

AN ORDINANCE

0-22-99

GRANTING TO BEAUFORT-JASPER WATER AND SEWER AUTHORITY AN EXCLUSIVE FRANCHISE FOR THE PROVISION OF WATERWORKS AND SEWER SERVICE WITHIN THE CITY OF BEAUFORT; AUTHORIZING THE ENTRY BY THE CITY OF BEAUFORT INTO AN AGREEMENT OF CONSOLIDATION AND TRANSFER WITH BEAUFORT-JASPER WATER AND SEWER AUTHORITY; AND OTHER MATTERS RELATED THERETO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEAUFORT, SOUTH CAROLINA, AS FOLLOWS:

SECTION 1. Findings. The City Council (the "Council"), as the governing body of the City of Beaufort, South Carolina (the "City"), State of South Carolina (the "State"), hereby finds and determines:

(a) The City presently owns and operates a waterworks and sewer system (the "System") which is operated under the control of the Council. After due deliberation and study, the Council has determined that it may be in the best interests of the citizens of the City for the System to be sold to Beaufort-Jasper Water and Sewer Authority, a special purpose district and political subdivision of the State ("the Authority") and for the Authority to be granted an exclusive franchise for a period of forty years for the furnishing of waterworks and sewer service within the City.

(b) The City is authorized to sell the System pursuant to Section 5-31-610(5), Code of Laws of South Carolina, 1976, as amended (the "Code"), provided the same is first approved by referendum. Sale of the waterworks component of the System must also comply with Sections 5-31-1310 to 5-31-1370 of the Code. The City is authorized to grant an exclusive franchise to the Authority for the provision of waterworks and sewer service within the City by Section 5-31-50 of the Code. Such franchise must be approved by a vote of two-thirds of the Council and a majority of the qualified electors of the City voting at an election called for such purpose. The vote of Council must be taken prior to the submission of the question to the electorate. The ordinance by which the franchise is granted must prescribe a method for determining rates for furnishing water, both for public and private consumption, and for waste disposal services.

(c) Pursuant to a resolution adopted on March 2, 1999, the Council has set May 4, 1999 as the date for the referendum relating to the sale of the System and the granting of an exclusive franchise to the Authority (the "Referendum").

(d) Pending the holding of the Referendum, the City and the Authority have negotiated terms for the sale of the System, and have reduced the same to writing in an "Agreement of Consolidation and Transfer" (herein, the "Transfer Agreement"), the form of which appears as Exhibit "A" hereto. The Council finds that included within the Transfer Agreement is a method for determining rates for furnishing water, both for public and private consumption, and for waste disposal services, as required by Section 5-31-50 of the Code, and such provisions of the Transfer Agreement are incorporated herein by reference.

(e) The Council is now minded to approve the granting of an exclusive franchise to the Authority, as required by Section 5-31-50 of the Code, and to approve the entry of the City into the Transfer Agreement.

SECTION 2. Approval of Franchise. Pursuant to the authority granted the City by Section 5-31-50 of the Code of Laws of South Carolina, 1976, as amended, the Council hereby approves the granting of an exclusive franchise to the Authority to provide waterworks and sewer service within the City. The approval of Council is subject to approval by the qualified electors of the City voting in the Referendum. The franchise granted hereby will extend for a period of forty (40) years from the initial delivery of water or the commencement of waste disposal services by the Authority within the corporate limits of the City, whichever first occurs.

SECTION 3. Approval of Agreement The entry by the City into the Transfer Agreement, in the form appearing as Exhibit "A" hereto, with the Authority is hereby approved. The Transfer Agreement shall be executed on behalf of the City by the Mayor and all members of Council, and such signatures and the seal of the City shall be attested to by the City Clerk.

Adopted this 27th day of April, 1999.

THE CITY COUNCIL OF THE CITY OF BEAUFORT,
SOUTH CAROLINA

David M. Taul
Mayor

(SEAL)

ATTEST:

Beverly McMay
City Clerk

W. B. Stoney
City attorney

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT


I, the undersigned, City Clerk of the City of Beaufort, South Carolina, DO HEREBY CERTIFY:

That the foregoing constitutes a true, correct and verbatim copy of an ordinance (the "Ordinance") adopted by the City Council of the City of Beaufort. The Ordinance was read at two public meetings of City Council on two (2) separate days. An interval of at least six (6) days occurred between each reading. At each meeting, a quorum of City Council was present and remained present throughout the meeting. Upon each of the two readings of the Ordinance, at least four (4) members of the Council voted in favor of the adoption thereof.

That the original of said Ordinance is duly entered in the permanent records of said Board, in my custody as such City Clerk.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of the Council, this ____ day of _____, 1999.

(SEAL)



City Clerk of the City of Beaufort, South Carolina