   
Roger G. Orr, City Attorney



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**MEMORANDUM**

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**RECEIVED**

~~FEB 14 2007~~

TO: DONALD B. COOPER, CITY MANAGER City Manager's Office  
THRU: JESUS MEREJO, UTILITY SYSTEMS DIRECTOR *JM*  
FROM: THERESA J. FONTANA, ASSISTANT CITY ATTORNEY *TJF*  
DATE: FEBRUARY 14, 2007  
SUBJECT: AMENDED ORDINANCES SETTING FORTH CITY COUNCIL  
FINDINGS AND REDEFINING CITY OF PORT ST. LUCIE  
UTILITY SERVICE AREA

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Pursuant to City Council directive at the Special Meeting of the City Council of the City of Port St. Lucie on February 8, 2007, attached hereto, please find the amended Ordinances setting forth City Council's findings and redefining the City of Port St. Lucie Utility Service Area. Please place this item on the February 20, 2007 City Council agenda. If you have any questions, you may contact me at ext. 5294.

/tjf

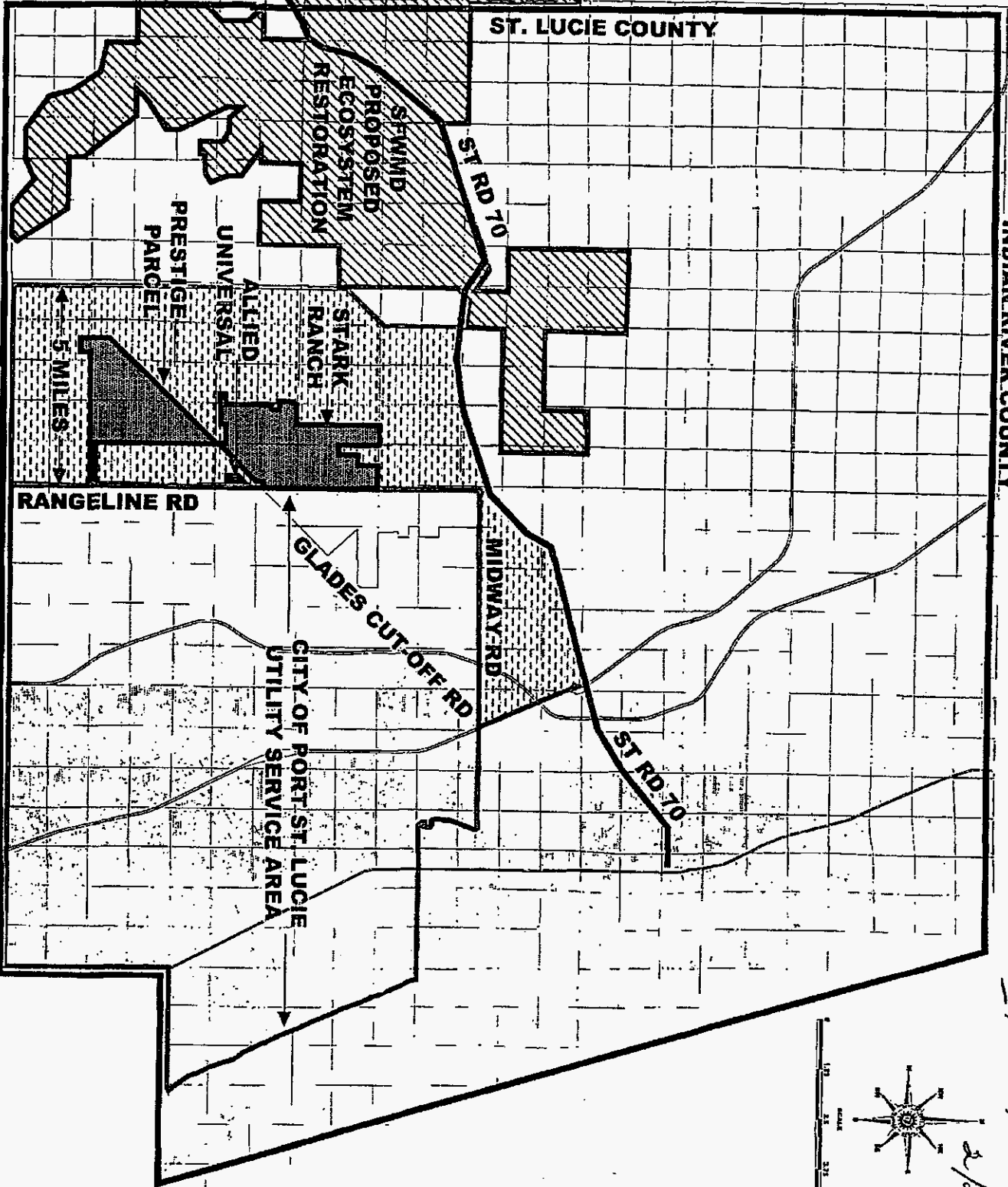
c: Roger G. Orr, City Attorney

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2/14*

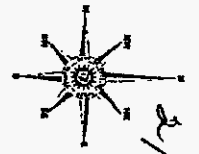
OKEECHOBEE COUNTY

ST. LUCIE COUNTY

INDIAN RIVER COUNTY



MARTIN COUNTY



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