

RESOLUTION NO. 1-07

A RESOLUTION OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, REGARDING THE SUGAR MILL HOMEOWNERS ASSOCIATION AND THE ADJACENT LAND OWNED BY THE UTILITIES COMMISSION AND SIGNATURE AUTHORITY; RESCINDING ALL RESOLUTIONS, OR PORTIONS THEREOF, IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Utilities Commission, City of New Smyrna Beach, Florida, was duly created and is validly existing under the Laws of Florida. The Utilities Commission, City of New Smyrna Beach, Florida, is an appointed body with exclusive authority over the management, operation and control of the City of New Smyrna Beach's electric, water, sewer and reuse utilities; and

WHEREAS, the Utilities Commission owns real property located adjacent to the Sugar Mill Residential Development described in EXHIBIT "A" attached hereof; and

WHEREAS, The Sugar Mill Residential Development has a Declaration of Covenants, Conditions and Restrictions, governed by the Sugar Mill Homeowners Association and binding upon all of the property owners within the development; and

WHEREAS, The Sugar Mill Homeowners Association has an interest in maintaining the quality of the property values should the adjacent Utilities Commission property be sold; and

WHEREAS, The Utilities Commission has an interest in use of the property adjacent to Sugar Mill at its discretion as long as it is owned by the Utilities Commission; and

WHEREAS, The Utilities Commission and Sugar Mill Homeowners Association wish to continue and maintain a positive working relationship, and, in order to do so, enacts the following.

NOW THEREFORE, BE IT RESOLVED BY THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, AS FOLLOWS:

SECTION 1: That the Utilities Commission, City of New Smyrna Beach, Florida, shall make no changes which may add restrictions to the property adjacent to Sugar Mill described above for as long as it is owned by the Utilities Commission unless it willingly does so by subsequent instrument. Nothing herein shall be construed to affect current property rights of said property.

SECTION 2: If at any time subsequent to this resolution, the Utilities Commission, City of New Smyrna Beach, Florida, makes the decision or is compelled by law or circumstance to sell the property adjacent to Sugar Mill, in whole or in part, it will consider to incorporate the Declaration of Covenants, Conditions and Restrictions for the Sugar Mill Homeowners Association into the deed before any such sale is executed.

SECTION 3: If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4: After adoption by the Utilities Commission, City of New Smyrna Beach, Florida, this Resolution will become effective immediately.

SECTION 5: All Resolutions in conflict herewith are hereby rescinded and superseded

THE ABOVE AND FOREGOING RESOLUTION was introduced at a regular meeting of the Utilities Commission, City of New Smyrna Beach, Florida, held on Jan. 22, 2007 by Commissioner Diesen, who moved its adoption, which motion was seconded by Commissioner Spangler, and upon roll call vote of the Commission was as follows:

CHAIRMAN

VICE CHAIRMAN

SECY.-TREAS.

COMMISSIONER

COMMISSIONER

_____	yes
<i>[Signature]</i>	yes
<i>[Signature]</i>	yes
<i>[Signature]</i>	yes
<i>[Signature]</i>	yes
<i>[Signature]</i>	yes

APPROVED:

*[Signature]*  
CHAIRMAN

ATTEST:

*[Signature]*  
SECRETARY-TREASURER

S E A L

APPROVED AS TO FORM AND  
CORRECTNESS:

*[Signature]*  
Utilities Commission Attorney

## EXHIBIT A

A portion of the Joseph Bonally Grant, Section 42, Township 17 South, Range 33 East, Volusia County, Florida, being described as follows:

Commence at the Northwest corner of Lot 8, Unit 1, Sugar Mill Country Club and Estates Subdivision, according to the plat thereof as recorded in Plat Book 29, page 129, public records of Volusia County, Florida, said point being located on the Easterly right-of-way line of Club House Boulevard according to the plat of Brae Burn Unit 1 as recorded in Plat Book 35, pages 5, 6, and 7, public records of Volusia County, Florida; thence along said Easterly right-of-way line the following two (2) courses and distances, North 09° 39' 23" East, 110.67 feet to a point of curvature of a curve, concave Southwesterly, having a radius of 216.76 feet; thence run Northerly 25.54 feet along the arc of said curve, thru a central angle of 06° 45' 00" for the point of beginning; thence South 37° 05' 37" East, radial to last said curve 337.33 feet; thence South 28° 36' 08" East, 118.27 feet to an iron pipe being the Northeast corner of an existing Water Plant Site; thence North 09° 54' 53" West, 69.49 feet to the Westerly boundary of a Golf Course; thence North 44° 55' 20" West, along said Westerly boundary, 156.41 feet; thence South 77° 52' 19" West, 277.33 feet to the point of beginning; and

A portion of the Joseph Bonally Grant, Section 42, Township 17 South, Range 33 East, Volusia County, Florida, being described as follows:

Commence at the Northwest corner of Lot 8, Unit 1, Sugar Mill Country Club and Estates Subdivision, according to the plat thereof as recorded in Plat Book 29, page 129, public records of Volusia County, Florida, said point being located on the Easterly right-of-way line of Club House Boulevard, according to the plat of Brae Burn Unit 1, as recorded in Plat Book 35, pages 5, 6, and 7, public records of Volusia County, Florida; thence North 09° 39' 23" East, along said Easterly right-of-way line, 110.67 feet for the point of beginning, said point being a point of curvature of a curve, concave Southwesterly, having a radius of 216.76 feet; thence run Northerly 25.54 feet along the arc of said curve thru a central angle of 06° 45' 00" to a point; thence South 37° 05' 37" East, radial to last said curve 337.33 feet; thence South 28° 36' 08" East, 118.27 feet to an iron pipe being the Northeast corner of an existing Water Plant Site; thence South 61° 23' 52" West, along the North line of said Water Plant Site, 216.00 feet; thence North 28° 36' 08" West, 205.65 feet; thence North 80° 20' 37" West, 169.81 feet to the point of beginning.