



SAXON | GILMORE

SAXON GILMORE & CARRAWAY, P.A.
Attorneys and Counselors at Law

Direct Dial: 863.508.7055
Facsimile: 863.508.7066
Email: Gerald@geraldtbuhr.com
www.saxongilmore.com



GERALD T. BUHR, P.A., *Of Counsel*
1015 Wyndham Lakes Drive, Odessa, Florida 33556
Certified City, County and Local Government Attorney



City Attorney for:
City of Avon Park
Town of Zolfo Springs
City of Bowling Green
City of San Antonio

FILED FEB 21, 2017
DOCUMENT NO. 02108-17
FPSC - COMMISSION CLERK

February 21, 2017

Tom Ballinger, Director
Division of Engineering
Public Service Commission

Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

Re: Docket No: 160248-WS - Application for original certificates to provide water and wastewater service in Polk County by Deer Creek RV Golf & Country Club, Inc.

Dear Mr. Ballinger:

The Applicant responds to the requests and inquiries in your January 23, 2017 letter as follows:

Deficiencies

1. *Financial Ability. Rule 25-30.034(1)(i)1, F.A.C., requires that the applicant provide a detailed financial statement (balance sheet and income statement), audited if available, of the financial condition of the applicant, which shows all assets and liabilities of every kind and character. The financial statements shall be for the preceding calendar or fiscal year. The financial statement shall be prepared in accordance with Rule 25-30.115, F.A.C. Although the applicant provided financial statements, they were for the fiscal year ended September 30, 2015. Additionally, the financial statements were not in accordance with Rule 25-30.115, F.A.C. Please provide more recent financial statements that are in accordance with Rule 25-30.115, F.A.C.*

RESPONSE: The financial statement for the fiscal year ended 9/30/2015 is the latest audited financial statement available. The audited statement for the fiscal year ended 9/30/2016 is not expected to be available until April, 2017.

Regarding compliance with Rule 25-30.115 F.A.C, the applicant is a not-for-profit corporation, incorporated as RV Golf and Country Club, Inc. which powers include the operation of the recreation facilities and other amenities of its properties. These properties happen to include

water and wastewater distribution and collection facilities, but its assets and expenses are primarily for other purposes. Its accounting system reflects its primary purpose, and meets general accounting practices. The assets and expenses associated with the utility function cannot be readily separated from those of the primary functions and it will require expert assistance to do. The applicant, therefore, requests an extension until June 30, 2017 to meet this requirement. This will allow time for the audit of the most current fiscal year to be completed and to restate the financial records so as to be in compliance with the commission rule.

2. *Technical Ability. Rule 25-30.034(2)(j)3, F.A.C., requires that the applicant provide a copy of the most recent sanitary survey, the compliance inspection report available from DEP or County Health Department, and the most recent secondary standards drinking water report. The applicant indicated that this portion was not applicable because the Utility only has distribution and collection systems. However, the Utility should have chemical analysis. Please provide the most recent chemical analysis.*

RESPONSE: The Applicant erred in its determination that Rule 25-30.034(2)(j)3, F.A.C., was inapplicable as to potable water. While the Applicant receives its water and wastewater service by bulk service from Polk County, there are, nonetheless, compliance and sampling requirements. Applicant's counsel has recently met with the Florida Department of Health ("DOH") inspector, and per his advice, downloaded the documentation required from the joint DOH records website OCULUS (depdms.dep.state.fl.us), and such documents, including sanitary surveys and analyses, are being provided with this response, or by separate response as provided by the PSC website. We are informed by the DOH that all documents of any kind are on OCULUS within a few days of receipt by DOH, therefore, we assume that the record includes all responsive documents. Counsel for Applicant has spoken with DEP representative Steve Thompson on a public records request for any the of the relevant documents under this deficiency and the additional information request #1 below, and the response is that the DEP has no such documents.

Additional Information

1. *Technical Ability. Rule 25-30.034(2)(j)4, F.A.C., requires that the applicant provide a copy of all correspondence with DEP, County Health Department and water management district, including consent orders and warning letters, and the Utility's responses to the same, for the past five years. The applicant indicated that this portion was not applicable. Please verify that the Utility did not receive any complaints filed with DEP or the County Health Department during the referenced time period.*

RESPONSE: There is no record of any consent order, warning letters or complaints with either DOH or DEP. According to DOH, all correspondence, all records and all filings would be found on OCULUS, and the Applicant is providing such documents with this response. Included with the documents is a "name change" corresponding with the transfer of responsibility from the

Tom Ballinger, Director
Division of Engineering
Public Service Commission
February 21, 2017
Page 3 of 3

previous owner to the Applicant on January 25, 2014. Documents prior to that date were not researched. No complaints were found in the DOH records for the relevant period.

2. *Need For Service. Please explain in greater detail why the Utility is asking for a certificate to provide water and wastewater services to the communities in the Deer Creek service area.*

RESPONSE: The applicant is requesting a certificate because: a) Its distribution and collection system serves properties other than those designated in its Articles of Incorporation; and, b) it does not see that it fits any of the conditions for exemption in 367.022 Florida Statutes. The applicant does not want to have a certificate and would be content should the Commission find that is not required.

If you have any questions regarding this response, please call me at (813) 610-8108.

Sincerely,

GERALD T. BUHR, P.A.

By: _____

Gerald T. Buhr

Cc: Frank Seidman, Management & Regulatory Consultants (email)
Mike Caruso, Deer Creek (email)