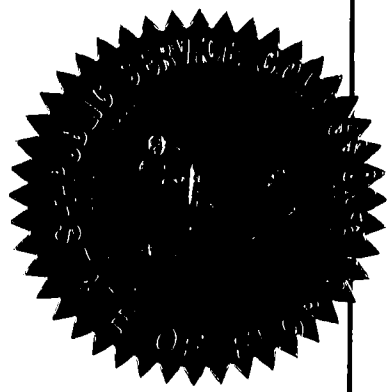


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 070109-WS

In the Matter of:

APPLICATION FOR AMENDMENT OF CERTIFICATES
611-W AND 527-S TO EXTEND WATER AND
WASTEWATER SERVICE AREAS TO INCLUDE CERTAIN
LAND IN CHARLOTTE COUNTY BY SUN RIVER
UTILITIES, INC. (F/K/A MSM UTILITIES, LLC).



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PROCEEDINGS: AGENDA CONFERENCE
 ITEM NO. 17

BEFORE: CHAIRMAN LISA POLAK EDGAR
 COMMISSIONER MATTHEW M. CARTER, II
 COMMISSIONER KATRINA J. McMURRIAN
 COMMISSIONER NANCY ARGENZIANO
 COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, November 20, 2007

TIME: Commenced at 9:37 a.m.
 Concluded at 10:07 a.m.

PLACE: Betty Easley Conference Center
 Room 148
 4075 Esplanade Way
 Tallahassee, Florida

REPORTED BY: LINDA BOLES, RPR, CRR
 Official Commission Reporter
 (850) 413-6734

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 10502 NOV 26 5

FPSC-COMMISSION CLERK

1 PARTICIPATING:

2 HAROLD A. MCLEAN, ESQUIRE, and TODD D. ENGELHARDT,
3 ESQUIRE, representing Charlotte County.

4 MARTIN S. FRIEDMAN, ESQUIRE, and ROBERT C. BRANNAN,
5 ESQUIRE, representing Sun River Utilities, Inc.

6 RALPH JAEGER, ESQUIRE, representing the Florida
7 Public Service Commission Staff.

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P R O C E E D I N G S

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2 CHAIRMAN EDGAR: And we will be on Item 17, and we'll
3 also wait a moment to let everybody get situated.

4 Okay. We're ready when you are.

5 MR. JAEGER: Commissioners, Ralph Jaeger for legal
6 staff. Item 17 is staff's recommendation concerning Charlotte
7 County's Motion for Summary Final Order or Relinquishment of
8 Jurisdiction filed in Docket Number 070109-WS, Sun River's
9 amendment application.

10 Charlotte County has requested oral argument on its
11 motion and staff is recommending that oral argument be granted
12 for ten minutes per side. Todd Engelhardt is here for
13 Charlotte County and Marty Friedman is here for Sun River
14 Utilities.

15 And so the first issue we need to address is the
16 request for oral argument.

17 CHAIRMAN EDGAR: Commissioners, as you've heard from
18 our staff, we have a request for oral argument. We have two
19 parties. We have a recommendation of ten minutes per party.
20 Commissioners, is there a motion to hear oral argument?

21 COMMISSIONER CARTER: I would so move.

22 COMMISSIONER SKOP: Second.

23 CHAIRMAN EDGAR: There's a motion and a second. All
24 in favor, say aye.

25 (Unanimous affirmative vote.)

1 Okay. We will move to oral argument. As I said, ten
2 minutes a side, and it is your motion.

3 MR. ENGELHARDT: Thank you, Madam Chair. Good
4 morning, Commissioners. My name is Todd Engelhardt. I'm here
5 with Harold McLean. We're with Akerman Senterfitt, and we're
6 here on behalf of Charlotte County, who is the protestor in
7 this docket.

8 Charlotte County has moved for summary final order
9 or, in the alternative, asked the Commission to relinquish its
10 jurisdiction of this matter. Summary final order is
11 appropriate because Sun River's proposal violates Charlotte
12 County's Comp Plan and the proposal therefore cannot be shown
13 to be in the public interest of the residents of Charlotte
14 County.

15 It is staff's well-intentioned recommendation to deny
16 the motion because staff mistakenly believes that no -- that
17 disputed material facts exist as to whether the proposal indeed
18 violates the comp plan and whether the proposal is in the
19 public interest.

20 Staff also recommends denial because the relevant
21 statute, Section 367.045(5)(b), grants this Commission the
22 discretion to amend the certificate even if doing so would
23 violate a county comp plan.

24 Staff's recommendation, however, appears to focus on
25 the legal question of how the Commission can rule and not

1 necessarily the real world question of how the Commission
2 should rule.

3 Over the course of three years, culminating in 1997
4 after 115 public hearings, Charlotte County completed its
5 current comprehensive plan. This plan was approved by your
6 sister agency, the Department of Community Affairs.

7 One of the comp plan's stated objectives, Objective
8 1.3, states that the County will use the location and timing of
9 infrastructure and services to direct growth in an orderly and
10 efficient manner. The plan further defines the boundaries of
11 the territory where urban services such as water and wastewater
12 are to be provided.

13 Sun River's proposal disputes the fact -- I'm sorry.
14 Sun River's proposal seeks to extend these services into an
15 area outside the urban service area where the comp plan
16 specifically disallows such services to be extended during the
17 planning period and which is specifically not zoned for the
18 type of development that Sun River's proposal seeks to service.
19 Thus, Sun River's proposal violates Charlotte County's Comp
20 Plan.

21 As to whether Sun River disputes the fact that its
22 proposal violates the comp plan, this Commission need look no
23 further than Paragraph 3 of Sun River's application for
24 amendment to find that Sun River itself acknowledges that the
25 proposal violates the comp plan. Reading from the application:

1 "To the best of applicant's knowledge, the provision of water
2 and wastewater service to portions of the property by MSM is
3 consistent with the Charlotte County Comprehensive Plan at the
4 time the application is filed. The portions that are not
5 consistent with Charlotte County's Comprehensive Plan are
6 necessary to add continuity to MSM's service area." In other
7 words, Sun River recognized from the moment it applied for this
8 amendment that its proposal was not fully compliant with the
9 comp plan. Further, Sun River later filed direct testimony in
10 which two separate witnesses admit that the proposal, quote,
11 may not comport with the comp plan, unquote, and that, quote,
12 Charlotte County has no plans in their comprehensive plan for
13 service to the proposed Sun River Utility area, end quote.

14 Sun River's own admissions against interest in
15 addition to the affidavits submitted by Charlotte County's
16 Planning Service Manager, Charlotte County's Utilities Director
17 and the docketed letter from your sister agency, the Department
18 of Community Affairs, established beyond any reasonable level
19 the material fact that the proposal violates Charlotte County's
20 Comp Plan. Because the proposal violates this properly created
21 and enacted comp plan, it is also impossible for Sun River to
22 show that its proposal could be in the public interest. As
23 established by the Florida statutory scheme, comprehensive
24 plans are planning directives that bind local governments.
25 They exist to ensure the orderly growth and development of

1 local areas and are created through an elaborate process of
2 input from local planners, state agencies and the general
3 public.

4 By statute, before a comp plan can be approved by the
5 Department of Community Affairs, the local government entity
6 must hold at least two public hearings to ensure public access
7 and participation in the planning. Charlotte County held 115
8 such public hearings over the course of three years.

9 This comp plan represents a massive statement of the
10 public interest by the people of Charlotte County itself. Sun
11 River cannot sidestep the planning directives by the people of
12 the county itself simply by submitting four alleged need
13 letters, none of which actually establishes any need at all.
14 One of the letters used to support the application was not sent
15 until after Sun River filed its application. Another comes
16 from a party which admits in the letter that it doesn't yet own
17 any land in the proposed service area. Letters from two
18 individual lot owners cannot possibly be seen as a stronger
19 statement of the public interest of the people in this area
20 than the comp plan created after 115 public hearings over three
21 years and then ratified by the Department of Community Affairs.

22 Finally, Sun River and staff note that Section
23 367.045(5)(b) grants the Commission the legal discretion to
24 rule in a manner which contradicts a county comp plan as long
25 as the plan is considered.

1 Sun River cited to prior cases where prior
2 Commissions have ruled in a manner contrary to local county
3 comp plans. However, each of those cases, the City of Oviedo
4 case otherwise known as the Alafaya case and the Farmton case,
5 are so dramatically different on their essential facts that
6 neither can be used as a fair comparison here. In neither of
7 those cases did the utility who sought to amend its certificate
8 admit in its initial pleading that its proposal violated the
9 county's comp plan. Both of those cases involved a proposed
10 service area owned entirely by one entity, thereby reducing any
11 fears of urban sprawl within the certificated area. And in
12 both of those cases the county involved proffered conflicting
13 testimony on its own as to whether the plan did, in fact,
14 violate that county's comp plan. None of that is present here.

15 The Legislature through Section 367.045(5)(b)
16 requires you to consider the comp plan when making your
17 determination. The Commission is certainly entitled to use its
18 discretion to comply with a comp plan and in this case should
19 do so. When considering a comp plan such as Charlotte County's
20 created through an exhaustive inclusive process of public
21 involvement and approved by your sister state agency, the
22 Department of Community Affairs, this Commission is all but
23 compelled to heed the local public's bold statement of its
24 planning goals and desires. If ever this Commission is going
25 to face a comp plan which can fairly be characterized as a

1 statement of the local public interest, this is the comp plan.
2 This Commission should take that people's mandate to heart and
3 grant Charlotte County's Motion for Summary Final Order. Thank
4 you.

5 CHAIRMAN EDGAR: Thank you.

6 Mr. Friedman.

7 MR. FRIEDMAN: Thank you. My name is Martin
8 Friedman, the Law Firm of Rose, Sundstrom & Bentley. We
9 represent Sun River Utilities. With me also is co-counsel Bob
10 Brannan of our firm.

11 Something that the County has overlooked is the fact
12 that a portion of the property in question is, even by
13 Charlotte County's opinion, within the service, within the
14 urban services district and is thus in compliance with the comp
15 plan. A portion of it, they assert, is not. They have kind of
16 glossed over the fact that a portion is admittedly within the
17 comp plan or is consistent with the comp plan.

18 The whole purpose of Charlotte County taking back
19 jurisdiction was because it didn't want to play on a level
20 playing field. The whole purpose of the County's actions is to
21 thwart competition in the water and wastewater industry in
22 Charlotte County.

23 Something that has not been explained is that one of
24 the bases for Charlotte County filing this objection was the
25 assertion that the property in question was in fact within

1 Charlotte County's water and sewer district that they believed
2 was exclusive and therefore their right, which leads you to the
3 question that's still unanswered. Why can this property which
4 the County contends is not consistent with the comp plan be in
5 Charlotte County's water and sewer service area but not in
6 Sun River's water and sewer service area? That in and of
7 itself is an issue of fact that would make summary disposition
8 inappropriate. This Commission should hear the testimony,
9 should hear if there is a reason why the County believes that
10 is true, this Commission should hear that, and Sun River should
11 have an opportunity to explore that particular issue. I think
12 that's a big issue that is just out there that has never been
13 explained by Charlotte County.

14 The comp plan, as you well know -- we heard ad
15 nauseam about how many hundred meetings they had, but the comp
16 plan is an evolving document. It's not set in stone. In fact,
17 Charlotte County supported a comp plan change last year within
18 the service area of Sun River Utilities. So to say that,
19 that -- even assuming it is contrary to the comp plan as it
20 exists today, and we've cited some arguments why factually we
21 don't think it is, even if it is, that doesn't mean that you
22 deny the application.

23 The public interest, as counsel has asserted, that
24 the comp plan states what the public interest is and that's the
25 law and that's the way it ought to be, if it, if the

1 Legislature had intended for this Commission to use the comp
2 plan as a determining factor of whether something was in the
3 public interest or not, they would have said so. What the,
4 what the Legislature rightfully did was say, "Consider it."
5 Along with everything else, consider the comp plan if it's
6 raised by -- in an objection by government, consider the comp
7 plan in the overall evaluation of what is in the public
8 interest.

9 If the Legislature had intended for you to be bound
10 by that as being a determinative of the public interest, it
11 clearly would have stated that. And as I mentioned and as you
12 well know the comp plan is an ever-evolving document.

13 It is our position that the developers need to know
14 that there is a source of central water and sewer service
15 available before they take that next step and try to ask the
16 County to amend the comp plan. Obviously these property owners
17 who have requested service believe that an amendment to the
18 comp plan would be an appropriate activity. And, in fact, as I
19 pointed out, the County has supported in the past an amendment
20 to the comp plan in this very service area.

21 So it really leads you to the obvious conclusion that
22 what the County wants is the County wants to have the exclusive
23 ability to be the sole provider of water and sewer service
24 anywhere in Charlotte County and that's not what the
25 legislative dictates of this Commission are. They are to

1 evaluate what's in the public interest. And here today we are,
2 we're here on a very narrow issue, which is there are no
3 disputed issues of fact. I mean, you've got to find that there
4 is not one disputed issue of material fact in order to grant
5 this motion. And I would suggest to you that, as we have
6 stated in detail in our brief, there are many disputed issues
7 of fact, including whether the extension of water and sewer
8 service to these areas is even covered by the comp plan. It
9 certainly isn't contrary to the comp plan as the term
10 "development" is defined in the comp plan.

11 As you know, on many occasions this Commission has
12 granted water and sewer service territory amendments that were
13 contrary to the comp plan because you look at the public
14 interest in other areas and not just the comp plan. And we
15 think that when you do so in this case you will come to the
16 conclusion we did: That it's in the public interest for
17 Sun River Utilities to provide service here.

18 Another issue that's of importance that this
19 Commission has recognized in a number of cases, and that is
20 that granting a service area amendment such as requested by
21 Sun River doesn't thwart the, in this case, the County's
22 ability to control growth. This Commission has found in many
23 cases that local government has the ability to control growth,
24 notwithstanding this Commission granting a service area
25 amendment.

1 I would suggest to you, without reiterating the
2 factual allegations that are in our brief that I'm sure y'all
3 have read, is that there are disputed issues of fact. What Sun
4 River wants is to have its day in court. This matter is set
5 for a final hearing, I think, in January. We want an
6 opportunity in January with a level playing field to show this
7 Commission that it is in the public interest for Sun River
8 Utilities to provide water and sewer service to this territory.
9 And as I mentioned, it is still unexplained why the County
10 believes it's appropriate for this property to be in its
11 service area but it's inappropriate to be in Sun River's
12 service area. Thank you.

13 CHAIRMAN EDGAR: Thank you, Mr. Friedman.

14 Commissioner Argenziano.

15 COMMISSIONER ARGENZIANO: I guess a couple of
16 questions to Charlotte County, if I may. The, I guess the
17 County in my opinion, and I'd like to see if you agree, would
18 still retain the right to either amend or not amend the
19 comprehensive plan or any zoning change; is that correct?

20 MR. ENGELHARDT: As determined by the Department of
21 Community Affairs, yes.

22 COMMISSIONER ARGENZIANO: Okay. And you've referred
23 to 367.045(5)(b), and if I can just read it briefly.

24 "When granting or amending a certificate of
25 authorization, the Commission need not consider whether the

1 issuance or amendment of the certificate of authorization is
2 inconsistent with the local comprehensive plan of a county or
3 municipality, unless a timely objection to the notice required
4 by this section has been made by an appropriate motion or
5 application. If such an objection has been timely made, the
6 Commission shall consider, but is not bound by, the local
7 comprehensive plan of the county or municipality." So I don't
8 see where we'd -- I see that we are not bound by that, so I'm
9 not sure how you're using that statute in the defense of
10 Charlotte County.

11 MR. ENGELHARDT: Well, Commissioner, that statute is
12 certainly one that controls portions of this case. It's what
13 allows Charlotte County to even bring the comp plan in because
14 Charlotte County did file the timely objection. But I think
15 you have to look at the scheme as a whole. And this
16 Commission, just as the Department of Community Affairs and
17 every other state agency, is to a great extent bound by what
18 the public interest must be in this case. And what our
19 argument is is that based on the process that went through the
20 creation of this comp plan, three years, 115 public hearings,
21 such an elaborate process to create this plan, and that that in
22 and of itself is the boldest possible statement you can have of
23 what the public interest in that area is. And in that case
24 that, that sort of sidesteps the question of whether you're
25 bound by the comp plan because to a great extent you are

1 intended to be bound by the public interest of the area.

2 COMMISSIONER ARGENZIANO: Well, Madam Chair, if I
3 may.

4 CHAIRMAN EDGAR: Yes, ma'am.

5 COMMISSIONER ARGENZIANO: Public interest works in
6 many different ways, and I respect those hearings and
7 definitely wouldn't want it to be any other way. But
8 competition is also in the public interest too, and that's
9 something that's to be looked at and I'm not sure that that was
10 addressed.

11 So hearing, going further -- basically what I'm
12 trying to say I guess is that the County, even if we went
13 forward today, the County still has the authority to reject the
14 amendment of the comp plan or the, or any zoning change. And
15 we are not by going forward today doing anything other than
16 moving forward to gather more information. So we haven't
17 stamped -- or I haven't and won't be stamping an approval of it
18 yet. So I'm not sure, you know, where you're at with that. I
19 understand the public, the public's input, but I'm looking at
20 the public interest in several different ways other than just
21 not wanting, you know, urban sprawl, and I understand that.

22 MR. ENGELHARDT: If I may respond.

23 CHAIRMAN EDGAR: You may.

24 MR. ENGELHARDT: As my colleague likes to put it, you
25 may be running into the nose in the tent issue if you, if you

1 amend the certificate. It's -- there's nothing that can be
2 shown that you do with water and wastewater services except for
3 develop. And this comp plan is as clear as it can be that the
4 people don't want development in rural service areas or outside
5 of the urban service area.

6 Opposing counsel mentioned that, yes, you can amend a
7 comp plan, and, in fact, the comp plan will expire, the current
8 comp plan will expire in 2010. However, there has been no
9 application to the County or to the Department of Community
10 Affairs to amend the comp plan to allow for this type of
11 development that they seek. Therefore, there can be no need
12 established through the course of this hearing, and that is why
13 we brought the motion is that if we do go through the trouble
14 of going to hearing, hearing all the evidence, looking at
15 whether those letters that they published or that they've
16 produced are actually valid letters that in any way establish
17 any kind of need, the question is do they establish a need now?
18 And there's no way that that can be established in that they
19 can't get the zoning that they might need for the creation of
20 these services because the services can only be used for
21 development, which violates the comp plan, and they haven't
22 applied for an amendment to the comp plan. So it's a circular
23 thing. They have to take all the steps. And without taking
24 those steps, the plan isn't, it just isn't ripe yet.

25 If they amend the comp plan and then come in and show

1 that there is need in the area that is not being addressed by
2 the, by the County, that's when this Commission should step in
3 and take a look at the public interest and say there are people
4 in this area who are not being serviced because of the way the
5 County is acting and we need to come in and protect those
6 people. But until that comp plan is amended or even applied
7 for amendment to allow for development of those services, it's
8 just not ripe and it won't be by January at the time of
9 hearing.

10 CHAIRMAN EDGAR: Mr. Friedman, can you respond to
11 some of the comments that have been made?

12 MR. FRIEDMAN: I do. Thanks for the opportunity.

13 A couple of things. One is that, as counsel has
14 raised, the need issue and their motion doesn't deal with need.
15 They have -- the Motion for Summary Disposition doesn't say
16 there's no need. Their motion is solely upon the comp plan
17 issue. And I would point out that what has happened is that
18 you've got a circular argument. Kind of a chicken before the
19 egg, if you'll indulge me.

20 In order for you to get a comp plan amendment through
21 the DCA, you're going to have to show that you've got utility
22 service. And so before you could take the step of going to the
23 County and ultimately the DCA for a comp plan change, you're
24 going to have to say, hey, I've got, I've got water and sewer
25 service. Here's how I'm going to get it. Then you take --

1 that's your first step in getting a comp plan change.

2 The second step is then to go to the County and ask
3 for the comp plan change. And so we're not to the point yet,
4 until this Commission rules and hopefully favorable to Sun
5 River, that we take that next step to get the comp plan change
6 application filed. And comp plan changes, as you know -- the
7 applications are filed twice yearly and the comp plans are
8 subject to change. And as counsel noted, this comp plan is
9 going to expire in, in a little over two years anyway. So
10 maybe the process that they're going through for the new comp
11 plan may, in fact, decide they want to put something out in
12 this part of the County.

13 So all I'm telling you is that the comp plan is not,
14 is not the issue; that this Commission needs to look at the
15 overall public interest in granting a certificate amendment.
16 And the evidence when we have a trial and you get to hear some
17 testimony, the evidence is going to show you the need, it's
18 going to show you the process, and it's going to take care of
19 counsel's concerns about nobody having yet filed an
20 application. It's not, it's not timely yet is what I'm trying
21 to tell you. Thank you.

22 CHAIRMAN EDGAR: Commissioner Skop.

23 COMMISSIONER SKOP: Thank you, Madam Chair. I guess
24 having heard oral argument from both of the parties, I guess at
25 the appropriate time I probably would be in favor of moving

1 staff recommendation on Issues 2 and 3. And I think my
2 rationale for that is with respect to Issue 2 on Charlotte
3 County's Motion for Summary Final Order, I think it would be
4 inappropriate to grant the final order because I don't feel
5 that certainly the first prong with respect to a genuine issue
6 of material fact, I think that some issues have been raised
7 that support there may be some material facts that need to be
8 resolved to the extent that you would even get to the second
9 prong of the test, but even then it's at the Commission's
10 discretion.

11 And then also with respect to Issue 3 with respect to
12 the Charlotte County Motion for Relinquishment of Jurisdiction,
13 I guess historically we've retained jurisdiction recently with
14 respect to a case and I think it may be appropriate to do that
15 here. A hearing is scheduled, not that it will get to hearing,
16 and perhaps maybe the parties could, you know, work out some
17 sort of amicable agreement. But with respect to the procedural
18 aspects presented here today, I'm in favor of staff's
19 recommendation. Thank you.

20 CHAIRMAN EDGAR: Thank you, Commissioner. And I
21 think we may have a few further questions and comments of
22 Commissioner McMurrin and then Commissioner Carter.

23 COMMISSIONER McMURRIAN: Thank you, Chairman.

24 I agree with what Commissioner Skop has just laid
25 out. And I also want to say that I agree with Mr. Engelhardt

1 in that a hearing may be inefficient, but I don't think the
2 standard has been met for a summary final order in this case.

3 I did want to ask Mr. Friedman a question. I know
4 that we're not deciding the need today and it's already come
5 up, but I just wanted to ask you point blank, is there a need
6 for service in the entire service area that you're seeking to
7 add to your service territory?

8 MR. FRIEDMAN: Absolutely.

9 COMMISSIONER McMURRIAN: And we'll be hearing more
10 about that, I assume, if we proceed to hearing.

11 MR. FRIEDMAN: Yes. That is, that is one of the
12 major issues in a territory amendment case and you will hear ad
13 nauseam testimony about that.

14 COMMISSIONER McMURRIAN: I'll just say that, you
15 know, I agree with what you said, that the comp plan is not the
16 entire issue. It is something that we have to consider, as
17 Mr. Engelhardt pointed out and Commissioner Argenziano pointed
18 out. But the need is definitely something we have to consider.

19 And I, like Commissioner Skop said, I'm hopeful that
20 perhaps that the parties can get together and talk about this.
21 I think there are some large questions looming, I'll just say
22 that, with respect to need perhaps. But I'm -- I have my mind
23 open and I'm willing to hear evidence, you know, regarding the
24 need and hope to hear more about that. But I do support what
25 Commissioner Skop has said at this point and do agree that the

1 staff recommendation is, is consistent with how I'm thinking.

2 Thanks.

3 CHAIRMAN EDGAR: Commissioner Carter.

4 COMMISSIONER CARTER: Thank you, Madam Chairman. At
5 the appropriate time I intend to second Commissioner Skop's
6 motion because I think a motion, a summary motion is an
7 extraordinary remedy. We're not really there yet because there
8 are material facts in dispute. We've heard it here, we've
9 looked in the pleadings.

10 And the other thing in the aspects of relinquishment
11 of jurisdiction is that when a proceeding has begun,
12 traditionally, based upon what I'm reading from the Commission,
13 that they at least see the case all the way through to its
14 ending. And I think that questions of need, questions of
15 whether or not it's implicative or duplicative or even an
16 impact on the comp plan or other kinds of areas, it could be
17 traffic, it could be, you know, the snail darters, all kind of
18 things, but we're not there yet. So I think this is a
19 premature motion, and as such, as I said, Madam Chairman, at
20 the appropriate time I intend to second Commissioner Skop's
21 motion for both Issues 2 and 3 in this matter. Thank you.

22 CHAIRMAN EDGAR: Okay. Thank you, Commissioners.

23 Are there further -- any questions for either of the
24 parties or for staff at this time so we'd be sure to get all
25 that addressed? Seeing none.

1 Commissioner Skop, my understanding is that you're
2 prepared to make a motion for the staff recommendation for
3 Issues 2, 3 and 4?

4 COMMISSIONER SKOP: Yes, Madam Chair. I'd like to
5 move that we move staff on Issues 2, 3 and 4.

6 CHAIRMAN EDGAR: Thank you.

7 COMMISSIONER CARTER: Second.

8 CHAIRMAN EDGAR: And Commissioner Carter has
9 seconded. Any further discussion?

10 I would simply make the comment before, before I call
11 for the vote that, as has been noted by a number of my
12 colleagues and the parties, we do have a hearing date scheduled
13 and we look forward to hearing all of that testimony. However,
14 if there is an opportunity for this case to settle prior to
15 that, I certainly hope that the parties will pursue that. And
16 with that, all in favor of the motion, say aye.

17 (Unanimous affirmative vote.)

18 Opposed? Show it adopted. That is our last item
19 today and we are adjourned.

20 (Agenda Item 17 concluded at 10:07 a.m.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON) : CERTIFICATE OF REPORTER


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I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 21st day of November, 2007.


LINDA BOLES, RPR, CRR
FPSC Official Commission Reporter
(850) 413-6734