

ORIGINAL

RUTLEDGE, ECENIA, PURNELL & HOFFMAN

PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA
RICHARD M. ELLIS
KENNETH A. HOFFMAN
THOMAS W. KONRAD
MICHAEL G. MAIDA
MARTIN P. McDONNELL
J. STEPHEN MENTON

POST OFFICE BOX 551, 32302-0551
215 SOUTH MONROE STREET, SUITE 420
TALLAHASSEE, FLORIDA 32301-1841

TELEPHONE (850) 681-6788
TELECOPIER (850) 681-6515

R. DAVID PRESCOTT
HAROLD F. X. PURNELL
MARSHA E. RULE
GARY R. RUTLEDGE
GOVERNMENTAL CONSULTANTS
MARGARET A. MENDUNI
M. LANE STEPHENS

June 22, 2004

VIA HAND DELIVERY

Patti Daniel, Supervisor of Certification
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

RECEIVED - FPSC
04 JUN 22 PM 12:14
COMMISSION
CLERK

RE: Docket No. 040247-WS - Application for Certificates to Provide Water and Wastewater Service in Franklin County by St. James Island Utility Company

Dear Ms. Daniel:

Through our discussions with the PSC Staff, an issue has arisen regarding the appropriate rate structure for St. James Island Utility Company ("St. James"). Specifically, we understand that the North West Florida Water Management District has requested that, rather than set gallonage rates for water service based on a flat rate (the same rate per 1,000 gallons for all consumption), an inclining block rate structure (increased cost per 1,000 gallons as consumption increases) should be implemented. As set forth below, St. James' position is that gallonage rates should be set on a flat rate basis, and that an inclining block rate structure is inappropriate and is likely to be ineffective for St. James.

CMP \_\_\_\_\_
COM \_\_\_\_\_ The purpose of an inclining block rate structure is to induce conservation of water by sending
CTR \_\_\_\_\_ a price signal to residential customers that the cost of consumption will increase as consumption
ECR \_\_\_\_\_ increases. Irrigation by residential owners is the primary use that can be responsive to such a price
GCL \_\_\_\_\_ signal, the incentive being that higher costs on an inclining rate will cause a homeowner to reduce
OPC \_\_\_\_\_ his or her irrigation use. An inclining block rate structure can also provide an incentive for
homeowners to upgrade their plumbing fixtures such as sink, shower and toilet fixtures to achieve
more efficiency.

MMS \_\_\_\_\_ The St. Joe Company and St. James support water conservation, as evidenced by the water
RCA \_\_\_\_\_ conservation measures provided in the applicable development orders governing SummerCamp.
SCR \_\_\_\_\_ However, the conservation incentives described above are premature or not relevant to the

SEC 1
OTH \_\_\_\_\_

RECEIVED & FILED
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
06860 JUN 22
FPSC-COMMISSION CLERK

SummerCamp community that St. James is proposing to serve. With respect to irrigation, the SummerCamp development is required to "utilize native vegetation for residential lots and common open spaces except for minor plantings in residential lots and small areas used for recreational and open space activities within common open spaces." See, Paragraph 8 of Ordinance 2003-2, approved by the Franklin County Board of County Commissioners, amending the Franklin County Comprehensive Plan, attached hereto as Exhibit "A." Irrigation systems are not allowed in SummerCamp for residential lots.

With respect to upgraded plumbing fixtures, all of the SummerCamp residences will be newly-constructed using new fixtures that will comply with the latest codes. In addition, it is instructive to note that SummerCamp is not anticipated to be a primary home development, as such, the pricing signals associated with a water conservation rate structure will not likely to be effective.

An inclining block rate structure is commonly designed such that consumption within the first usage block is priced below the average cost experienced by the utility, while the rate for other usage blocks are priced above the average cost. Theoretically, this results in consumption and cost shifts between customers, while maintaining revenue neutrality to the utility. However, for St. James, it should be expected that the vast majority of residential customers will fall in the lowest consumption block with insufficient consumption in higher blocks to produce the level of revenues determined by the Commission for the utility to recover its expenses and provide a reasonable return on its investment. In light of the unique circumstances of this service area, there is little potential for conservation of water to be gained through the application of an inclining block rate structure. Conversely, there is a potential for substantial financial consequence to St. James through lost revenues.

Implementation of a flat rate structure over an inclining block rate structure is consistent with Commission precedent. See, Order No. PSC-03-0845-PAA-WS, issued July 21, 2003, in Docket No. 021192-WS, In Re: Application for Staff Assisted Rate Case in Highlands County by Damon Utilities, Inc., wherein the Commission found that a continuation of the utility's current base facility and gallonage charge rate structure was appropriate, rather than an inclining block rate structure.


Accordingly, St. James requests that the Commission set gallonage rates on a flat rate basis. However, if it is determined that a conservation rate structure is desirable, St. James suggests that a minimum of two years of usage data should first be accumulated for this unique development, so that an effective structure can be developed that is effective without jeopardizing the financial stability of the utility.

In its application, St. James provided a flat rate structure (Exhibit G, Schedule 4) and an alternative inclining block rate structure (Exhibit G, Schedule 4A). Since there was no consumption experience from which to develop an inclining block rate structure, the utility used what was available to it at the time - a rate structure utilized by the Commission for another utility system. That structure assumed that only 54% of residential consumption would occur in the first block (0-10,000 gallons). Upon further analysis, St. James has concluded that because of its unique circumstances, as much as 95% of consumption will occur in the first block. If the Commission

finds that it must require an inclining block rate structure at this time, then that rate structure should recognize this situation. St. James has revised Schedule 4A to reflect the alternative inclining block rate, and shall file the revised schedules, along with a copy of this letter with the Commission's Division of Clerk and Administrative Services.

Thank you for your attention to this matter. Should you have any questions regarding this issue, please do not hesitate to contact our office.

Sincerely,

  
J. Stephen Menton

JSM/tls

cc. Blanca Bayo, Division of Commission Clerk and Administrative Services  
Frank Seidman

**AN ORDINANCE AMENDING THE FRANKLIN COUNTY COMPREHENSIVE PLAN TO PERMIT THE SUMMERCAMP DEVELOPMENT IN SECTIONS 25, 33, 34, 35 AND 36, TOWNSHIP 6 SOUTH, RANGE 3 WEST; TO AMEND THE COMPREHENSIVE PLAN TO GUARANTEE THE FUTURE REVISION OF THE COMPREHENSIVE PLAN; TO AMEND THE COMPREHENSIVE PLAN TO REGULATE FUTURE LARGE SCALE AMENDMENTS TO THE COMPREHENSIVE PLAN UNTIL THE REVISION TO THE COMPREHENSIVE PLAN IS APPROVED; AND TO CHANGE THE FUTURE LAND USE MAP SERIES TO CHANGE APPROXIMATELY 784 ACRES IN SECTIONS 25, 33, 34, 35, AND 36, TOWNSHIP 6 SOUTH, RANGE 3 WEST FROM AGRICULTURAL TO MIXED-USE RESIDENTIAL.**

**ORDINANCE 2003- 2  
FRANKLIN COUNTY, FLORIDA**

WHEREAS, the Board of County Commissioners of Franklin County, Florida has received a request for a large scale land use change and amendments to the Franklin County Comprehensive Plan, and

WHEREAS, the Board of County Commissioners of Franklin County has conducted the necessary public hearings for the proposed land use change and the amendments,

NOW, THEREFORE, BE IT ORDAINED BY THE FRANKLIN COUNTY BOARD OF COUNTY COMMISSIONERS that the following changes be incorporated in the Franklin County Comprehensive Plan and Future Land Use Map,

Add Policy 11.11: The Mixed-Use Residential land use category shall be applied to the SummerCamp development on 784 acres in Sections 25, 33, 34, 35, and 36, Township 6 South, Range 3 West. In addition to the provisions described in Land Use Policy 2.2(e), the following provisions shall apply to the SummerCamp PUD:

1. Residential land uses shall be limited to a maximum of 499 dwelling units.
2. Non-residential land uses shall be limited to 35,000 (heated/cooled) gross square feet of commercial and active recreation development, fifty hotel rooms, a public safety facility, and ancillary non-residential development such as gatehouses, storage facilities, and maintenance facilities.

Non-residential uses will be limited to passive and active recreation, restaurant, lounges, retail sales, personal and professional services, hotels, and community facilities and services (excluding water and sewage treatment plants).

In the event the SummerCamp development contains a commercial supplier of petroleum products (gasoline), the supplier will use above ground storage tanks,





which conform to the requirements of the Florida Department of Environmental Protection.

3. The internal circulation system will be designed to promote pedestrian and bicycle opportunities for its residents by providing a functional and integrated system of pedestrian paths, bicycle paths, and nature trails.
4. There shall be a fifty-foot, naturally vegetated buffer around all wetlands and landward of all waterbodies. Development within wetlands and this fifty-foot buffer is prohibited, except for minor encroachments for roads, utilities, and recreational crossings, or wetland maintenance and restoration, to the extent such activities may be permitted by the appropriate regulatory agencies. As part of the development review process, perpetual conservation easements shall be executed which memorialize this protection and prohibit development consistent with Policy 1.2(c) and 2.2 of the Conservation/Coastal Management Element.
5. No marina, boat ramp, or associated facilities shall be allowed on the land subject to this amendment.
6. A private community dock shall be permitted in accordance with all applicable regulations. The private community dock shall (i) be located in an area previously significantly modified by human activity, with good circulation, flushing, and adequate water depths; (ii) be used solely by project residents/owners for recreational and non-commercial activities; (iii) provide for temporary docking of not more than 10 boats; (iv) include a buoy system to mark shallow/sensitive areas in the vicinity; (v) minimize impacts to wetlands and seagrasses; (vi) include a DEP-approved water quality monitoring program; and (vii) adhere to construction criteria for docking facilities located in aquatic preserves pursuant to Rule 18-20.004(5), F.A.C. The private community dock shall not (i) extend more than 150 feet beyond the mean high water line; (ii) be more than six feet wide; (iii) be built over seagrass beds; (iv) provide fueling or supplies; (v) provide pump out services unless otherwise required by the Florida Department of Environmental Protection; (vi) have finger piers; (vii) permit overnight docking; or (viii) result in the loss of waters classified for the harvest of shellfish.

Private residential single-family docks will be prohibited and riparian rights surrendered upon final regulatory approval of the private community dock. In the event the private community dock does not receive such approval, the number of private residential single-family docks allowed to riparian owners shall not exceed 19.

Not more than ten community piers which will be used by the project residents/owners for fishing and observation shall be allowed in accordance with all applicable regulations. The piers shall be sited to minimize impacts to wetlands and avoid seagrasses. The piers shall not be used to moor any vessels, shall be a

minimum height of five feet above mean high water, shall be no longer than 200 feet from the mean high water line, shall be surrounded by handrails, and shall be posted with signs that state "No Boat Mooring Allowed".

7. The stormwater management system will be designed to comply with the standards for Outstanding Florida Waters (OFW). The stormwater management system will also be designed and constructed to utilize swales for stormwater conveyance, as opposed to stormwater sewers, except where undue disturbance of native vegetation will occur.

Parking lots shall be designed and constructed to utilize recessed bioretention areas to capture stormwater.

8. SummerCamp will utilize native vegetation for residential lots and common open spaces except for minor plantings in residential lots and small areas used for recreational and open space activities within common open spaces. Native vegetation to be used can be identified from Waterwise Florida Landscape as produced by Florida's Water Management Districts.

The SummerCamp development will utilize soil moisture sensors as opposed to rain sensors for irrigation purposes.

9. SummerCamp will utilize an advanced wastewater treatment plant ("AWT") and central potable water facilities, which will be located offsite on other lands owned by the developer or an affiliate and as determined by the jurisdictional permitting agencies.

10. No more than 19 residential units will be located below the 8.6 feet elevation line as surveyed for the project site at the time of the adoption of this amendment. This elevation line represents the landward extent of the surge area from a Category 1 hurricane as indicated in the Florida Hurricane Surge Atlas.

A hurricane preparedness and evacuation plan will be prepared consistent with the provisions of Rule 9J-2.0256(5)(b), F.A.C., and will be placed on file with Franklin County prior to the issuance of the certificate of occupancy for the first habitable dwelling. At a minimum, the hurricane preparedness and evacuation plan shall require SummerCamp to: (i) subscribe to an automated hurricane warning system for the purpose of warning all residents of a pending storm, (ii) create an annual homeowners hurricane awareness program and hurricane evacuation plan, (iii) implement a mandatory Category I hurricane evacuation, and (iv) offer NOAA radios for all SummerCamp residents.

11. A black bear education program will be provided to inform SummerCamp residents about black bears on an annual basis. Signs will be posted at primary entrances and at community facilities as appropriate within the project to alert

residents and visitors of the potential presence of black bears. All household and non-residential garbage containers must be wildlife-proof.

Add Policy 11.12: Not later than April 1, 2004, Franklin County shall revise its comprehensive plan to update the goals, objectives, policies and future conditions map (future land use map series) and transmit such revisions to the Department of Community Affairs. The updated plan shall reflect changes to Chapter 163, Florida Statutes, and Rule 9J-5, Florida Administrative Code, since the plan went into effect in 1991. This revision shall be based on a planning period through Year 2020, with current and forecasted conditions, and satisfy data and analysis requirements.

Key issues to be emphasized will include:

1. Protection of natural resources, including wetlands, floodplains, habitat for listed species, shorelines, sea grass beds and economically valuable fishery resources, groundwater quality, and estuarine water quality;
2. Protection of cultural heritage;
3. Promote economic development;
4. Promotion of emergency management, including the delineation of the coastal high hazard area, maintaining or reducing hurricane evacuation clearance times, creating shelter space, directing population concentrations away from known or predicted coastal high hazard areas, and implementing appropriate parts of the Local Mitigation Strategy;
5. Adequate provision of public facilities and services including transportation, water supply, wastewater treatment, and facilities for public access to water bodies;
6. provision of affordable housing, where appropriate;
7. inclusion of intensity standards; and a
8. list of allowable uses.

In addition, Franklin County shall prepare an overlay plan for St. James Island. This plan shall consider the same issues as referenced for the comprehensive plan revision and shall result in an overlay map and policies. The Franklin County Comprehensive Plan shall be amended to include the overlay map and policies and such amendments shall be transmitted to the Department of Community Affairs no later than April 1, 2004. All future land use changes must be consistent with the overlay map and policies.

The planning process will be collaborative and include extensive public and government agency participation.

Add Policy 11.13: Any local government comprehensive plan amendment, subject to review as a large scale plan amendment under Section 163.3184, Florida Statutes, and transmitted by Franklin County to the Department of Community Affairs prior to the effective date of the updated plan to be adopted pursuant to Policy 11.12, must include an area-wide assessment covering the geographic area of the county where the amendment is located that addresses the following:

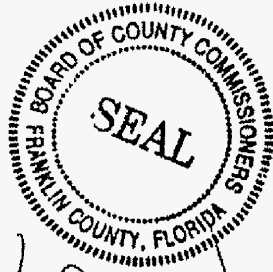
1. Protection of natural resources, including wetlands, floodplains, habitat for listed species, shorelines, sea grass beds and economically valuable fishery resources, groundwater quality, and estuarine water quality;
2. Protection of cultural heritage;
3. Promote economic development;
4. Promotion of emergency management, including the delineation of the coastal high hazard area, maintaining or reducing hurricane evacuation clearance times, creating shelter space, directing population concentrations away from known or predicted coastal high hazard areas, and implementing appropriate parts of the Local Mitigation Strategy;
5. Adequate provision of public facilities and services including transportation, water supply, wastewater treatment, and facilities for public access to water bodies;
6. provision of affordable housing, where appropriate;
7. inclusion of intensity standards; and a
8. list of allowable uses.

The change to the Future Land Use Map series will be as follows:


784 acres in Sections 25, 33, 34, 35, and 36, Township 6 South, Range 3 West, as shown in the map below, to be changed from Agricultural to Mixed-Use Residential.


This Ordinance adopted this 21st day of January 2003, in a regular meeting of the Franklin County Board of County Commissioners after notice was duly given, and pursuant to Chapter 163, Florida Statutes.





THE FRANKLIN COUNTY BOARD OF  
COUNTY COMMISSIONERS

BY:   
Cheryl Sanders, Chairman

ATTEST:   
Kendall Wade, Clerk

