

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 991666-WU

In the Matter of

APPLICATION FOR AMENDMENT OF
CERTIFICATE NO. 106-W TO ADD
TERRITORY IN LAKE COUNTY BY
FLORIDA WATER SERVICES
CORPORATION.



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AND DO NOT INCLUDE PREFILED TESTIMONY.

VOLUME 4

Pages 389 through 522

PROCEEDINGS:

HEARING

BEFORE:

COMMISSIONER LILA A. JABER
COMMISSIONER BRAULIO L. BAEZ
COMMISSIONER MICHAEL A. PALECKI

DATE:

Thursday, July 12, 2001

TIME:

Commenced at 9:00 a.m.
Concluded at 12:00 p.m.

PLACE:

E. L. Puryear Building
243 South Lake Avenue
Groveland, Florida 34736

REPORTED BY:

TRICIA DeMARTE
Official FPSC Reporter
(850) 413-6736

APPEARANCES:

(As heretofore noted.)

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 09100 JUL 26 2001

FPSC-COMMISSION CLERK

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P R O C E E D I N G S

(Transcript follows in sequence from Volume 3.)

COMMISSIONER JABER: Let's convene the second day of this hearing. I think where we left yesterday, Ms. Christensen, we were going to revisit Exhibit 19.

MS. CHRISTENSEN: That's correct.

COMMISSIONER JABER: We were going to continue with our redirect from Mr. Tillman, and then I thought we'd go to Witness Beliveau since he's only available this morning.

Before we do that, though, let me for the record indicate that Mr. Cooper, Jeffrey S. Cooper, who testified in the customer portion section of yesterday's service hearing has come back this morning and handed me a letter with some questions attached that he would like Florida Water and the City of Groveland to answer. I'd like to identify his letter dated today as Exhibit Number 23. It will be Cooper letter dated July 12th, 2001.

(Exhibit 23 marked for identification.)

COMMISSIONER JABER: And I would also like to ask that Florida Water and the City of Groveland respond to Mr. Cooper and make sure that you send a copy of the response to all the parties and to Staff. So with that, we'll move Exhibit 23 into the record.

(Exhibit 23 admitted into the record.)

COMMISSIONER JABER: Now, let me just ask,

1 Ms. Brownless, Mr. Menton, have you talked about Exhibit 19?
2 Would it be better to go ahead and finish redirect and then we
3 address --

4 MR. MENTON: I think we've got it worked out.

5 COMMISSIONER JABER: Okay.

6 MS. BROWNLESS: Mr. Menton and I have agreed that
7 with regard to Exhibit 19 which were certain excerpts of
8 Mr. Yarborough's Deposition Exhibit Number 5 that we would just
9 include the entire deposition exhibit pages in there on its
10 own, and that would be the entire exhibit.

11 COMMISSIONER JABER: Thank you very much. Exhibit 19
12 then shall be the entire group of deposition exhibits from
13 Exhibit Number 5 to Yarborough's deposition.

14 MS. BROWNLESS: Let me make sure I have the right
15 exhibit number.

16 COMMISSIONER JABER: Okay.

17 MS. BROWNLESS: I'm sorry. It's Exhibit Number 2 to
18 Mr. Yarborough's deposition.

19 COMMISSIONER JABER: Mr. Menton, you agree with that?

20 MR. MENTON: Yes, ma'am.

21 COMMISSIONER JABER: Exhibit 19 will be a composite
22 exhibit made up of all of the deposition exhibits to
23 Mr. Yarborough's deposition that would have been Late-filed
24 Deposition Exhibit Number 2. With that, Exhibit 19 is admitted
25 into the record. Thank you both.

1 (Exhibit 19 admitted into the record.)

2 MS. BROWNLESS: Thank you.

3 MR. MENTON: Thank you.

4 COMMISSIONER JABER: All right. Let's continue with
5 redirect. Mr. Tillman, I'll remind you that you are still
6 under oath.

7 THE WITNESS: Yes, ma'am. I understand. Is this
8 working? Can you hear me.

9 COMMISSIONER JABER: Yes.

10 JOHN L. TILLMAN, JR.

11 was recalled as a witness on behalf of Florida Water Services
12 Corporation and, having been previously sworn, testified as
13 follows:

14 REDIRECT EXAMINATION

15 BY MR. MENTON:

16 Q Mr. Tillman, good morning.

17 A Good morning.

18 Q Can you explain for the Commissioners the management
19 structure for Florida Water and how you fit into it?

20 A Sure. The CEO of the company is John Cirello. John
21 has basically four senior executive vice presidents that report
22 to him in four major areas. I am one of those senior executive
23 vice presidents. My area of responsibility encompasses all of
24 business development and customers relations. In the business
25 development area, we're responsible for all acquisitions and

1 divestitures throughout the state of Florida. We have a staff
2 of people that work directly in the field to work with
3 potential acquisitions and with developers as they begin to
4 plan systems.

5 (Brief interruption.)

6 A I have a staff that works throughout the State to
7 work with developers and with cities and municipalities in
8 putting together public, private partnerships and also putting
9 into effect new developments that we can serve throughout the
10 State. That consists of a business development manager and
11 field personnel.

12 The second area of responsibility that I have under
13 my control is the area of customer relations. Customer
14 relations is consolidated, and that includes all of the
15 customer contact that occurs between us and our users. As you
16 know, we have two groups of customers. We have our end user
17 group of customers that we satisfy on a daily basis, and we
18 have our developer customers. They are our customers also.

19 In the area of customer relations, we center on the
20 people that use our product, the water and wastewater services,
21 that we provide. In that group, we have two main divisions.
22 We have a call center customer service group that is
23 responsible for servicing about 250,000 customers or about
24 150,000 connections throughout the State.

25 MS. BROWNLESS: Excuse me, Mr. Tillman, could I ask

1 that Mr. Menton -- I object because it doesn't seem to me to be
2 related to the cross examination questions. Could Mr. Menton
3 make that connection, please.

4 MR. MENTON: Ms. Brownless asked a series of
5 questions that seemed to indicate that Mr. Tillman wasn't
6 capable of testifying about this application on behalf of
7 Florida Water. This just goes as a predicate to understanding
8 the management structure of the company and his relationship
9 within that company structure.

10 COMMISSIONER JABER: I think, Mr. Menton, there's a
11 difference between explaining his understanding of engineering
12 principles and the financial principles versus an explanation
13 of all of the customer service centers and philosophies that
14 Florida Water has. So keep it limited to the scope of the
15 cross examination, please.

16 BY MR. MENTON:

17 Q Mr. Tillman, let me see if I can direct this a little
18 bit. As part of your job responsibilities, you do oversee the
19 developer relations section of Florida Water; is that correct?

20 A That is true.

21 MS. BROWNLESS: I'm going to object, leading.

22 Q Do you oversee the developer relations section of
23 Florida Water?

24 MS. BROWNLESS: Well, you want to rephrase your
25 question?

1 MR. MENTON: I just did.

2 MS. BROWNLESS: Is that rephrased?

3 A Yes, I do.

4 Q And what is the developer relations section of
5 Florida Water?

6 A The developer relations section is responsible for
7 all contact with developers on the front end and throughout the
8 life of our relationship with the development to manage the
9 process to include negotiations of contracts, jointly filing
10 for new territories, working out engineering details. They are
11 the key contact between the developer and Florida Water.

12 Q Is this section of Florida Water the division that
13 would be responsible for filing new territory requests?

14 A Yes, it is.

15 Q And in this particular case, the application that
16 we're here on today was prepared by your predecessor,
17 Mr. Sweat; is that correct?

18 A That is correct.

19 Q On Pages 6 and 7 of the prefiled testimony of
20 Mr. Sweat, which you have adopted here, there's a description
21 of the process by which the application was put together. Do
22 you recall that?

23 A Yes, I do.

24 Q In that description on Line 2 on Page 7 talks about a
25 interdepartmental effort. Is that the typical approach that

1 Florida Water uses in putting together a territory expansion
2 request?

3 A That is correct.

4 Q And why is that?

5 A Anytime that we put together a document that covers a
6 number of areas such as engineering, customer service, finance
7 and so forth, we put together a team of qualified individuals
8 to complete that project.

9 Q And does Florida Water have engineers on staff?

10 A Yes, we do.

11 Q And have you confirmed with your engineering
12 department that they were involved in the preparation of this
13 application?

14 A Yes, I have.

15 Q And since you have assumed responsibility for this
16 application, have you subsequently conferred with the
17 engineering department regarding the contents of this
18 application?

19 A I have.

20 Q Has the engineering department advised you that
21 Florida Water has the capacity to provide the service to the
22 Summit as set forth in the application?

23 A Yes, they have.

24 Q There were some questions yesterday with respect to
25 the MORs, or the monthly reports, that are filed with the

1 Department of Environmental Protection. Do you recall that?

2 A Yes, I do.

3 Q Are you responsible for the preparation of the MORs?

4 A No, I am not.

5 Q Okay. Now, the MORs that Ms. Brownless had marked as
6 Exhibit 8 included the MORs for a 12-month period that ran from
7 June of 2000 back to July of 1999; is that correct?

8 A That's correct.

9 Q And during that time frame, was there any -- where
10 there any changes that were being made to the Florida Water
11 system at the Palisades?

12 A Yes, there was.

13 Q And could you explain for the Commission what those
14 were?

15 A On January the 4th the year 2000, an additional well
16 was put on-line at the Palisades system. That gives us two
17 wells on that property at a 800 gallon per minute rate.
18 Essentially, that works out to a maximum day capacity of
19 1.152 as reflected in our application.

20 Q And the MORs during this time period, both before the
21 January date that you are talking about and after, continue to
22 reflect on there that the permitted capacity is 576,000. Do
23 you recall that?

24 A That is correct.

25 Q And do you know why that is?

1 A It's an administrative error, that the database was
2 not properly updated at the time that the new well went on-line
3 to double the capacity, and essentially, that's what adding
4 that additional well did because both wells are equal in terms
5 of flow.

6 Q So you have two separate 800 GPD wells; is that --

7 A 800 GPM.

8 Q GPM wells.

9 A Yes, I do.

10 Q And one of them has been providing service since
11 prior to 1999; correct?

12 A That is correct.

13 Q And the other one, have you actually been providing
14 service from, or when did that come on-line, per se?

15 A That well was cleared on the 4th of January 2000 and
16 has been in a standby condition since we did not need the
17 capacity till, I guess, about a month and a half or so ago. It
18 was brought on-line as part of the system. During that time
19 period, it was properly cleared, and it could be operated
20 manually at any time to supplement the other well if necessary.
21 It was just not necessary to operate it.

22 Q Okay. Now, Ms. Brownless asked you some questions
23 with respect to the DEP application for a permit to construct
24 the water lines for the Summit, and that was Exhibit Number 11.
25 Do you recall that?

1 A Yes, I do.

2 Q And on Page 2 of this exhibit under Subsection 3,
3 there's a question related to the permitted -- or there's a
4 blank for the permitted maximum day capacity of the plant. Do
5 you recall that?

6 A Yes, I do.

7 Q What was the maximum day capacity of the plant
8 reflected on that application that was submitted in 2000
9 sometime -- I can find the date here -- in March of 2000?

10 A It was the correct capacity at 1.152 MGD.

11 Q There was some discussion yesterday regarding --
12 Ms. Brownless asked you whether or not Florida Water had
13 storage tanks at the Palisades system or pneumatic pumps or
14 some other equipment that might allow you to increase the rated
15 capacity for the 800 GPM pumps that you have there. Do you
16 recall that?

17 A Yes, I do.

18 Q And do you currently have that equipment in place at
19 the Palisades?

20 A No, we do not.

21 Q Would you be able to increase the capacity at the
22 Palisades by adding such equipment?

23 A Yes. By placing ground storage in conjunction with
24 the two wells that we've got, we can essentially double the
25 capacity of 1.125 (sic) to 2.304.

1 Q Okay. What has your engineering department advised
2 you in terms of the ability of the Palisades system to meet the
3 needs of the Summit for how far into the future?

4 A Based on the current hookup rate, which is around
5 70 units per year, the current capacity without adding ground
6 storage will extend through 2006.

7 Q And then at that point, if you elected to add ground
8 storage, you could meet further growth at the Summit if
9 necessary?

10 A Yes, we could, or other developments in the area.

11 Q Are there any advantages to existing customers if the
12 Commission were to approve Florida Water's application in this
13 docket?

14 MS. BROWNLESS: Objection, goes beyond cross
15 examination questions. We didn't ask that.

16 COMMISSIONER JABER: Mr. Menton.

17 MR. MENTON: Cross examination seems like a long time
18 ago at this point.

19 COMMISSIONER JABER: I don't recall that
20 Ms. Brownless asked any questions about whether there would be
21 advantages if Florida Water provided service to the Summit to
22 its existing customers, but I do recall Staff asking questions
23 with respect to how customers around that area would be
24 affected.

25 MS. CHRISTENSEN: I recall at least asking a question

1 whether or not it would be better for them to have that
2 territory.

3 COMMISSIONER JABER: Right. So I'll allow it.

4 A Anytime that we add additional customers to our
5 systems, it improves our economies of scale, which helps us
6 control cost to the customers and, ultimately, the cost of the
7 water bills to the customers. So any additional developments
8 that we pick up and growth within our systems facilitates the
9 process of controlling the cost to the customer.

10 Q Okay. Mr. Tillman, Ms. Brownless asked you some
11 questions regarding the construction plans that were submitted
12 by the developer to Florida Water as part of the developer --
13 the water service agreement that the developer executed. Do
14 you recall that?

15 A Yes, I do.

16 Q And she specifically referenced you to Page 5 of
17 those construction plans. Do you recall that?

18 A That is correct.

19 Q And were those plans -- or have those plans been
20 utilized by Florida Water -- I'm leading.

21 MS. BROWNLESS: Yes, you are.

22 MR. MENTON: I'll object to myself and start over.

23 MS. BROWNLESS: For the record, can you just either
24 show us what Page 5 is, so we can track along here? Thank you.

25 COMMISSIONER JABER: Mr. Menton, this is Sheet Number

1 5 that was referenced in Exhibit 15?

2 MR. MENTON: Yes, ma'am, 15, exhibit.

3 MS. BROWNLESS: Fifteen, Sheet Number 5.

4 COMMISSIONER JABER: What's your question?

5 BY MR. MENTON:

6 Q How did Florida Water use the plans that were given
7 to the developer, and what is the common procedure by which you
8 go about developing a system with a developer through the
9 permit process?

10 A Essentially, on this document what is laid out are
11 the specifications to which Florida Water is required to design
12 the system to perform to support the requirements of the
13 development. Specifically, in this area, it does address the
14 fire protection issue, and that was the issue that I was -- or
15 that was addressed to me earlier in earlier testimony.

16 And what we have is a paragraph on this document that
17 states exactly how fire protection will be provided to the
18 development. And if that at any time was revised by the
19 developer, the process would be for them to come to us; then we
20 would sit down with our engineering staff and determine what
21 the correct solution to the problem was in order to facilitate
22 whatever additional requirements, if any, were necessary.

23 MR. MENTON: Commissioners, give me just a minute, I
24 think that might be it.

25 Q Ms. Brownless asked you some questions yesterday

1 related to the Department of Environmental Protection permit
2 that has been issued authorizing the construction of lines to
3 the Summit. And is it your understanding that that permit
4 relates to the construction plans that were submitted to
5 Florida Water?

6 A That is my understanding. Additional conversation
7 with staff over the evening also indicates to me that Mr. Davis
8 has completed the submission process to the county to begin
9 construction and can start construction at will.

10 Q So it's your understanding then that this development
11 is ready to proceed?

12 A That is my understanding.

13 MR. MENTON: That's all the questions we have.

14 COMMISSIONER JABER: Thank you, Mr. Menton.

15 COMMISSIONER PALECKI: I have a question.

16 COMMISSIONER JABER: Commissioner Palecki.

17 COMMISSIONER PALECKI: Mr. Tillman, I'd like to ask
18 you a little bit about the second well. Have additional
19 pumping facilities been put in place dedicated to the second
20 well, or does the second well use the same pump that is now in
21 place for the first well?

22 THE WITNESS: The second well was put into service on
23 January 4, as I said earlier, and at that time the pump was in
24 the well. It was fully operational.

25 COMMISSIONER PALECKI: So it has its own independent

1 pump. It does not work off of the pump for the first well?

2 THE WITNESS: Yes, sir.

3 COMMISSIONER PALECKI: Thank you.

4 COMMISSIONER JABER: All right. Let's go ahead and
5 take care of exhibits. I don't recall admitting Exhibit 3,
6 which was the exhibit to Mr. Perry's testimony, so let's go
7 ahead and admit Exhibit 3 into the record in the event I didn't
8 do that yesterday.

9 (REPORTER'S NOTE: Exhibit 3 admitted in the record
10 in Volume 1.)

11 COMMISSIONER JABER: Now, I've got Exhibits 5 and
12 6 being yours, Mr. Menton. Those are the exhibits attached to
13 Mr. Tillman's testimony, Exhibit 5, CLS-1 and CLS-2, Exhibit 6
14 is JLT-1.

15 MR. MENTON: Yes, Commissioner. And we would move
16 those into the record.

17 MS. BROWNLESS: Commissioner Jaber, we would object
18 obviously to the admission of the Exhibits 5 and 6 on the basis
19 of our motion to strike because we don't think they are
20 supported by competent, substantial evidence and that there's
21 been no testimony here. And obviously, we ask to strike
22 portions of Mr. Tillman's testimony adopting those positions.
23 So we want to continue our objection to that.

24 COMMISSIONER JABER: Okay. Mr. Menton, go ahead and
25 respond on the record, but I am not going to rule on --

1 MS. BROWNLESS: So I guess what I'm suggesting,
2 Commissioner, is, if you are not going to rule on our motion to
3 strike, then perhaps you should also take up or delay ruling on
4 whether these should be admitted until you take up the motion
5 to strike or determine that one way or another.

6 COMMISSIONER JABER: Staff, what's your
7 recommendation on this? I've seen it done both ways. We can
8 admit the evidence into the record, but it could be
9 incorporated into the motion to strike, and it can be stricken
10 later if that's the pleasure of the Commission.

11 MS. GERVASI: I think you could do it either way as
12 well. My concern is that if you reserve rulings, that if we do
13 an agenda conference, if Staff files a recommendation, and we
14 do an agenda conference, that's not the same thing as having
15 your rulings in the record.

16 COMMISSIONER JABER: That's right.

17 MS. GERVASI: But we could convene a hearing during
18 an agenda conference perhaps before the agenda conference.
19 I've seen that happen as well, if you'd rather.

20 COMMISSIONER JABER: But, see, I already inserted all
21 the testimony into the record and recognized the motion to
22 strike, and that will allow you all to prepare a recommendation
23 for us. So I think in the same vein, I'll go ahead and admit
24 these exhibits. Basically, I'm overruling your objection at
25 this time, admit these exhibits into the record, but I would

1 ask that you include Ms. Brownless's motion to strike these
2 exhibits into the same recommendation.

3 MS. GERVASI: Yes, ma'am.

4 MS. BROWNLESS: And may I ask with regard to the
5 process that's going to be used to -- regarding the motion to
6 strike, is it your intention at this time to process it as a
7 regular Commission agenda item, or is it your intention to
8 notice a special -- or use, you know, agenda time, or notice it
9 as a special hearing?

10 COMMISSIONER JABER: Let's get through exhibits, and
11 then we'll talk about that. All right. So Exhibits 5 and 6
12 are admitted into the record.

13 (Exhibits 5 and 6 admitted into the record.)

14 MS. BROWNLESS: Yes, ma'am.

15 COMMISSIONER JABER: Exhibits 7 through 11,
16 Ms. Brownless, are yours.

17 MS. BROWNLESS: And we would move those into the
18 record.

19 MR. MENTON: Commissioner, I'm sorry to interrupt,
20 but did you want me to respond for the record? You had
21 indicated --

22 COMMISSIONER JABER: Yes.

23 MR. MENTON: And I'll do it briefly because it sounds
24 like I'm going to have to do it again in writing or at some
25 point in the future. But basically, our position is that this

1 application was submitted in November of 1999 by Mr. Sweat. It
2 has been known for at least seven or eight months that
3 Mr. Tillman would be adopting that testimony. Mr. Tillman is a
4 senior vice president with the company who oversees the
5 division responsible for putting together these applications.

6 As Mr. Sweat indicated in his original testimony, the
7 application is put together through an interdisciplinary or an
8 interdepartmental effort between engineers, the permitting
9 people, and the other professional people at Florida Water.
10 It's all done under the auspices or under the direction of his
11 department which he oversees as a senior management person for
12 the company. If there were questions related to any particular
13 aspect of the application regarding engineering aspects,
14 et cetera, those could have and should have been addressed long
15 before we got to the hearing in the case.

16 The documents were produced, all of the engineering
17 records as evidenced by the POD response that Ms. Brownless
18 referenced specifically identified the engineers on staff at
19 the Florida Water who assembled the documents who were
20 responsible for making the determinations if there were any
21 issues that could have been addressed at that time. I don't
22 think that it is fair to come into the hearing and then try to
23 take piecemeal shots at an application that was put together
24 through an interdepartmental approach, and I don't believe that
25 that's required.

1 There was ample opportunity to explore the
2 intricacies of this application throughout the year and a half
3 or longer that this case has been pending. And, you know,
4 Mr. Tillman has been known to Ms. Brownless for a long time,
5 and it was just never raised until we get to hearing. And I
6 think it's just simply an attempt to try to find a technical
7 way out or technical way to defeat an application that is valid
8 on its case.

9 COMMISSIONER JABER: I've admitted Exhibits 5 and
10 6 into the record, but Staff -- and we will talk about how this
11 should happen, but I wanted to reserve ruling to allow you all
12 time to do some analysis on expert testimony and whether the
13 principles in that regard should be applied here and give us
14 the benefit of a written recommendation.

15 MS. BROWNLESS: And, Commissioner Jaber, I hate to
16 slow this down.

17 COMMISSIONER JABER: Well, then don't. We're going
18 to talk about it again in a bit.

19 MS. BROWNLESS: Mr. Menton, was allowed to give a
20 statement.

21 COMMISSIONER JABER: And you gave your motion.

22 MS. BROWNLESS: He also responded to my motion. I
23 mean, I don't want to get tit for tat --

24 COMMISSIONER JABER: Ms. Brownless, go ahead.

25 MS. BROWNLESS: All I want to say is this.

1 Mr. Tillman is the only witness that has been tendered by
2 Florida Water. Mr. Sweat, the previous witness who was
3 tendered, was qualified. I would not have objected to any of
4 his qualifications. It is not the responsibility of the City
5 of Groveland to bear the burden of proof; it is Florida Water's
6 responsibility. The fact that you supervise someone does not
7 make you an expert. The opinions contained in this record are
8 expert opinions by Mr. Tillman's own admission that he is not
9 qualified to render. The Commission should not and has not
10 ever, to my knowledge, in the past allowed a utility witness to
11 simply parrot information provided in an application provided
12 by another. Thank you.

13 COMMISSIONER JABER: Are you all done?

14 MS. BROWNLESS: Yes, ma'am.

15 COMMISSIONER JABER: Are you ready to move
16 Exhibits 7 through 11?

17 MS. BROWNLESS: I certainly am. Thank you.

18 COMMISSIONER JABER: Without objection, Exhibits
19 7 through 11 are admitted into the record.

20 (Exhibits 7 through 11 admitted into the record.)

21 COMMISSIONER JABER: Exhibit 12, Mr. Menton, I have
22 is yours. That's the warranty deed, developer recorded
23 warranty deed.

24 MR. MENTON: We would move that, Commissioner.

25 COMMISSIONER JABER: And 13 is the Florida Water

1 proof of publication. Staff, you asked for that, but I think
2 you need that from Mr. Menton; correct?

3 MR. MENTON: Excuse me. I think they have the proof
4 of publication of the application. It is the notice of
5 hearing, which is the next one, 14, that we need to get to
6 that.

7 COMMISSIONER JABER: So we'll move Exhibit 12 in the
8 record without objection.

9 (Exhibit 12 admitted into the record.)

10 COMMISSIONER JABER: Exhibit 13, you do have?

11 MS. CHRISTENSEN: No. Exhibit 13 is the one that
12 needs to be produced by Mr. Menton, and that the proof of
13 publication of notice of the hearing.

14 MS. GERVASI: That's 14.

15 MS. CHRISTENSEN: That's 14? I'm sorry. Yes, 13 is
16 the application notice. I'm sorry.

17 COMMISSIONER JABER: Do you have that, Staff, or do
18 you need Mr. Menton to produce it?

19 MS. CHRISTENSEN: We have a copy, and we can provide
20 extra copies. It's actually in the docket as well. It's
21 already in the file, but we need it officially recognized for
22 the record.

23 COMMISSIONER JABER: Okay. Exhibit 13 is moved into
24 the record without objection.

25 (Exhibit 13 admitted into the record.)

1 COMMISSIONER JABER: Exhibit 14 is a late-filed
2 exhibit. It is the proof of notice of hearing.

3 Exhibit 15 is yours, Ms. Brownless. That's cover
4 sheets 4 through 5, 34 through 37.

5 MS. BROWNLESS: Yes, ma'am. And we would move those
6 into the record at this time.

7 COMMISSIONER JABER: Without objection, Exhibit 15 is
8 admitted into the record.

9 (Exhibit 15 admitted into the record.)

10 COMMISSIONER JABER: That catches us up on exhibits.

11 MS. BROWNLESS: I think we identified Exhibit Number
12 4, which is the affidavit of authenticity. We do have copies
13 of that exhibit, and we can pass them out. And would we
14 request that they be moved into the record.

15 COMMISSIONER JABER: All right. That was originally
16 a late-filed, but Ms. Brownless has copies. And without
17 objection, Exhibit 4 will be admitted into the record.

18 (Late-Filed Exhibit 4 admitted into the record.)

19 COMMISSIONER JABER: Are there any other exhibits we
20 have to address?

21 Mr. Tillman, you may be excused. Thank you for your
22 testimony.

23 THE WITNESS: Thank you.

24 (Witness excused.)

25 COMMISSIONER JABER: Ms. Brownless, do you want to go

1 ahead and take up Mr. Beliveau?

2 MS. BROWNLESS: Yes, ma'am. Thank you.

3 COMMISSIONER JABER: Let's call him to the stand.

4 Mr. Beliveau, you were not here yesterday; right?

5 THE WITNESS: Yes, ma'am.

6 COMMISSIONER JABER: I need you to take the oath.

7 (Witness sworn.)

8 COMMISSIONER JABER: Go ahead, Ms. Brownless. Thank

9 you.

10 GREG A. BELIVEAU

11 was called as a witness on behalf of the City of Groveland,

12 Florida and, having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. BROWNLESS:

15 Q Can you please state your name and address for the
16 record.

17 A I'm Greg Beliveau, LPG Regional Planners, and we're
18 located -- the office is at 2001 Old Highway, 441, in Mt. Dora,
19 Florida.

20 Q Thank you. Did you prefile testimony on
21 November 30th of 2001?

22 A Yes, ma'am, I did.

23 Q Do you have any changes to make to that testimony
24 today?

25 A Pardon me, I didn't hear you. The acoustics in here

1 are really --

2 Q I'll try to talk right at you. Do you have any
3 changes to make to that testimony today?

4 A No, ma'am.

5 Q Okay. Did you also prefile three exhibits, GAB-1,
6 GAB-2, GAB-3?

7 A Yes, ma'am, I did.

8 Q Okay. Do you have any changes to make to those
9 exhibits today?

10 A No, ma'am.

11 MS. BROWNLESS: Based on the resume in Exhibit GAB-1,
12 we would tender Mr. Beliveau as an expert in urban and regional
13 planning and statewide comprehensive plans under Chapter 163.

14 COMMISSIONER JABER: Okay. Let's insert his
15 testimony into the record as though read. Mr. Beliveau's
16 prefiled testimony shall be inserted into the record as though
17 read.

18 And, Ms. Brownless, are you ready to identify his
19 exhibits?

20 MS. BROWNLESS: We did identify those exhibits.

21 COMMISSIONER JABER: No, I did not identify the
22 exhibits.

23 MS. BROWNLESS: Oh, you mean to give them a number?

24 COMMISSIONER JABER: Yes.

25 MS. BROWNLESS: Those should be --

1 COMMISSIONER JABER: I've got the number, but do you
2 want them as a composite exhibit, or do you want them
3 identified separately?

4 MS. BROWNLESS: That's up to you.

5 COMMISSIONER JABER: Okay. Composite Exhibit Number
6 24 is GAB-1, GAB-2, and GAB-3.

7 (Exhibit 24 marked for identification.)

8 MS. BROWNLESS: Thank you, Commissioner. Are we
9 going to get a ruling on the expertise at this time, or are we
10 going to go ahead to the summary?

11 COMMISSIONER JABER: I inserted his testimony into
12 the record as though read accepting your -- what ruling is it
13 you want us to make?

14 MS. BROWNLESS: When you tender an expert, when you
15 ask that an expert be tendered, then you need a ruling from the
16 Court indicating that he has been accepted as an expert --

17 COMMISSIONER JABER: When we insert someone's
18 testimony into the record, we are accepting his testimony, but
19 if it will make you sleep tonight -- Commissioners, do you have
20 any objection to --

21 COMMISSIONER PALECKI: Commissioner Jaber, I don't
22 believe that there were any opinions of this witness that were
23 contested, and that would be the only reason I would think that
24 such a ruling would need to be made. So my feeling is, there's
25 no necessity for a ruling.

1 COMMISSIONER JABER: That's what I thought, but, you
2 know, I've been out of law school for a while so -- Mr. Menton,
3 do you have any thought on this?

4 MR. MENTON: Well, I do think that to come in and try
5 to offer an expert after the prefiled has been done is not the
6 right approach. I think it should be done in the testimony
7 itself, and then if we start getting into supplementing direct
8 testimony that's been put into the record, I think it is
9 problematic.

10 COMMISSIONER JABER: I don't think she's trying to
11 supplement any testimony. Do you have any objection to
12 stipulating that Mr. Beliveau is offered as an expert in this
13 case?

14 MR. MENTON: If it will help us get out of here
15 quicker --

16 COMMISSIONER JABER: Thank you. And, Mr. Menton, I
17 really appreciate your cooperativeness. You will have your
18 ruling, Ms. Brownless. We accept that Mr. Beliveau is an
19 expert in --

20 MS. BROWNLESS: Urban and regional planning and,
21 specifically, planning under Chapter 163, Florida Statutes.

22 COMMISSIONER JABER: We accept him as such.
23 Mr. Beliveau, thank you for your patience.

24 THE WITNESS: Thank you.
25

1 Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?

2 A. My name is Greg A. Beliveau and my business address is
3 2001 Old U.S. Highway, 441, Suite 1, Mt. Dora, Florida
4 32757.

5 Q. WHAT IS YOUR POSITION WITH THE CITY OF GROVELAND?

6 A. Land Planning Group Urban & Regional Planners, Inc.
7 (LPG) is the City Planner for the City of Groveland,
8 Florida (City), a municipal corporation organized
9 under the laws of the State of Florida.

10 Q. WHAT IS YOUR EDUCATIONAL BACKGROUND AND WORK
11 EXPERIENCE?

12 A. I am a graduate of Florida State University earning a
13 Bachelor of Arts degree in 1975 and a Master of
14 Science in Public Administration in 1976. After
15 graduating from Florida State University with my
16 masters degree I worked for the City of Vero Beach
17 from February, 1977 until October, 1977 as a Community
18 Planner and was selected as the Assistant City
19 Manager/Director of Community and Economic Development
20 in November of 1977. I served in that position until
21 October, 1987, when I accepted employment at The Land
22 Planning Group as a partner and Principal Governmental
23 Specialist responsible for review for compliance of
24 all projects with local codes and planning documents.
25 In July of 1998, I accepted my current position as the
26 President and Principal Government Specialist with LPG

1 Urban and Regional Planners, Inc. where I am currently
2 employed. My resume is attached as Exhibit (____)
3 GAB-1 to this testimony.

4 Q. ARE YOU A MEMBER OF ANY TRADE OR PROFESSIONAL
5 ORGANIZATIONS?

6 A. Yes, I am a member of the American Institute of
7 Certified Planners (AICP), the American Society for
8 Public Administration, the American Planning
9 Association and the Florida City and County Management
10 Association.

11 Q. HAVE YOU EVER TESTIFIED BEFORE A COURT OR REGULATORY
12 AGENCY?

13 A. Yes. I have testified in the following cases:

14 1993 - Lake County, Division of Administrative
15 Hearings, DCA v. 1000 Friends of
16 Florida, Lake County Comprehensive Plan,
17 land use and Green Swamp.

18
19 1993 - Lake County, Circuit Court, Florida Power
20 Corporation v. Gatch, eminent domain case,
21 witness for the property owners testifying
22 concerning Lake County's LDRs and land use.

23
24 1999 - Sumter County, Division of Administrative
25 Hearings, DCA v. Farnsworth, land use,
26 Comprehensive Plan.

27 Q. WHAT ARE YOUR PRESENT DUTIES AS CITY PLANNER FOR THE
28 CITY OF GROVELAND?

29 A. Our firm performs all planning services for the City
30 of Groveland including, but not limited to,
31 development application review regarding land use,
32 comprehensive planning and small area studies.

1 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS
2 PROCEEDING?

3 A. To provide testimony in response to the issues raised
4 by Charles R. Gauthier, Chief of the Bureau of Local
5 Planning of the Department of Community Affairs (DCA),
6 in testimony filed on behalf of the Staff of the
7 Florida Public Service Commission on October 6, 2000.

8 Q. IN HIS TESTIMONY MR. GAUTHIER INDICATES THAT THE CITY
9 OF GROVELAND DOES NOT SPECIFICALLY IDENTIFY ITS
10 UTILITY SERVICE AREA IN ITS COMPREHENSIVE PLAN AS A
11 POTENTIAL SERVICE AREA. CAN YOU RESPOND TO THIS
12 CONCERN?

13 A. Yes. The City has historically had references in its
14 Comprehensive Plan allowing its utilities to be
15 extended into the unincorporated areas surrounding the
16 City. Policies 4-1.5.1 and 4-1.13.1 of the City's
17 Comprehensive Plan, contained in Exhibit ____ (GAB-2),
18 state that the City's provision of water and
19 wastewater services shall be consistent with the land
20 use allocations delineated on the Future Land Use Map;
21 consistent with the goals, objectives, and policies
22 established in the Future Land Use Element the City's
23 Comprehensive Plan and consistent with the plans and
24 policies of the East Central Florida Regional Planning
25 Council.

26 The Future Land Use Map attached to the City's

1 Comprehensive Plan cannot include land located outside
2 of the City's municipal limits since the City has no
3 authority over such land. However, the City's
4 Comprehensive Plan Intergovernmental Coordination
5 Element 9J-5.015(3), Policy 7-1.8.1 states as follows:
6

7 The City shall, by March 1, 1993,
8 coordinate with Lake County to establish
9 a joint annexation agreement which
10 addresses appropriate procedures for
11 annexation, delineates adjacent lands
12 which may be annexed (an annexation
13 zone), establishes land uses for the
14 annexation zone which are compatible with
15 both the County and City's future
16 development plans, and defines
17 appropriate application of concurrency
18 management for this zone.

19 The requirement for a joint annexation agreement is
20 echoed in Lake County's Comprehensive Plan as Policy 9-1.3,
21 which states as follows:
22

23 Revision of Interlocal Agreements for
24 Provision of Mutual Services. By 1993, Lake
25 County and the 14 municipalities shall amend
26 all existing interlocal agreements
27 (approximately 128) into 14 interlocal
28 agreements. The 14 interlocal agreements
29 shall provide for the continuation of the
30 existing interlocal agreements but shall be
31 combined into one document for each
32 governance. Each interlocal agreement shall
33 be tailor-made for each municipalities'
34 circumstances. The interlocal agreements
35 shall provide for the establishment of a joint
36 planning area which covers the area where a
37 municipality can logically deliver public
38 services and infrastructure. The interlocal
39 agreements shall cover any and all items that
40 the County and municipalities deem to be to
41 the benefit of residents of either
42 jurisdictional area.
43

44 [Emphasis added.]

1 Lake County's 14 cities and Lake County started
2 the Joint Planning Agreement (JPA) process in 1994 and
3 held a workshop before the Lake County Board of County
4 Commissioners in October of 1995. All JPA discussions
5 were put on hold at that time. However, this year the
6 Lake County League of Cities has worked with all 14
7 Lake County cities and negotiated a new JPA which is
8 attached as Exhibit _____ (GAB-3). This JPA will be
9 presented to the Lake County Board of County
10 Commissioners within the next few months for their
11 comments and approval. In sum, the City has
12 appropriate references in its Comprehensive Plan to
13 utility service outside of its city limits and is
14 currently working with the Lake County League of
15 Cities and all of the municipalities in Lake County to
16 provide specific references to its service territory
17 in Lake County's Comprehensive Plan.

18 Q. MR. GAUTHIER APPEARS TO ALSO BE CONCERNED THAT THERE
19 ARE NO CLEAR GUIDELINES OR CRITERIA IN THE
20 COMPREHENSIVE PLAN TO IDENTIFY AREAS OUTSIDE OF THE
21 CITY WHERE CITY WATER AND WASTEWATER SERVICES WILL BE
22 PROVIDED. CAN YOU RESPOND TO THIS CONCERN?

23 A. Yes. As mentioned above, the Future Land Use Map does
24 not cover areas which are outside of the City's
25 current city limits. However, Ordinance 99-05-07 has
26 an attached and incorporated map clearly outlining the

1 City's Utilities Service District. There is also a
2 legal description of the Utilities Service District
3 given in Section 2 of the Ordinance.

4 Section 5 of Ordinance 99-05-07 states as
5 follows: "No private or public utility shall be
6 authorized to construct within the within the District
7 any system, work, project or utility of a similar
8 character to that being operated in the District by
9 the City unless the City consents to such
10 construction." Thus, the City's Utilities District is
11 exclusive and no other utility can provide water and
12 wastewater services within that District unless the
13 City gives its consent for it to do so. In short, if
14 you are located within the City's Utilities Service
15 District and make a request for water and wastewater
16 service, that request will be processed pursuant to
17 Groveland Code of Ordinances, Chapter 102. Thus, the
18 "clear guidelines" and "criteria" for the provision of
19 utility services are provided by Ordinance 99-05-07
20 and Groveland Code of Ordinances, Chapter 102.

21 Q. FINALLY, MR. GAUTHIER SEEMS TO BE CONCERNED WITH THE
22 FACT THAT THE CITY'S SERVICE AREA IS LARGE AND COVERS
23 AREAS DESIGNATED AS RURAL, SUBURBAN AND PARTS OF THE
24 GREEN SWAMP. CAN YOU RESPOND TO THIS CONCERN?

25 A. Yes. The City's Utilities Service District covers an
26 area which is approximately five miles from its

1 current city limits as is authorized by §180.02(3),
2 Florida Statutes, which states, in part:

3
4 In the event any municipality desires to avail
5 itself of the provisions or benefits of this
6 chapter [180], it is lawful for such
7 municipality to create a zone or area by
8 ordinance and to prescribe reasonable
9 regulations requiring all persons or
10 corporations living or doing business within
11 said area to connect, when available, with any
12 sewerage system or alternative water supply
13 system, . . . provided, however, in the
14 creation of said zone the municipality shall
15 not include any area within the limits of any
16 other incorporated city or village, nor shall
17 such area or zone extend for more than 5 miles
18 from the corporate limits of said
19 municipality.

20 Any development within the City's Utilities
21 Service District would be required to get the
22 appropriate approvals from Lake County, e.g., PUD,
23 DRI, DO. Lake County's Comprehensive Plan has
24 provisions that address urban sprawl and requirements
25 concerning the provision of centralized water and
26 wastewater services. The mere fact that a wastewater
27 transmission line or water main transverses a
28 rural/silvaculture area does not, in and of itself,
29 create urban sprawl. Thus, the DCA's concerns
30 regarding inappropriate development within the City's
31 Utilities Service District will be met in the normal
32 course of processing every development application.

33 Finally, it should be noted that as part of an
34 administrative hearing the City, at DCA's request, was

1 ordered to prepare a wastewater feasibility study for
2 the City to provide centralized sanitary sewer service
3 to serve areas surrounding the City. The goal of
4 master plan/feasibility study was to "maximize the use
5 of a centralized sewer system to help to minimize
6 urban sprawl and protect the critical Green Swamp
7 area." Wastewater Feasibility Study, City of
8 Groveland, August, 1999, at 1. Thus, service outside
9 of the City's current city limits has been recognized,
10 at least with regard to the separate service areas
11 identified in the Wastewater Feasibility Study, as
12 beneficial to the Green Swamp and a mitigation of
13 urban sprawl.

14 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

15 A. Yes.

16

17

18

19

20

21

22

23

24

25 c: 3264

1 BY MS. BROWNLESS:

2 Q Could you please give a summary of your testimony.

3 A Yes, ma'am. The City of Groveland -- and let me
4 preface this by saying that we are the planning consultants for
5 the City of Groveland. We are retained by them as their
6 consulting firm. So to give you some basis as to why I'm able
7 to tender this opinion is that we have been working with the
8 City of Groveland for several years as their planning staff.

9 The city has historically had references in its
10 comprehensive plan, and these basically mirror other policies
11 and bills and objectives that are also in the county's
12 comprehensive plan that relate to providing municipal services,
13 including infrastructure, outside their city limits. The
14 city's policies are directly involved in the -- part of the
15 exhibits here, Policies 4-1.5.1, 4-1.13.1, and these
16 specifically address the providing of the municipal services,
17 in this case, central sewer and central water outside the city
18 limits.

19 The city's comprehensive plan also states within its
20 intergovernmental coordination element, which all of the cities
21 in Lake County are required to have as, obviously, the state of
22 Florida, as well as Lake County's intergovernmental
23 coordination element stipulate that the city -- all 14 cities
24 in the county were to implement a joint planning agreement.
25 And in concert with that, there was also a utility service area

1 agreement that was also to be included as part of this package
2 and/or separate. There are several policies in the county's
3 requirements which I have listed in my document here
4 illustrating the fact that both comprehensive plans list
5 intergovernmental -- list central water and central sewer being
6 able to be provided by a municipality, in this case, the City
7 of Groveland. So the City of Groveland does have the ability
8 to serve outside its corporate limits.

9 MR. MENTON: I'm going to object to that to the
10 extent that I'm not sure whether he's talking about the ability
11 to serve from an engineering capacity, from a legal capacity,
12 or from what capacity. I think that that really goes beyond
13 even the area of expertise that I've agreed to accept him in.

14 COMMISSIONER JABER: Ms. Brownless, your response.

15 MS. BROWNLESS: We would agree.

16 MR. MENTON: Pardon me?

17 MS. BROWNLESS: We would agree.

18 BY MS. BROWNLESS:

19 Q Go ahead and wind up your summary, Mr. Beliveau.

20 A From a planning perspective and the fact that we have
21 planning documents that address the provision of central
22 utilities, they don't just address in this case central
23 utilities within the corporate limits of the City of Groveland,
24 but they also address the ability to serve outside the
25 corporate limits. They also -- in fact, there are other

1 policies that address the issue being -- was provided in the
2 services that are being sought under the fact that the city's
3 adopted Chapter 180. And they designated a five-mile radius of
4 around the city limits, which is allowed under that statute, to
5 provide those utilities. The city adopted that and provided
6 those exhibits to the county, and the county included that
7 within their documentation for review for purposes of
8 developments that come within that area.

9 MR. MENTON: I'm sorry to interrupt again, but this
10 is going on beyond what's in his prefiled testimony. What the
11 county has adopted or what the county has in its plan, I don't
12 recall that.

13 MS. BROWNLESS: It's on Page 7 and 8.

14 COMMISSIONER JABER: Mr. Beliveau, I would just ask
15 and remind you as a witness that we have read your testimony.
16 So, really, a summary of the testimony is just to do a bullet
17 for us of what your main points are. So --

18 THE WITNESS: I'm sorry.

19 COMMISSIONER JABER: -- if I could just ask you to
20 wrap it up, and please know that we have read your testimony.

21 THE WITNESS: Thank you. I've never testified before
22 the Public Service Commission. Usually in law -- or
23 courtrooms, it's a different feel than this is.

24 COMMISSIONER JABER: All right.

25 THE WITNESS: The only summary point I'd like to make

1 is that attached to the draft JPAs is the exhibit that outlines
2 the cities that have presented a utility service area and the
3 guidelines for which those are to be utilized. We are also in
4 an effort to respond to, obviously, requests for service within
5 that Chapter -- or 180 area is also a response of the city. So
6 when someone requests for utility services within that
7 designated area, the city responds and does an analysis to
8 serve. That is the case where --

9 COMMISSIONER JABER: Mr. Beliveau, is that in your
10 testimony someplace that you can direct me to?

11 THE WITNESS: Just the reference to Chapter 180.

12 COMMISSIONER JABER: Okay. Don't expand what's in
13 your testimony.

14 THE WITNESS: With that, then I'm finished.

15 COMMISSIONER JABER: And along the way, I recognize
16 that you haven't testified in front of the PSC, and I will be
17 giving you direction and help in that regard. And in that
18 vein, when you answer questions, please start with a yes or a
19 no to the degree that you can and elaborate, but please stay
20 within the scope of your testimony.

21 THE WITNESS: Thank you.

22 COMMISSIONER JABER: Ms. Brownless.

23 BY MS. BROWNLESS:

24 Q Does that conclude your summary?

25 A Yes, ma'am.

1 MS. BROWNLESS: We would tender Mr. Beliveau for
2 cross.

3 COMMISSIONER JABER: Thank you. Mr. Menton.

4 MR. MENTON: Thank you, Commissioner.

5 CROSS EXAMINATION

6 BY MR. MENTON:

7 Q Good morning, Mr. Beliveau.

8 A Good morning.

9 Q I just have a few questions for you. As I understand
10 it, you are employed by the city as a consultant; is that
11 correct?

12 A That's correct.

13 Q So you actually advise them on their comp plan
14 issues; correct?

15 A That's correct.

16 Q You discuss in your testimony on Page 6, Lines 12
17 through 13, the importance of municipalities working together
18 in order to provide utility service; correct?

19 A Is that --

20 Q Page 6.

21 A Yes, that's correct.

22 Q And from a planning perspective, isn't it also
23 important for cities to work with private utilities to
24 coordinate service so there's no duplication?

25 A Correct.

1 Q And isn't it true that other municipalities in Lake
2 County have expressed concern over the city's 180 District, the
3 City of Groveland's 180 District?

4 A I don't know that for sure.

5 Q Do you know whether the City of Groveland's
6 180 District overlaps the district created by the City of
7 Leesburg?

8 A Yes, I do, and also the City of Clermont's, which we
9 have worked with the City of Clermont in negotiations with them
10 to alleviate those conflicts.

11 Q But there is also a conflict with the City of
12 Leesburg in terms of the extent of the City of Groveland's
13 180 District?

14 A At the very northern section, yes, there is.

15 Q Haven't the cities of Mascotte and Minneola also
16 expressed concern about the scope of the City of Groveland's
17 180 District?

18 A Not to my knowledge, no, sir.

19 Q Okay. Now, Ms. Winningham from the Department of
20 Community Affairs was here yesterday and testified that she has
21 spoken with Lake County in their planning department, and the
22 county has expressed some concerns over the city's
23 180 District. Are you aware of that?

24 A No, I'm not aware of that. I wish they would have
25 told me because they have submitted that utility service area

1 for over a year. It would have been nice if they would have
2 told us.

3 Q Now, you would agree that a city that adopts a
4 180 ordinance is exercising authority beyond its municipal
5 boundaries; correct?

6 A That's correct.

7 MS. BROWNLESS: I would object to the question to the
8 extent that it calls for a legal opinion.

9 COMMISSIONER JABER: To the extent it calls for what,
10 Ms. Brownless?

11 MS. BROWNLESS: A legal opinion.

12 COMMISSIONER JABER: Mr. Menton.

13 MS. BROWNLESS: He got it out before I could stop
14 him.

15 MR. MENTON: If we're going to do that, then maybe we
16 ought to go ahead and strike the portions of his testimony that
17 include legal opinions, including his references to Chapter 180
18 and several other things. We can go back through here. I
19 mean, I --

20 COMMISSIONER JABER: All right. Well, I think at
21 this point the witness has answered the question.

22 And, Mr. Beliveau, to the degree you are not
23 comfortable answering questions, make sure you say so.

24 THE WITNESS: Okay.

25 BY MR. MENTON:

1 Q Isn't it true that the City of Groveland's future
2 land use map does not include any land outside of the City
3 boundaries?

4 A That's correct. They can't include areas outside
5 their boundaries under the statutes and requirements that they
6 have. Their goals, objectives, and policies must be contained
7 within their corporate limits at the time of adoption.

8 Q So then from your standpoint as a planner, it's
9 appropriate for them to exercise authority outside their
10 municipal boundaries, but they don't have to include that
11 within their comp plan?

12 A It's not included within their map series, but
13 contained with an intergovernmental coordination element is
14 language which deals with certain specific services outside of
15 their current boundaries, but they can't label land use
16 classifications. They can't provide any of the detail in which
17 the map series itself and/or the future land use chapter
18 addresses. Only the intergovernmental coordination element
19 addresses areas beyond the boundaries of the municipality.

20 Q And you have attached to your testimony all of the
21 relevant portions of the city's comprehensive plan that relate
22 to the city's planning and criteria for providing service
23 outside of its municipal boundaries; correct?

24 A Only those dealing specifically with water and
25 wastewater.

1 Q So for water and wastewater you have included all of
2 the pertinent provisions from the city's comprehensive plan?

3 A Yes.

4 Q Now, you're familiar with the term "data and
5 analysis"?

6 A Yes, sir.

7 Q And data and analysis is a term of art in the comp
8 planning process; is that correct?

9 A That's correct.

10 Q And that requires a local government submitting a
11 comp plan to have detailed backup for what is contained within
12 the provisions of its comp plan; correct?

13 A Yes. That is the portion that's utilized to provide
14 the portion which is actually adopted, which is the goals,
15 objectives, and policies. Data and analysis is not the adopted
16 portion of the plan.

17 Q And you would agree that there is no data and
18 analysis in the City of Groveland's comp plan regarding the
19 provision of water service or wastewater service to the Summit
20 development for that area out Cherry Lake Road; correct?

21 A Restate that question.

22 Q You would agree that there is no data and analysis in
23 the City of Groveland's comprehensive plan that would support
24 the city's provision of water or wastewater service to the
25 Summit or any other development out Cherry Lake Road?

1 A I could not tell you because I haven't researched the
2 data and analysis to that degree. So I have to say I don't
3 know.

4 Q So as the consultant employed by the city to handle
5 comprehensive plan matters, as you sit here today, you don't
6 know whether the city has any data and analysis to support the
7 provision of service to the Summit; correct?

8 A No. You mean within the comprehensive plan or that
9 data and analysis separate outside of the comprehensive plan?

10 Q The data and analysis.

11 A Within the comprehensive plan?

12 Q Right.

13 A No, I can't answer that, not to the Summit. No, sir.
14 I would tender that the data and analysis component, again, is
15 a -- the section that was used to devise goals, objectives, and
16 policies, but they are of a fixed date and time. They were
17 prepared prior to the actual adoption of the document, and that
18 was done in the early part of the '90s. Those were also
19 prepared by Lake County staff.

20 Q Let's look at the policies and objectives that are
21 attached to your testimony, which are Exhibit GAB-2, which is,
22 I guess, now Exhibit 24. In Objective 4-1.13 of the City of
23 Groveland's comprehensive plan, there is a specific recognition
24 here. Why don't you read that objective into the record?

25 A 4-1.13?

1 Q 4-1.13, yeah.

2 A "Maximize use of existing facilities and minimize
3 urban sprawl. Direct growth to areas currently serviced by the
4 water system to maximize use of existing facilities and to
5 minimize urban sprawl."

6 Q So you would agree that this objective essentially
7 says that the city is going to try to encourage growth in areas
8 where it places facilities; correct?

9 A That's specifically what it says, yes.

10 Q Okay.

11 A Do you want me to read the supporting policy also?

12 Q No.

13 Is there any indication in the policies or objectives
14 for water that would indicate the criteria that the city will
15 apply in determining when and where it will extend its water
16 lines?

17 A No. It just states that the city is to initiate
18 agreements. Since these comp plans were all adopted in the
19 early '90s, there were intentions in both the county's document
20 and the city's document to recognize the fact that in the
21 future that there would be certain things that would have to be
22 performed. And that's why the reference is to the JPAs, the
23 joint planning agreements, utility service agreements. These
24 were all to be agreements that were to be put together after
25 the comp plan was adopted. There were initial dates stipulated

1 for those documents to be prepared and adopted.

2 Q So if I understand your answer then, it's no -- there
3 are no criteria set forth in the City of Groveland's
4 comprehensive plan as to when and where it would extend
5 services beyond the municipal boundaries?

6 A No, there's no specific criteria, just the
7 recognition that there are going to be future agreements to, in
8 fact, put those together.

9 Q In Section 4-1.5.1, which deals with wastewater, it
10 talks about coordinating capacity with the future land use map;
11 correct?

12 A That's correct.

13 Q But the future land use map only indicates the city
14 boundaries and doesn't include any areas outside the city
15 boundaries; correct?

16 A It also references the East Central Florida Regional
17 Planning Council, which is also the regional body. It also
18 addressed coordination with the county, as well as the city's.
19 So it also recognizes that not only with the city's element but
20 also with the East Central Florida Regional Planning Council's.

21 Q Okay. But in response to the question that I asked
22 you, which was that the 4-1.5 requires coordination and
23 capacity with the future land use map, but the City of
24 Groveland's future land use map does not include areas outside
25 the city's boundaries; correct?

1 A That's correct, but the Regional Planning Council's
2 documents do.

3 Q Mr. Beliveau, you have some testimony in here
4 beginning on Page 6. The question that is asked in your
5 prefiled testimony, Mr. Gauthier appears to also be concerned
6 that there are no clear guidelines or criteria in the
7 comprehensive plan to identify areas outside the city where
8 city water and wastewater services will be provided. Can you
9 respond to this concern?

10 And then you go on in the first paragraph and talk
11 about the future land use map, and it doesn't cover areas
12 outside the city. And then you go on and talk about the
13 ordinance that was adopted by the city. Now, the ordinance is
14 not part of the city's comprehensive plan; correct?

15 A It references part of one of the documents that's
16 required under the JPA system, so, yes, it is.

17 Q But the JPA has not been signed yet; correct?

18 A No, it has not.

19 Q Okay. So that's not in effect yet?

20 A No. But the comp plan for the county also addresses
21 that there would be separate utility service areas also
22 identified.

23 Q But my question to you is that the ordinance that you
24 talk about here in response to Mr. Gauthier's concerns about no
25 guidelines or criteria in the comp plan for service outside the

1 city, this ordinance is not included in the city's comp plan;
2 correct?

3 A Not by specific reference but by inference because of
4 the fact that Groveland's comp plan does require the JPA
5 agreements and also the county's comp plan requires JPA
6 agreements.

7 Q Well, the City of Groveland's plan has required the
8 JPA agreements since 1994; isn't that correct?

9 A That's correct.

10 Q And there is no JPA agreement, as we sit here today;
11 correct?

12 A That's correct.

13 Q Okay. Now, you talk in here about the city ordinance
14 that was adopted, and then on Page 8 you specifically refer to
15 Section 180.02(3). And the ordinance was adopted pursuant to
16 Section 108.02(3); correct?

17 A That's correct.

18 Q And if you would, look at Line 12 of Page 8 where you
19 are quoting the statute. Isn't it true that Section 180.02 --

20 MS. BROWNLESS: Objection to the extent that
21 Mr. Menton would request from this witness a legal opinion. He
22 is not a lawyer. He has simply provided the language of
23 180.02(3) without legal opinion being expressed.

24 COMMISSIONER JABER: Mr. Menton.

25 MR. MENTON: First of all, I didn't finish my

1 question. But if I had finished my question, what I was going
2 to ask him is, he's the one that cited 180.02(3) in here. He
3 cites it specifically to say -- or as to indicate that the
4 current city limits is authorized by 180.02(3).

5 COMMISSIONER JABER: What's your question?

6 MR. MENTON: My question is whether he really knows
7 what 180.02(3) provides, and if he doesn't understand that, he
8 shouldn't have put it in his testimony.

9 COMMISSIONER JABER: I'll allow the question.

10 THE WITNESS: Yes, I do.

11 BY MR. MENTON:

12 Q Okay. 180.02(3) as quoted by you on Line 12, Page 8
13 of your testimony specifically indicates that a municipality
14 desiring to avail itself for the provisions of this chapter can
15 enact a special -- or a district that would require people to
16 connect with any sewer system or alternative water supply. Do
17 you know what an alternative water supply is?

18 A What I can tell you is, is that my work with not only
19 just the City of Groveland but several other municipalities
20 where we provide the same service have adopted the same
21 reference for the same purpose as Groveland. Those city
22 attorneys have all tendered at least to their city managers or
23 city clerks that the provisions of this chapter do, in fact,
24 allow them to provide for municipal services which include both
25 central water and central sewer.

1 Q My question to you was, do you know what alternative
2 water supply is?

3 A And my answer to you is, is that in my workings with
4 city attorneys, that alternative water supplies are municipal
5 water systems; that they are allowed to provide their municipal
6 water systems in the same areas as they designate the 180 for
7 central sewer.

8 Q Have you ever research the legislative history of
9 180.02(3)?

10 A No, sir, I have not. I relied on the opinions
11 tendered by the city attorneys in which I work with.

12 Q Do you know whether any of them have actually
13 researched the legislative history of 180.02(3)?

14 A No, sir, I do not.

15 Q Do you know when 180.02(3) was amended to include
16 alternative water supply systems?

17 A No, I do not.

18 MR. MENTON: Give me just a second, I think I'm just
19 about done.

20 COMMISSIONER JABER: Mr. Beliveau, yesterday we heard
21 testimony from the Department of Community Affairs' witness,
22 Brenda Winningham. And in her testimony and in cross
23 yesterday, she pointed out that the city is -- the City of
24 Groveland is inconsistent with their own comprehensive plan
25 that's on file with the Department of Community Affairs. And

1 she acknowledged that that could easily be amended with an
2 amendment to the comp plan.

3 Why has the City of Groveland not amended its
4 comprehensive plan, and is that something you are doing?

5 THE WITNESS: The City of Groveland, in fact, has
6 amended its comprehensive plan. In fact, on one was a
7 settlement agreement to allow for an extension of water and
8 sewer into areas south of 50, but that was specifically in the
9 area of the Green Swamp. That was per request of DCA mainly
10 because of the issue being, obviously, the Green Swamp is an
11 area of critical state concern. Let's bring some water --
12 central utilities, both sewer and water, to that area.

13 In fact, today, they are funding a grant with us for
14 the purpose of studying that area further. We maintain that
15 the city has based on those components of the intergovernmental
16 coordination elements is in compliance, but we also recognize
17 the fact that based on what's brought up today and why we're
18 here is that the comp plans for the municipalities, all
19 municipalities, and I'm going to recommend it for all the ones
20 that I work with, place more specific language within the comp
21 plans themselves for the purpose of defining this issue a
22 little more clearer.

23 When these comp plans were developed, there wasn't
24 some of the players and the scope of the players that we have
25 today, and I don't believe this was anticipated. Comp plans

1 are fluid documents, and they are basically adopted for the
2 time and place of which they were adopted. And these were the
3 early '90s. Those things have changed. So we will be
4 providing more specificity for the comp plans to address these
5 issues. That's why you're allowed to amend them.

6 COMMISSIONER JABER: Is it the city's long-term plan
7 to provide water and sewer service to all of Groveland? Is
8 that what you are really trying to do? And in fact, is that
9 why you established the utility district?

10 THE WITNESS: Yes. It is their intent to provide
11 central water and sewer through a phased expansion and through
12 a demand of service to the area in which they have identified.
13 All the cities have these same areas identified on file and
14 have sent those to the county. The county has produced a map
15 showing where all of these 14 cities -- not all 14 cities have
16 central sewer. Some just have the water systems, and some do
17 have sewer, have gone ahead and filed the same Chapter 180.

18 COMMISSIONER JABER: Yeah, but I'm focussed on -- I'm
19 trying to understand the City of Groveland's long-term plan and
20 how it might relate to this proceeding. In that regard, if
21 it's the city's plan to provide all of the water and sewer
22 service within the city limits, then why is there even a
23 provision in the ordinance that allows companies to seek
24 approval from the city prior to providing service?

25 THE WITNESS: Well, that's more specifically

1 identified for the areas outside the city limits. The,
2 basically, right of first refusal is outside the city limits.
3 Inside the city, it is the City of Groveland. They have
4 received grants, et cetera, for that purpose. And they have
5 also received grants to go outside the city limits for purposes
6 of EDB problems that exist outside the city limits, and those
7 have facilitated the expansion of their system.

8 COMMISSIONER JABER: In deciding whether it would
9 ever be appropriate for a private utility, from your
10 standpoint, to provide service within the city limits, would
11 you ever look at cost-effectiveness?

12 THE WITNESS: Uh-huh.

13 COMMISSIONER JABER: Have you done that in this case?

14 THE WITNESS: No, because we never got to that point.
15 From what I understand, that never was tendered. I don't know
16 if I'm allowed to talk about that.

17 COMMISSIONER JABER: Well, I'm asking you, so --

18 THE WITNESS: Early on, when we were discussing the
19 territories, we tried to come up with a territory where all of
20 us could live with; that, you know, we'll stop at this point,
21 and you can stop at that point.

22 COMMISSIONER JABER: Are you telling me you would be
23 able to -- if Florida Water could submit to you a plan that
24 would have them providing some of the service to some of the
25 development with you providing some service to some of the

1 development, that that might be acceptable to the City of
2 Groveland?

3 THE WITNESS: Well, I don't know if it would be
4 acceptable to the City of Groveland. I mean, those are things
5 that from my position as a consultant I would look at and
6 review and give them a recommendation. And we have had that
7 happen in other communities where we have looked at the pluses
8 and minuses of that service.

9 COMMISSIONER JABER: And you have not considered that
10 here then?

11 THE WITNESS: That has not been tendered. A balloon
12 was raised that said would you, and then we never saw anything
13 after that point. So I couldn't tell you in this case whether
14 this was feasible or not because I don't have a clue as to the
15 numbers or the ability. In this case, I couldn't tell you for
16 sure if it is or isn't.

17 COMMISSIONER JABER: Thank you, Mr. Beliveau.

18 COMMISSIONER PALECKI: Mr. Beliveau, could I just
19 follow up on that one bit?

20 THE WITNESS: Uh-huh.

21 COMMISSIONER PALECKI: I believe you testified that
22 the city has filed an amendment to its comprehensive plan that
23 would include expansion of its water system into the Green
24 Swamp area. Is that what you said?

25 THE WITNESS: No. There is actually a settlement

1 agreement that has already been approved. The settlement
2 agreement was passed with the DCA actually recommending the
3 expansion into the Green Swamp area based on another
4 application that came in on State Road 50, just east of here.

5 When that project was through the comp plan amendment
6 process, the DCA went with them, as well as the City of
7 Groveland, and decided to allow for the expansion of the city's
8 water and sewer south of 50. I can't be specific on the
9 distance south of 50, but I know it's -- I have a -- there's a
10 map that shows it, but they came up with an agreement that the
11 City of Groveland could -- would be the service provider for
12 that specific geographic area.

13 COMMISSIONER PALECKI: When did that occur? And why
14 didn't the City of Groveland apply for this expansion of its
15 water system at the same time?

16 THE WITNESS: That was a settlement agreement for a
17 specific developer that was in the process of getting a
18 specific approval for specific projects. It was tied to that
19 specific --

20 COMMISSIONER PALECKI: So that occurred because of
21 the dispute at that time.

22 THE WITNESS: Yes, sir. Which is not uncommon for
23 DCA to basically cut a deal with a developer that if you do --
24 if this happens, we'll allow for higher densities, or
25 whatever, for that specific project.

1 COMMISSIONER PALECKI: When does the city intend to
2 amend its comprehensive plan to include this expansion of its
3 water system?

4 THE WITNESS: I haven't been given a specific time
5 table, but according to Jason, it's soon. They are allowed two
6 comp plan amendment cycles per year. Text changes are
7 considered within those cycles, and Groveland has only had one
8 cycle this year. So we still have another cycle to go.

9 COMMISSIONER PALECKI: Is it unusual that you will
10 actually lay 12-inch pipe? I mean, it's -- half a million
11 dollars has been expended on this project already without
12 first amending the comprehensive plan.

13 THE WITNESS: Well, in this case, the expansion on
14 this line was also in response to a developer's request that
15 Cherry Lake/Garden City PUD that also asked for because of some
16 problems, I believe, with EDB to be hooked into the central
17 system. So the City of Groveland responded to a specific
18 developer's request which was in part on the way to Summit.

19 So the City of Groveland, therefore, responded to a
20 developer's request for a central system hookup which the city
21 responded to. And there are potentially other projects out
22 there that can do the same. There are other vested projects
23 that are out there between Garden City and the Summit, so
24 there's other opportunities for the city to respond to a
25 specific request as a request of service.

1 COMMISSIONER PALECKI: We have referred earlier to
2 the testimony of Ms. Winningham from the Department of
3 Community Affairs. And she expressed concerns about water
4 going into the rural areas and concerns that these areas might
5 be urbanized, and that was the reason she was concerned about
6 this particular project by the city. And then we heard also
7 that a large portion of the funding for this project has been
8 through a grant with the DEP. And I'm just wondering how it
9 can occur that the Department of Community Affairs might have
10 environmental concerns with a project and at the same time the
11 DEP is funding the same project?

12 THE WITNESS: Well, I can tell you that probably the
13 reason she gave the answer she gave is that she was not aware
14 of the fact -- I'm not sure, it's just conjecture -- the Garden
15 City PUD has been on the books for -- actually, it predates the
16 current comprehensive plan, so it's a vested PUD. It required
17 central water within its PUD document. And there are other
18 vested projects in the area that predate the comprehensive
19 plan. So the urban sprawl issue in this case is really not
20 necessarily an urban sprawl issue. It's a request for --
21 responding to a need of preexisting developments that were
22 there prior to the comp plan.

23 I know about Garden City because our firm did Garden
24 City. We did that when Garden City was in an area that by
25 definition of the comp plan at that time allowed for one unit

1 per acre projects and not being considered urban sprawl. So
2 when they adopted and approved those, they weren't felt to be
3 urban sprawl issues. Times have changed, and now you have a
4 different definition of urban sprawl, which they feel that
5 would be. Well, they are already there. They are already
6 approved. You know, like the Summit, they are PUDs. They have
7 been approved. They have construction plans in place. Garden
8 City, they've actually had phased constructed. They have water
9 lines in the ground with fire hydrants.

10 At the time prior to this, there was no water flowing
11 through them until they finally put in an emergency well and
12 just for the specific purposes of fire but not for potable
13 water. So there are projects scattered all over Lake County
14 that predate the comp plan that basically have reached to a
15 point where they now recognize they need to get into central
16 systems. There's some within Jason's or the City of
17 Groveland's area, as well as all over Lake County, and they
18 just predate the comp plan. The county was approving projects
19 of that type density throughout the county. It was part of
20 their at that time their policies.

21 Also, since then, you asked about the DEP connection.
22 It's because of the EDB problems that surfaced here in south
23 Lake County predominantly. We found that there was just
24 contaminated water supplies because of the citrus industry
25 here. And all of a sudden all of these developments and/or

1 homeowners had contaminated water. So the answers there were,
2 DEP was putting in small little treatment plants in people's
3 garages at a huge price or providing funds to, like, the City
4 of Groveland has responded, the City of Clermont has responded
5 to go into these areas and provide a central system to respond
6 and get these people onto a safe water supply. So that's where
7 the DEP connection has come in, that they have responded to
8 that. South Lake County has several areas identified for EDB
9 contamination. In fact, I think the entire City of Groveland
10 is circled with them, so you have -- which are outside the city
11 limits. So these are also areas that they city can respond to.

12 COMMISSIONER JABER: Is it that the DEP loan program
13 is independent of the DCA review --

14 THE WITNESS: Yes.

15 COMMISSIONER JABER: -- one thing has nothing to do
16 with the other? In fact, they don't even communicate half the
17 time.

18 THE WITNESS: Right, yes. A lot of times DOT, DEP,
19 DCA, Department of Education hardly ever talk to each other,
20 and it's not uncommon that you have cross-purposes going on.
21 School siting is another one which we don't need to get into,
22 but it's not just between these two agencies. It's across the
23 board.

24 COMMISSIONER PALECKI: Thank you, Mr. Beliveau.

25 COMMISSIONER JABER: Mr. Menton.

1 BY MR. MENTON:

2 Q Just to follow up briefly. Mr. Beliveau, the fact
3 that a development is vested doesn't mean that it's going to go
4 forward; correct?

5 A Not necessarily. It just means to has legal right to
6 go forward.

7 Q It has a legal right to go forward. And, in fact,
8 the installation of centralized utility service will increase
9 the likelihood that it will go forward; correct?

10 A It may or may not. There may be other factors that
11 are independent to whether or not a central utility is the
12 issue.

13 Q So you don't -- well, certainly there are other
14 factors, but the availability of centralized water service
15 would be -- would remove one obstacle to them going forward;
16 correct?

17 A It could, yes.

18 Q In terms of the DEP contamination issue, are you
19 familiar with the rule, the DEP rule?

20 A No, sir.

21 Q And do you know whether or not there are wells that
22 are drilled within any of these contamination sites that meet
23 all of the applicable water quality standards?

24 A No, sir. I just know what's been filed with the
25 Department of Health over in Lake County, Tavares, the maps

1 that show the contaminated areas.

2 Q Do you know what goes into the determination or the
3 delineation of any of those areas?

4 A No, sir.

5 Q Do you know what the consequences are once those
6 areas are delineated?

7 A No, sir.

8 Q Do you know whether there are ways to construct wells
9 that would meet the requirements to provide quality water
10 service in those areas?

11 A Oh, I know there are because DEP has funded those
12 specifically.

13 Q Okay. And in particular, do you know whether the
14 Palisades system -- do you know what the water quality tests
15 have shown with respect with Florida Water's Palisades system?

16 A No, I do not.

17 Q You're not aware that there are any problems with the
18 water quality produced at that site, are you?

19 A No, I'm not.

20 MR. MENTON: I don't have any further questions.

21 COMMISSIONER JABER: Okay. Staff.

22 MS. CHRISTENSEN: Yes.

23 CROSS EXAMINATION

24 BY MS. CHRISTENSEN:

25 Q Good morning.

1 A Good morning.

2 Q I have some confusion, I guess, to the response that
3 you gave regarding Commissioner Palecki's question. You had
4 the Garden City, I guess, development that requested service,
5 and you were asked whether or not -- is it common to go ahead
6 and build a water line and not make an amendment to the
7 comprehensive plan. I'm not sure I actually got a yes-or-no
8 answer. Is that common, or is that not common?

9 A It's very common, especially in Lake County. We have
10 municipalities -- Groveland extending it to Garden City because
11 of a request for service. It's done so because they have what
12 they feel is a valid Chapter 180 utility service area. Garden
13 City is located within that area. They have asked for water
14 service from the City of Groveland. The City of Groveland
15 analyzes that to see if they can serve, and they do so. They
16 do a self-analysis to find out if it's cost-effective and find
17 out if they can find a funding source or can they carry it
18 themselves. That's all part of the process. And so they use
19 the basis of having that 180 there as being the -- giving them
20 the right to respond to that service -- request for service.

21 Q Let me understand. I mean, I know you had a few
22 discussions with Mr. Menton regarding the city's comprehensive
23 plan and there just being some minimal language in there
24 regarding city water and sewer service outside of the corporate
25 limits; correct?

1 A Correct.

2 Q And in the comprehensive plan itself, there's no
3 criteria set forth saying, well, we're going to extend to
4 vested developments if they make a request. That's not in its
5 comprehensive plan?

6 A No, ma'am, it is not.

7 Q And it's not within that comprehensive plan, I think,
8 even that it set up a Chapter 180 Utility District; correct?

9 A That's correct.

10 Q And it doesn't say in its comprehensive plan that we
11 will set up a 180 Utility District and provide service whoever
12 requests it within that utility district. That's not in the
13 comprehensive plan?

14 A No, ma'am, it is not.

15 Q Okay. So you can't look at the comprehensive plan
16 and know that you are going to put utility lines or have the
17 analysis or have any way of really knowing where the city was
18 planning on providing centralized water and sewer service;
19 correct?

20 A Yes, you can if you utilize the criteria outlined in
21 the intergovernmental coordination element, which addresses the
22 requirements for a joint planning area, which includes what's
23 in the joint planning area requirements utility issues, being
24 water and sewer. There are also parallel policies in the
25 county comp plan that address central water within -- actually,

1 infrastructure water and sewer being required as part of a
2 utility service agreement within their public facilities
3 element to their comp plan. And so as such, there are comp
4 plan policies that address utilities outside of all municipal
5 boundaries, and the city has used that. In other words, they
6 utilize those guidelines because at the time the comp plan is
7 being adopted, there was -- and comp plans have tended to be
8 vague. Comp plans were not designed to be -- originally to be
9 specific.

10 Q I understand that part. And I understand you're
11 saying you're making a reference to this intergovernmental
12 document; right?

13 A Uh-huh.

14 Q And that would be the joint planning document?

15 A There's two: A joint planning agreement and the
16 utility service agreement.

17 Q Is there an actual utility service agreement that's
18 in existence that it's in writing that exists today?

19 A That is the Chapter 180 that was filed and forwarded
20 to Lake County.

21 Q But how is that intergovernmental? It was just the
22 City of Groveland enacting its own Chapter 180 District.

23 A The county never filed any protest. They never filed
24 anything back to the City of Groveland saying they in any way,
25 shape, or form object to it. We haven't received anything of

1 fact. They just put it on their maps and have used that as
2 their guidelines for identifying service providers as they have
3 done with all utility providers.

4 Q Right. And let me understand, is the joint planning
5 agreement, wasn't that also to kind of clear up any overlapping
6 180 Districts or --

7 A That's correct.

8 Q -- anything else?

9 But that document doesn't actually exist right now?

10 A Well, it exists in draft form. It has not been
11 adopted.

12 Q It exists in a draft form, but it's not signed off?

13 A No.

14 Q It hasn't been finalized?

15 A No.

16 Q No governments have actually agreed to anything
17 that's in there? I mean, they are working --

18 A The City of Clermont adopted theirs.

19 Q Who does?

20 A The City of Clermont adopted theirs, I think, within
21 the last 30 days.

22 Q Okay. And then none of the other municipalities has
23 as of yet.

24 A No.

25 Q So it's not an actual intergovernmental adopted

1 because only one governmental has adopted it; correct?

2 A That's right. And I'm on a committee as part of the
3 League of Cities representatives that is a joint committee with
4 the county staff, and one the county commissioners who -- we're
5 going through the document now to find if there are issues of
6 conflict to address those and brings those back to our parent
7 governments.

8 Q Okay. And talking about amendments to the comp plan,
9 particularly with sewer and water service, you could have done
10 an amendment to the comprehensive plan, the city's
11 comprehensive plan, to address water and sewer service?

12 A Uh-huh.

13 Q And without having those amendments up at DCA, there
14 is no way for DCA to be aware of what your plans are, criteria.
15 Without doing an amendment, they would not have a way of
16 knowing what you were going to do?

17 A Well, actually, they do because several of their
18 staff came down here for technical assistance for us -- when we
19 were creating the JPA agreements. They came down with a team
20 and went through a -- in fact, they have done it twice. They
21 came down and brought a team in to go over the JPAs and the
22 process for a joint planning agreement. And they also came
23 back several years later, in fact, within the last, I think, 18
24 months and provided a facilitation process between all local
25 governments and the school board to put together the JPA. So

1 they have participated and provided technical assistance.

2 Q But that isn't -- I mean, it's in a draft form, so
3 it's not an --

4 A That's correct.

5 Q -- official planning document that they can rely on.

6 A No, it's not. They have seen drafts just like the
7 cities have and the county commission has.

8 MS. CHRISTENSEN: I have no further questions.

9 COMMISSIONER PALECKI: I have just one. The DCA
10 sometimes denies approval of these amendments to the
11 comprehensive plans. You don't mean to imply that this is just
12 a rubber-stamp process?

13 THE WITNESS: No, sir. In fact, we are processing
14 the amendment on this cycle dealing with sewer -- dry lines for
15 sewer installation. And we are actually putting that as a
16 policy in the comp plan that requires all developers to put dry
17 lines in for anticipation of hookup to the central sewer system
18 when our main sewer line becomes -- actually abuts their
19 project. They have to cut off all the septic tanks and hook up
20 immediately to our sewer system.

21 We -- historically, our method of working with DCA
22 is, we send to them draft changes. We don't -- you know, we
23 don't like hitting them blind and saying, here's what we want
24 to do. We present what we feel are policy directives that we'd
25 like to see implemented as amendments, get their feedback. And

1 if there are any changes, then we see if we can live with them
2 or try to convince them why we want the language to be what we
3 want prior to actually going through a formal approval process.
4 And that's where we are at on that specific policy change.
5 It's going to go in the next cycle which we are preparing now.

6 COMMISSIONER PALECKI: So we have heard from the DCA,
7 and they have told us they have a concern. There's always the
8 possibility, I'm not saying whether it's a possibility or not,
9 but the possibility that if this was included in a motion to
10 amend the comprehensive plan, that it might not be approved.
11 In that case, would the investment of half a million dollars
12 that's already been made by the City of Groveland, would that
13 be virtually a non-- an investment that couldn't be recouped by
14 the city?

15 THE WITNESS: No, because I doubt -- and in this
16 case, it was a request for service based on an EDB or an issue
17 based on the fact that we had a vested PUD. And I don't see --
18 that I don't even know if it's within their criteria for
19 whether or not they can require the City of Groveland to pull
20 up all the water lines to service that project specific. So it
21 wouldn't be an issue for DCA specifically for the Garden City
22 extension of which they extended based on a request for
23 service.

24 COMMISSIONER PALECKI: So it would be serving a large
25 subdevelopment?

1 THE WITNESS: Yes. It is a PUD that's -- it's
2 vested. They can't take the approvals away. It's already
3 been, you know, vested through -- I don't know if it's common
4 law vesting or statutory vesting, but one of the two. So it's
5 already a project in place. And it's already half -- the
6 southern portion of it is half built.

7 COMMISSIONER PALECKI: Could you show us on a map
8 where that project is located in relation to the Summit
9 project?

10 THE WITNESS: Sure.

11 MR. MENTON: Commissioner, it might be easier to use
12 Mr. Mittauer's maps.

13 COMMISSIONER JABER: Mr. Beliveau.

14 COMMISSIONER PALECKI: Mr. Menton will show you a map
15 that we've seen already and we're familiar with.

16 COMMISSIONER JABER: That is the map attached to
17 whose testimony? Mr. Mittauer's testimony.

18 THE WITNESS: It's this peninsula here that jets
19 into -- and actually, there's a canal connection between these
20 two lakes. It's on Cherry Lake Road, which is County Road 478.
21 There is also acreage on the north side of the road. It's two
22 halves. A south half has already been platted. There's roads
23 already installed. The water lines have already been put into
24 about half of it. There are houses there. The north half has
25 actually been sold off by the original developer. They were

1 Egyptians. They moved over from Egypt to Chicago to here, for
2 some reason, and they fell in love with this piece of property.
3 It's got some great elevation, you can see. It's really a
4 pretty site. If you're looking for a site with horse trails
5 too, that's available. So that PUD is located there.

6 And here's where Groveland is, so that was an
7 extension to there specifically. And so that's why the Garden
8 City PUD plays some importance in the fact that you have it
9 already existing on the system. It needed service, and that's
10 the location of Garden City.

11 COMMISSIONER PALECKI: So you would be able to make a
12 return on your investment from that development?

13 THE WITNESS: Yes.

14 COMMISSIONER PALECKI: Thank you very much.

15 COMMISSIONER JABER: Ms. Brownless, redirect?

16 MS. BROWNLESS: Yes, ma'am.

17 REDIRECT EXAMINATION

18 BY MS. BROWNLESS:

19 Q You were asked a question by Ms. Jaber,
20 Commissioner Jaber concerning discussions about dividing up
21 territories in and around Groveland; is that correct?

22 A That's right.

23 Q And discussions about dividing up territories in
24 Groveland, specifically in Groveland's 180 --

25 A Uh-huh, that's correct.

1 Q Isn't it true that you assisted Groveland in
2 preparing an offer to effect such a settlement with Florida
3 Water?

4 A Yes, it's true.

5 Q And you tendered that to Mr. Tillman, did you not?

6 A I --

7 Q Florida Water.

8 A Florida Water, which there was two representatives
9 that came.

10 Q All right. And that involved swapping territory in
11 the northern part of the district --

12 A That's correct.

13 Q -- near the interchange of 27 and 19 --

14 A Yes, ma'am.

15 Q -- with the area that's the Summit; correct?

16 A I think originally -- I know it was involving the
17 area around the Summit, and we tendered offers and
18 counteroffers. And they actually came back, and we identified
19 a geographic area. And we thought we had an agreement, and
20 then they called up and said no.

21 Q Okay. Thank you. Now, you were asked questions
22 concerning the overlap of existing 180 service districts for
23 Leesburg, Clermont, Mascotte, and a series of cities; correct?

24 A Uh-huh, that's correct.

25 Q Isn't it true that the City of Mascotte has allowed

1 Groveland to provide sewer service within Mascotte's municipal
2 district?

3 A I know there is negotiations with a specific
4 developer that's in the City of Mascotte, yes, that's correct,
5 and for sewer service. And we also negotiated with the City of
6 Clermont for some give and take on some territory. In fact,
7 that was part of the process of going through with the JPA
8 approvals, was that the task force of the League of Cities for
9 Lake County asked that all cities sit down with their neighbors
10 and discuss where their boundaries were to be, so we didn't
11 have any conflicts between everybody.

12 Q So, in fact, the process that's ongoing right now is
13 an attempt to align all of these utility districts?

14 A Up until this morning, I thought we were done. I
15 didn't realize that Minneola and the other ones had objections.
16 It would have been nice to know.

17 Q You were asked by Mr. Menton some questions about
18 factors that would allow a development to go forward, and he
19 indicated that having central water would be one of those
20 factors. Do you remember those questions?

21 A Yes.

22 Q Aren't there other factors included that would affect
23 the timing of the actual development of a PUD or a subdivision?

24 A Yes. I mean, there could be anything from the
25 market. It could be the fact that the developer didn't have

1 the funds to actually install the infrastructure.

2 Q Wouldn't a developer need to get a complete set of
3 construction permits approvals before he could proceed?

4 A Oh, yes.

5 Q Mr. Palecki asked you some questions concerning water
6 lines and the cost-effectiveness of water lines. Do you know
7 whether the city requires developers to install dry sewer lines
8 when they connect up to the city's water system?

9 MR. MENTON: I'm going to object. It is beyond the
10 scope of cross.

11 COMMISSIONER JABER: Ms. Brownless.

12 MS. BROWNLESS: Well, we'd like -- I don't think it's
13 beyond the scope of cross. They inquired about the
14 cost-effectiveness when asked back to the cost-effective would
15 be -- or do you get ultimately to provide both water and sewer
16 service.

17 COMMISSIONER JABER: I fail to see the link. Explain
18 that one more time. What was it that Mr. Menton asked exactly?

19 MS. BROWNLESS: No, Mr. Menton didn't ask this.

20 COMMISSIONER JABER: Commissioner Palecki asked
21 exactly that you think your question relates to.

22 MS. BROWNLESS: Okay. He asked about
23 cost-effectiveness and cost-effectiveness analysis and
24 extension of lines, and was there any type of analysis done as
25 to the cost-effectiveness, and my suggestion would be that to

1 the extent --

2 COMMISSIONER JABER: Hang on, Ms. Brownless. I don't
3 remember your --

4 COMMISSIONER PALECKI: My question was whether the
5 half a million dollars in laying the water pipe would still be
6 cost-effective if the Department of Community Affairs did not
7 allow an amendment to the comprehensive plan.

8 COMMISSIONER JABER: Right.

9 COMMISSIONER PALECKI: It did not allow the city to
10 serve the Summit.

11 COMMISSIONER JABER: If you can build a redirect
12 question on that, I'll allow it, Ms. Brownless.

13 MS. BROWNLESS: We'll withdraw that. Thank you.
14 That's all we have. Thanks a lot.

15 COMMISSIONER JABER: Thank you very much.
16 Mr. Beliveau, thank you for your testimony.

17 THE WITNESS: And I wanted to thank you for allowing
18 me to go early, and now I have to rush to another one.

19 COMMISSIONER JABER: Good luck.

20 (Witness excused.)

21 COMMISSIONER JABER: Ms. Brownless, do you want to
22 have GAB-1 through 3 admitted into the record?

23 MS. BROWNLESS: Yes, ma'am. And I think that's
24 Exhibit 24.

25 COMMISSIONER JABER: Without objection, Exhibit 24 is

1 admitted into the record.

2 (Exhibit 24 admitted into the record.)

3 COMMISSIONER JABER: We need to take a 15-minute
4 break for the court reporter. We will come back with our last
5 witness, Mr. Yarborough.

6 MR. MENTON: Commissioner, I would suggest, if you
7 give me an extra 5 or 10 minutes, I'll save you 10 or 20 on the
8 back end.

9 COMMISSIONER JABER: Twenty minutes, Commissioners?

10 COMMISSIONER PALECKI: That's fine.

11 COMMISSIONER JABER: A 20-minute break.

12 MR. MENTON: What I'll do is to try to pare down, and
13 see if we can eliminate some stuff.

14 COMMISSIONER JABER: We'll take a 20-minute break.

15 MR. MENTON: Thank you.

16 (Brief recess.)

17 COMMISSIONER JABER: Let's reconvene the hearing.

18 Ms. Brownless, do you want to call your next witness?

19 MS. BROWNLESS: Yes, ma'am. Mr. Yarborough.

20 COMMISSIONER JABER: Mr. Yarborough, you have been
21 sworn right?

22 THE WITNESS: Yes.

23 JASON L. YARBOROUGH

24 was called as a witness on behalf of the City of Groveland,
25 Florida and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. BROWNLESS:

Q Mr. Yarborough, can you please state your name and address for the record.

A Jason Yarborough.

Q And did you prefile testimony in this docket on September 7th, 2000?

A Yes, I did.

Q Do you have any changes to make to your testimony at this time?

A Yes, I do. On -- I'm trying to delete Page 4, Line 24 to Page 5, Line 6. Substitute, "Has constructed a 12-inch line along Cherry Lake Road to Cherry Lake slough. Extension of this line 3,000 feet to the Summit will take approximately four months."

Q And, Mr. Yarborough, so the sentence on Line 24 would read, "City's engineer, Joseph A. Mittauer, P.E., the city has constructed." So you'd start deleting "is," is what would be deleted on Line 24?

A Correct.

Q Do you have any other changes to make?

A Yes. Page 8, Line 2, "\$19.69" should be changed to "\$19.62," "15.8 percent" should be changed to "15.5 percent." Line 5, "\$1,505" should be changed to "\$769."

MR. MENTON: Commissioner, I'm going to object to

1 that change. That is a very substantiative change in his
2 testimony from his prefiled.

3 MS. BROWNLESS: Forgive me. It's no more substantive
4 than changing the average daily flow from 385,000 gallons GPD
5 to 139.

6 COMMISSIONER JABER: Mr. Menton, let him finish all
7 of the corrections, and we'll take all of those objections up
8 at once in the event there are more. Yeah, and please hold on
9 to all of your objections until he's done because the
10 Commissioners and I are trying to understand where the
11 corrections are.

12 Commissioner Baez, you said to go back to Page 8.
13 Mr. Yarborough, what were the changes?

14 THE WITNESS: Line 5, "1,505" to "\$769." Line 6,
15 "\$1,623.90" should be changed to "\$846." Line 7 should be
16 changed from "7.3 percent" to "10 percent." Line 12,
17 "\$1,568.65" should be changed to "\$769." Line 13,
18 "3.4 percent" should be changed to "10 percent."

19 BY MS. BROWNLESS:

20 Q Did you file --

21 COMMISSIONER JABER: I'm sorry, Ms. Brownless. Were
22 those all of your corrections?

23 THE WITNESS: Yes, ma'am.

24 COMMISSIONER JABER: Mr. Yarborough, let me ask you
25 some questions. With regard to your corrections on Page 8,

1 what's the purpose of those corrections? Are these
2 typographical errors on your part? I'm asking you the
3 questions. Are they typographical errors on your part?

4 THE WITNESS: Yes.

5 MS. BROWNLESS: Well --

6 COMMISSIONER JABER: Excuse me, Ms. Brownless. I'm
7 asking Mr. Yarborough questions. Now --

8 THE WITNESS: We felt --

9 COMMISSIONER JABER: Go ahead.

10 THE WITNESS: We felt that the questions that came
11 in, we were comparing apples to oranges considering some of the
12 flexibility that seemed to be in their charges. So we
13 accommodated our changes so that we were comparing apples to
14 apples instead of apples to oranges.

15 COMMISSIONER JABER: When was it you realized you
16 might be comparing apples to apples -- or apples to oranges?
17 Excuse me.

18 THE WITNESS: I guess a few weeks ago.

19 COMMISSIONER JABER: So at the time of the prehearing
20 conference, you knew that there would be changes to your
21 testimony?

22 THE WITNESS: I don't know.

23 COMMISSIONER JABER: A few weeks ago. Can you give
24 me a better date?

25 THE WITNESS: I don't know.

1 COMMISSIONER JABER: Commissioners, there's been an
2 objection by Mr. Menton with respect to the changes made on
3 Page 8. And the objection is that this substantially changes
4 the testimony. And Ms. Brownless has responded that this is no
5 different than what was done in previous testimony. I'd love
6 to have the benefit of your opinion on this.

7 COMMISSIONER PALECKI: Could I ask Mr. Yarborough one
8 more question?

9 COMMISSIONER JABER: Yes.

10 COMMISSIONER PALECKI: Did the Groveland City Council
11 take any action to change the meter fees or the connection
12 charges.

13 THE WITNESS: From when to when? Because there has
14 from -- throughout this year and a half long process --

15 COMMISSIONER PALECKI: From the time when you put in
16 the original figures in your testimony until today when you're
17 putting in the different -- the new figures.

18 THE WITNESS: There has been a change since the
19 beginning of this process.

20 COMMISSIONER PALECKI: So the Groveland City Council
21 has met and made changes to those?

22 THE WITNESS: There had been -- not in the last few
23 weeks. It happened about a year ago. There was a change.

24 COMMISSIONER PALECKI: So my question is, are your
25 changes at all in response to action by the City Council?

1 THE WITNESS: No.

2 COMMISSIONER PALECKI: Okay. Thank you.

3 MS. BROWNLESS: Commissioner, forgive me.

4 COMMISSIONER JABER: We have an objection. We're
5 entertaining it. I heard your response. I'm asking for
6 Commissioners for feedback.

7 What's your pleasure?

8 COMMISSIONER PALECKI: These changes are extremely
9 substantial. I'm not sure I understand the apples to oranges
10 issue here.

11 COMMISSIONER BAEZ: I think that's my -- my main
12 confusion is -- I mean, normally the changes, we're looking at
13 them, and we're calling them substantial because on a
14 percentage basis, yes, they are rather radical changes. But if
15 there's a justification, then that justification has to be
16 explained.

17 COMMISSIONER JABER: Yes, Mr. Yarborough, let us ask
18 you a couple of questions in that regard. You said to me that
19 you realized subsequent to your filing the testimony and based
20 on things that have happened in this case that you might, that
21 the city might be comparing apples to oranges and need to
22 change the numbers. Why don't you elaborate a little bit?

23 THE WITNESS: Okay. The City of Groveland has the
24 flexibility in order to negotiate down. For example, a larger
25 subdivision, or even in this case this subdivision, the City of

1 Groveland reserves the right to negotiate on impact fees, on
2 connection charges -- well, not on connection charge -- on
3 meter installation charges. All these things are flexible.
4 And by just stating what we do for somebody who builds a single
5 family house, that's not fair. I mean, it's not correct. We
6 have the ability to go down to \$769.

7 COMMISSIONER BAEZ: But that's an entirely different
8 thing than what Commissioner Jaber asked. I mean, that doesn't
9 go to what are the differences. All you are saying is, we may
10 have led with a higher number. And that's not the same thing
11 as saying --

12 THE WITNESS: So ask your question again.

13 COMMISSIONER BAEZ: What the basis of the numbers
14 that you supplied was. You've said that the basis -- that the
15 basis that you used to supply your numbers in your testimony
16 were not the same as the basis that was being used by the
17 company. I mean, is that what you are saying?

18 THE WITNESS: Because their numbers changed?

19 COMMISSIONER JABER: Let me -- Mr. Yarborough, let
20 me -- because I recognize you have never testified in front of
21 the PSC before; right?

22 THE WITNESS: Yes.

23 COMMISSIONER JABER: And you have never participated
24 in our process. We have chosen to implement a prefiled
25 testimony approach, and that does a number of things. But the

1 primary thing it does is, it prevents surprises at hearings,
2 and it also helps with the administrative efficiency of
3 processing a case. And being the city manager of this lovely
4 city, you know what I'm talking about. We try to process these
5 cases efficiency, fairly, and adequately. And that's what
6 prefiled testimony does.

7 The reason I was asking you when you became aware of
8 that is because your counsel could have petitioned the
9 Prehearing Officer for whatever supplemental testimony might
10 have been needed. I really believe it's too late now. I'm
11 going to sustain the objection, and we're going to go forward
12 with the testimony as was prefiled at least for Page 8.

13 Now, did you have any other corrections -- and let me
14 back up and explain to you that when we allow at the very
15 beginning an opportunity for corrections of testimony, it
16 really is for something similar to typographical errors or
17 maybe an update as was reflected would happen in the testimony.
18 And that's not the case here.

19 THE WITNESS: Yes, ma'am.

20 COMMISSIONER JABER: With that, do you have any other
21 corrections to your testimony?

22 THE WITNESS: Not to my testimony, no, ma'am.

23 COMMISSIONER JABER: Well, Mr. Yarborough, we will
24 insert your prefiled direct testimony into the record as though
25 read with the changes you made to all of the pages except for

1 Page 8. Thank you, Mr. Yarborough.

2 (For convenience of the record, Jason Yarborough's
3 prefiled direct testimony was inserted at Page 479, Line 1.)

4 COMMISSIONER JABER: Go ahead, Ms. Brownless.

5 MS. BROWNLESS: Thank you.

6 BY MS. BROWNLESS:

7 Q Mr. Yarborough, did you file exhibits in this case?

8 A Yes, ma'am.

9 Q And they're Exhibits JLY-4 through, I'm sorry,
10 JLY-1 through JLY-4?

11 A Yes.

12 Q Do you have any changes to these exhibits?

13 A Yes, changes to Exhibit 4.

14 Q With regard to the numbers listed under Florida Water
15 on Exhibit JLY-4, are those changes being made because Florida
16 Water has changed their rates subsequent to the time you filed
17 your testimony?

18 A Yes.

19 Q Thank you.

20 A Florida Water's base facility charge, change from
21 "9.44" to "9.42." Gallon charge per 1,000 gallons was changed
22 from "2.05" to "2.04." Underneath typical bills, zero gallons
23 was changed from "\$9.44" to "\$9.42."

24 Five-thousand gallons was changed to \$19.62 -- I
25 mean, from "\$19.69" to "\$19.62." Ten-thousand gallons was

1 changed from "\$29.94" to "\$29.82."

2 Underneath the City of Groveland, those figures are
3 the City of Groveland's regular rates outside of the city.

4 COMMISSIONER PALECKI: Mr. Yarborough, could you
5 repeat the first two?

6 THE WITNESS: Sure. Base facility charge for Florida
7 Water, change from "\$9.44" to "\$9.42." Gallonage charge per
8 1,000 gallons, change from "2.05" to "2.04."

9 COMMISSIONER PALECKI: Thank you.

10 BY MS. BROWNLESS:

11 Q Do you have any changes to make with regard to the
12 second page of your exhibit?

13 A Yes, I do.

14 Q And are those changes directly related to the fact
15 that the City of Groveland has changed their meter installation
16 charge and their --

17 A Service installation charge.

18 Q -- plant capacity charge?

19 A Yes. This is actually taken by the City Council.

20 Q Okay. Subsequent to the time you originally filed
21 your testimony?

22 A Yes.

23 Q Can you --

24 A Service installation charge is changed from "\$10" to
25 "\$25." Plant capacity charge was changed from "\$695" to

1 "\$744." Totals have changed from "1,505" to "1,569." However,
2 a subtotal or additional total should be considered of
3 "\$769" --

4 MR. MENTON: I'm going to object because this is the
5 supplemental testimony that we just went through. That's not
6 in his prefiled anywhere.

7 COMMISSIONER JABER: I didn't hear what you said,
8 Mr. Yarborough. Before I entertain the objection, let me make
9 sure I understood what you said. The service installation
10 charge you corrected to \$25. The plant capacity charge, you
11 corrected to 744; right?

12 THE WITNESS: Yes, ma'am.

13 COMMISSIONER JABER: The total you changed to \$1,569,
14 and then I lost you after that.

15 THE WITNESS: Our totals can go down as low as \$769
16 depending on negotiated agreement.

17 MR. MENTON: And, Commissioner Jaber, that's exactly
18 the supplemental testimony that's not addressed anywhere in his
19 prefiled.

20 COMMISSIONER JABER: Ms. Brownless.

21 MS. BROWNLESS: We indicated in response, and this is
22 what we were trying to say before, to the -- we've indicated in
23 response to the testimony filed by Florida Water what the
24 regular service availability charges were. The city has the
25 right to modify those charges. If you remember, Mr. Tillman,

1 in his original testimony, indicated what his, quote, regular
2 service availability charges were, which he subsequently
3 amended to indicate that pursuant to the special service
4 contract in at issue in this case, it could be a lower figure.
5 That is why we have attempted to present both figures.

6 MR. MENTON: Commissioner --

7 COMMISSIONER JABER: There's been an objection. I've
8 heard the response. Mr. Yarborough, what I will allow are the
9 changes you made to the \$10, 695, and the total. I think what
10 you added, the sentence afterwards is supplemental, and I would
11 strike that. So let's stick to the --

12 THE WITNESS: Yes, ma'am.

13 COMMISSIONER JABER: Now, it might be that counsel
14 when he's cross examining you opens doors, and that's what
15 happened with Mr. Tillman.

16 THE WITNESS: Yes, ma'am.

17 BY MS. BROWNLESS:

18 Q With these changes to both your testimony and your
19 exhibits, are these exhibits true and correct, to the best of
20 your knowledge and belief?

21 A Yes.

22 MS. BROWNLESS: We would like to identify these
23 exhibits, I think, as Exhibit 25.

24 COMMISSIONER JABER: Yes. Composite Exhibit 25 will
25 be JLY-1 through JLY-4 as corrected by Mr. Yarborough.

1 MS. BROWNLESS: Thank you.

2 (Exhibit 25 marked for identification.)

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1 Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS?

2 A. My name is Jason L. Yarborough and my business address
3 is 156 South Lake Avenue, Groveland, Florida 34736.

4 Q. WHAT IS YOUR POSITION WITH THE CITY OF GROVELAND?

5 A. My position is City Manager for the City of Groveland,
6 Florida (City), a municipal corporation organized
7 under the laws of the State of Florida.

8 Q. WHAT IS YOUR EDUCATIONAL BACKGROUND AND WORK
9 EXPERIENCE?

10 A. I am a graduate of Loyola University in New Orleans,
11 Louisiana receiving my B.A. degree in 1992. In 1994
12 I received my M.A. in Public Administration from the
13 University of West Florida. From 1994 until 1996 I
14 was a computer consultant for Dotson Enterprises of
15 Pensacola, Florida. In that position I provided market
16 support for a specialty software and hardware company.
17 From 1996 until 1998 I was the Clerk and then
18 Assistant City Manager for the City of Mary Esther,
19 Florida. In that position I administered the City's
20 grant projects, drafted RFPs and evaluated all bid
21 responses, assisted in the preparation of the City's
22 annual budget and five year Capital Improvement Plan
23 and secured \$2.66 million in grants to implement
24 stormwater, emergency management, park and law
25 enforcement programs. From 1998 to date I have been
26 the City Manager of the City of Groveland. My resume

1 is attached as Exhibit (____) JLY-1 to this
2 testimony.

3 Q. WHAT ARE YOUR PRESENT DUTIES AS CITY MANAGER FOR THE
4 CITY OF GROVELAND?

5 A. I am the chief executive officer of the City
6 responsible to the City Council for the administration
7 of all of the day to day operations of the City and
8 the supervision of all departments, offices and
9 agencies of the City.

10 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS
11 PROCEEDING?

12 A. To provide testimony that the City of Groveland has
13 the financial, technical and managerial ability to
14 provide water and wastewater services to the water
15 territory service area requested by Florida Water
16 Services Corporation (Florida Water) in this docket,
17 an area included within the City's current Utility
18 Service District, and that it is in the best interests
19 of the citizens of Lake County that the City be
20 allowed to provide that service.

21 Q. PLEASE DESCRIBE THE SERVICE TERRITORY FOR THE CITY OF
22 GROVELAND.

23 A. Pursuant to §180.02(3), Florida Statutes, the City
24 adopted Ordinance 99-05-07, effective May 17, 1999,
25 creating the City of Groveland Utility Service
26 District (District). Ordinance 99-05-07 (Ordinance)

1 is attached to this testimony as Exhibit (_____) JLY-
2 2. The District is exclusive with any private or
3 public utility prohibited from constructing any
4 system, work, project or utility of a similar
5 character to that being operated in the District by
6 the City without the City's prior consent.
7 [Ordinance, §5].

8 Q. DOES THE SERVICE AREA WHICH FLORIDA WATER IS SEEKING
9 TO ADD IN THIS PROCEEDING FALL WITHIN THE DISTRICT'S
10 BOUNDARIES?

11 A. Yes, the service area requested by Florida Water in
12 this proceeding falls completely within the District.

13 Q. DID THE CITY OF GROVELAND GIVE FLORIDA WATER OR THE
14 DEVELOPER OF THE SUMMIT, THE SUMMIT LAND TRUST,
15 PERMISSION FOR FLORIDA WATER TO PROVIDE WATER OR
16 WASTEWATER UTILITY SERVICES TO THE SUMMIT PROJECT?

17 A. No. As of this date, neither the developer of the
18 Summit, the Summit Land Trust, nor Florida Water has
19 requested permission from the City for Florida Water
20 to provide water or wastewater service to this area.

21 Q. IS THE CITY READY, WILLING AND ABLE TO PROVIDE WATER
22 AND WASTEWATER SERVICES TO THE SUMMIT DEVELOPMENT?

23 A. Yes. As will be testified to in more detail by the
24 City's Engineer, Joseph A. Mittauer, P.E., the City ^{has} is
25 constructed a 12-inch line along Cherry Lake Road to Cherry Lake
~~currently constructing a 12-inch water line along~~
26 ~~slough. Extension of this line 3,000 feet to the Summit will take~~
~~Cherry Lake Road/CR 478 pursuant to a grant from the~~

approximately four months.

~~Department of Environmental Protection. The Cherry Lake Road extension construction will be complete by February, 2001. Extension of this line approximately 13,000 feet to the Summit Development will take approximately five months from the date service is requested.~~

7 Q. DOES THE CITY HAVE EXISTING CAPACITY TO PROVIDE WATER
8 SERVICE TO THE SUMMIT?

9 A. Yes, the City currently has three wells totalling 2.18
10 million gallons per day permitted capacity of which
11 1.6 million gallons per day is available to serve the
12 proposed potable and fireflow needs of the Summit
13 development. Unlike Florida Water, the City would not
14 have to permit other wells within three years to meet
15 the projected needs of the Summit development.

16 Q. DOES THE CITY HAVE EXISTING CAPACITY TO PROVIDE
17 WASTEWATER SERVICES TO THE SUMMIT?

18 A. Yes, although the Summit development as currently
19 proposed would utilize septic tanks, not a centralized
20 wastewater treatment system, the City could provide
21 wastewater treatment to the development from its
22 existing wastewater treatment plants within twelve
23 months of the request for service.

24 Q. DOES THE CITY HAVE THE MANAGERIAL ABILITY TO SERVE THE
25 SUMMIT?

26 A. Yes, the City has one Class "C" water operator as well

1 as two water operator technicians who are in training
2 for their Class "C" license. The City has had one
3 non-operational violation for its water system within
4 the last five years which will be discussed in more
5 detail by Mr. Mittauer, the City Engineer. The City
6 is currently in compliance with all Department of
7 Environmental Protection (DEP), St. John's Water
8 Management District and EPA permit requirements.

9 With regard to its wastewater system, the City
10 has two Class "C" wastewater operators and one Class
11 "B" and two Class "C" wastewater collections
12 operators. The City has had no violations or fines as
13 a result of operating its wastewater facilities and is
14 currently in compliance with all DEP, St. Johns Water
15 Management District and EPA permit requirements.

16 Q. DOES THE CITY HAVE THE CURRENT FINANCIAL ABILITY TO
17 PROVIDE SERVICE TO THE SUMMIT?

18 A. Yes, the City is in a strong financial condition as is
19 shown by the City's Annual Financial Report dated
20 September 30, 1999 (Exhibit (_____) JLY-3) and can
21 fund its share of expansion costs to the Summit
22 Development from the City's existing financial
23 resources.

24 Q. WHY WOULD IT BE IN THE BEST PUBLIC INTEREST FOR THE
25 CITY RATHER THAN FLORIDA WATER TO PROVIDE WATER AND/OR
26 WASTEWATER SERVICE TO THE DISPUTED SERVICE TERRITORY?

1 A. There are several reasons why it would be in the best
2 public interest for the City to provide water and
3 wastewater services to the disputed service territory.

4 First, the territory is totally located within
5 the Utilities Service District legally created by the
6 City pursuant to §180.02(3), Florida Statutes, six
7 months prior to the request by Florida Water to expand
8 its service territory. The establishment of service
9 territories is intended to insure the orderly and
10 efficient development of utility services in any given
11 area by eliminating wasteful, duplicative utility
12 systems. Allowing the developer of the Summit to
13 select the provider of water and wastewater services
14 to his development by filing a request for services
15 with Florida Water, while ignoring the prior vested
16 territorial rights of the City is contrary to existing
17 Florida case law and common sense. The City can
18 provide adequate and timely water service to the
19 Summit and should be allowed to do so.

20 Second, service by the City will result in the
21 residents of the Summit development paying lower
22 monthly service rates as well as connection fees. A
23 comparison of the City's rates and Florida Water's
24 rates applicable to this proposed territory are found
25 in Exhibit (_____) JLY-4. As can be seen, the City's
26 monthly water charge for the consumption of 5,000

1 gallons of water through a 5/8" x 3/4" meter is \$16.57
2 compared to Florida Water's charge of \$19.69, or 15.8%
3 less than the amount charged by Florida Water.
4 Likewise, the total of the current connection charges
5 for the City for a 5/8" x 3/4" meter are \$1,505.00
6 compared to Florida Water's charges of \$1,623.90, or
7 7.3% less than that charged by Florida Water. The
8 City intends to submit a rate increase request to the
9 City Council for service availability charges
10 effective October 1, 2000. However, even should that
11 increase be approved, the City's total connection
12 charges for a 5/8" x 3/4" meter will be \$1,568.65 or
13 3.4% less than those of Florida Water.

14 Third, the City of Groveland has the ability to
15 provide both water and wastewater service to the
16 Summit in a timely fashion. The Summit has been
17 approved as a Planned Unit Development (PUD) whose
18 density under the Lake County Comprehensive Land Use
19 Plan (Comprehensive Plan) and associated Land
20 Development Regulations does not require the
21 installation of a centralized wastewater system.
22 However, it has long been recognized that the
23 inevitable degradation of septic systems over time,
24 and the public's resistance to connect with an
25 available central sewer system after a septic system
26 has been installed, even though operating poorly,

1 contributes to the erosion of water quality in surface
2 and underground water resources. In short, a
3 centralized sewer system is environmentally more sound
4 over the long term than the installation of septic
5 systems. The City can provide for the installation of
6 a centralized wastewater system within a reasonable
7 period of time. Florida Water cannot.

8 Further, it has been the Commission's policy to
9 award, where possible, unified service territories for
10 both water and wastewater services on the rationale
11 that this action results in more efficient utility
12 operations. Such is the case here. Florida Water
13 does not currently have wastewater treatment
14 facilities in its existing Palisades service area nor
15 the current ability to provide wastewater service to
16 the requested service territory. Allowing the City to
17 serve the disputed territory furthers the Commission
18 policy of unified water and wastewater service
19 territories.

20 Fourth, the addition of the customers in the
21 proposed service area will enable the City to expand
22 its customer base, spread its costs of operation, take
23 advantage of the economies of scale associated with
24 its existing water and wastewater treatment facilities
25 and thereby grow in an efficient and cost effective
26 manner throughout the City's Utility Service District.

1 Such expansion will benefit not only the City's
2 residents but will result in lower rates for all of
3 the City's water and wastewater customers. In the
4 last three years, due to expansion of the City's
5 customer base, the City has reduced its water
6 gallage rates by 26.6%, resulting in total water
7 charges for both City and NonCity residents for 5,000
8 gallons usage being reduced by 7%. The availability
9 of lower financing costs for municipal utilities
10 coupled with sound utility management will enable the
11 City to continue to offer low rates while maintaining
12 its high level of service.

13 Finally, expansion of the City's water and/or
14 wastewater system to the Summit PUD will comport with
15 Lake County's Comprehensive Plan Objectives 6D-2 and
16 6A-2 of the Potable Water Sub-Element and Sanitary
17 Sewer Sub-Element, respectively, of Chapter VI, Public
18 Facilities Element, which state as follows:

19
20 OBJECTIVE 6D-2: MAXIMIZE THE USE OF EXISTING
21 FACILITIES. Lake County Shall Guide the
22 Orderly Growth and Development Of the County
23 By Coordinating Water Service Availability
24 With the Municipalities, Private Enterprise
25 and Individuals. The Coordination Of Service
26 Delivery Shall Be In A Manner That Provides
27 Maximum Use of Existing Facilities.

28
29 OBJECTIVE 6A-2: MAXIMIZE THE USE OF EXISTING
30 FACILITIES. Lake County Shall Guide the
31 Orderly Growth and Development Of the County
32 By Coordinating Service Delivery With the
33 Municipalities, Private Enterprise and
34 Individuals. The Coordination Of Service

1 Delivery Shall Be In A Manner That Provides
2 Maximum Use of Existing Facilities.

3 Q. GIVEN THE FACTS PRESENTED ABOVE, WHAT ACTION SHOULD
4 THE COMMISSION TAKE REGARDING FLORIDA WATER'S
5 APPLICATION AT ISSUE IN THIS PROCEEDING?

6 A. The Commission should deny the application of Florida
7 Water Services Corporation to expand its service
8 territory in Lake County.

9 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

10 A. Yes.

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26 c: 3207

1 BY MS. BROWNLESS:

2 Q Can you give a brief summary of your testimony,
3 please.

4 A Thank you, Commissioners, for honoring me to speak,
5 and I appreciate you all coming down. Groveland has the
6 financial, technical, and managerial ability to provide service
7 to the Summit. The city's lines are now within 3,000 feet of
8 the Summit. It's appropriate for the city to provide service
9 to the Summit within the city's 180 District duly established
10 by resolution in 1999. Extension of the lines by Florida Water
11 would compete with and duplicate the city's service and
12 contravention of Florida Statute 367.045(5)(a). Service by the
13 city results in lower rates for the customers, lower service
14 availability charges, and lower developer costs.

15 And in summary, service by the city to the Summit
16 will be in the public's best interest by most economically and
17 efficiently allowing the city to loop its water lines to areas
18 south of the Summit that the city is already serving such as --

19 MR. MENTON: I would -- Commissioner, at this point,
20 I'm sorry, I have to object because this is not in his prefiled
21 testimony. In fact, as I'm looking through here, he also
22 doesn't even mention, I don't think, in his testimony 367.045
23 which he now has in his summary. But any talk about service
24 south and looping and all that is not in his prefiled
25 testimony, and I would object to it.

1 COMMISSIONER JABER: Ms. Brownless, the objection is
2 the summary goes beyond the scope of the prefiled testimony.

3 MS. BROWNLESS: I would direct Mr. Menton to Page
4 9 of Mr. Yarborough's testimony where it indicates existing
5 water and wastewater treatment facilities. Allowing the
6 addition of customers will allow it to grow in an efficient and
7 cost-effective manner throughout the utility's service
8 district.

9 COMMISSIONER JABER: Where was that, Ms. Brownless?

10 MS. BROWNLESS: It's on Page 9, Lines 24, 25, and 26.

11 MR. MENTON: And what he's attempting to do --

12 COMMISSIONER JABER: Mr. Menton, I've heard from you.

13 MR. MENTON: I'm sorry.

14 COMMISSIONER JABER: Mr. Yarborough, I'll tell you
15 the same thing I told all the witnesses that summarize their
16 testimony. We have read every page of this testimony. All I
17 need you to do is summarize the points you want to emphasize,
18 nothing but the points that are contained in the prefiled
19 direct testimony. I'm going to allow you to continue, but what
20 I ask --

21 THE WITNESS: I've got one sentence left.

22 COMMISSIONER JABER: Good -- what I ask is you keep
23 it within the scope.

24 THE WITNESS: Yes, ma'am.

25 COMMISSIONER JABER: Go ahead.

1 THE WITNESS: For these reasons, the application of
2 Florida Water should be denied.

3 BY MS. BROWNLESS:

4 Q Does that conclude your summary?

5 A Yes.

6 MS. BROWNLESS: I tender Mr. Yarborough for cross.

7 COMMISSIONER JABER: Thank you, Mr. Yarborough.

8 Mr. Menton.

9 MR. MENTON: Thank you, Commissioner.

10 CROSS EXAMINATION

11 BY MR. MENTON:

12 Q Good morning, Mr. Yarborough.

13 A Good morning.

14 Q Mr. Yarborough, you graduated from college in 1992;
15 correct?

16 A Yes.

17 Q And then you worked on a Master's degree which you
18 achieved in 1994?

19 A Yes.

20 Q And your first employment after school was as a
21 computer consultant where you marketed software and hardware;
22 correct?

23 A Yes.

24 Q And then you began as a clerk with the City of
25 Mary Esther in 1996?

1 A City clerk.

2 Q City clerk for Mary Esther in 1996?

3 A Yes.

4 Q And you worked with the City of Mary Esther until
5 1998; correct?

6 A Yes.

7 Q And the City of Mary Esther has a total population of
8 approximately 4,400 people?

9 A 4,500.

10 Q 4,500. Okay. And most of your time with the City of
11 Mary Esther, you were the city clerk; correct?

12 A Yes.

13 Q And as a city clerk, you had no oversight or
14 responsibility for the utility's department; correct?

15 A Yes. But we were a management team. We worked
16 together. The utility director would come over and bounce
17 ideas off of me, and I'd bounce ideas off of him on different
18 issues.

19 Q But you had no oversight or responsibility for the
20 utility's department?

21 A No.

22 Q And on Page 2 of your prefiled testimony, you set
23 forth your main responsibilities with the City of Mary Esther
24 which included administering grant projects, drafting RFPs, and
25 evaluating bid responses, and assisting in the preparation of

1 the city's annual budget; correct?

2 A Yes.

3 Q And you began with the City of Groveland in 1998?

4 A Yes.

5 Q And the population of the city of Groveland is

6 approximately 3,100 people?

7 A Yes.

8 Q And currently, approximately 80 percent of the city's
9 utility customers are located within the city boundaries;
10 correct?

11 A Yes.

12 Q At the time that you developed the boundaries for
13 your 180 District, you did not make an assessment as to exactly
14 where other utilities may be providing service within or
15 adjacent to those boundaries, did you?

16 A No.

17 Q And you would agree that the 180 District that you
18 have designated includes areas that have already been
19 certificated and are already receiving service from Florida
20 Water; correct?

21 A Yes. I know that now.

22 Q And it also includes areas that have been designated
23 by the City of Leesburg; correct?

24 A That's a new one on me. I didn't know that. I
25 learned that yesterday or today.

1 Q And would you agree that the Palisades to which
2 Florida Water is currently providing service is adjacent to
3 your 180 District; correct?

4 A Yes.

5 Q And the Summit, which is the area requested by
6 Florida Water, adjoins Florida Water's Palisades system;
7 correct?

8 A I apologize, say that one more time.

9 Q And the Summit, which is the area requested by
10 Florida Water in this docket, adjoins Florida Water's Palisades
11 system; correct?

12 A It's catty-corner.

13 Q And there is also a portion off to the west which --

14 A Oh, I'm sorry. Yes, yes.

15 Q So --

16 A It is adjacent to that small little piece over by the
17 side, yes.

18 Q Now, are you familiar with the provisions of Chapter
19 180.06?

20 A Some. I don't know it inside and out, no.

21 Q Mr. Yarborough, I would ask you to take a look at
22 Section 180.06, and specifically, if you would, read into the
23 record the last paragraph of that statute which begins with
24 "however."

25 MS. BROWNLESS: We're going to object to this. I

1 don't think that it is appropriate for this witness to read
2 statutes into the record. The records say what the record -- I
3 mean, the statutes say what the statutes say.

4 COMMISSIONER JABER: Mr. Menton.

5 MR. MENTON: Commissioner, at this point what I'm
6 attempting to do is lay a predicate for the record in terms of
7 whether or not the city made any effort to comply with this
8 statutory provision. And I think --

9 COMMISSIONER JABER: Well, I think it would be more
10 appropriate for you to ask the question and determine if he can
11 answer the question. Statutes, we can take official
12 recognition of statutes if we need to.

13 BY MR. MENTON:

14 Q Did the City of Groveland make -- has the City of
15 Groveland made any effort to obtain the consent of Florida
16 Water in order to provide service to the Summit which adjoins
17 its existing service territory as required under Section
18 180.06?

19 MS. BROWNLESS: Object to the form of the question.
20 It calls for a legal conclusion as required --

21 MR. MENTON: I will strike the 180.06, and just ask
22 whether they have made any attempt to obtain a consent to
23 Florida Water to provide service to the Summit which adjoins an
24 existing service area of Florida Water.

25 MS. BROWNLESS: Objection. It calls for a legal

1 conclusion. If you want to ask the question, has he made any
2 attempt to request -- has Mr. Yarborough requested or asked
3 permission from Florida Water to provide service to the Summit,
4 that's a legitimate question, and I would not object to that.

5 MR. MENTON: That was the question that I asked, I
6 thought.

7 COMMISSIONER JABER: Mr. Yarborough, can you answer
8 the question as rephrased by your counsel?

9 THE WITNESS: No, we don't believe we have to or
10 should.

11 BY MR. MENTON:

12 Q At the time the city designated its 180 District, you
13 were not familiar with the requirements of 180.06; isn't that
14 correct?

15 A Yes.

16 Q On Line 17 of Page 7 of your prefiled direct
17 testimony, you make reference to Florida case law. You have
18 not, in fact, read any Florida case law with respect to what
19 Section 180.02(3) means, have you?

20 A No.

21 Q The silence means I'm speeding up, so bear with me
22 just a second.

23 Mr. Yarborough, attached to your prefiled testimony
24 is Exhibit JLY-3, which is a copy of the city's audited
25 financial statements for 1999; correct?

1 A I assume, yes.

2 Q I'm sorry, I thought you had your testimony in front
3 of you.

4 A Yes.

5 Q And the city's fiscal year ends on September 30th?

6 A Yes.

7 Q But at this point, the city does not have financial
8 statements for the year 2000; correct?

9 A Yes.

10 Q So the September '99 financial statements are the
11 most recent available?

12 A Yes.

13 Q Okay. Now, the city's financial statements have
14 separate reporting for the general fund and for the enterprise
15 fund; correct?

16 A Yes.

17 Q And the enterprise fund includes water, sewer, and
18 sanitation or solid waste?

19 A Yes.

20 Q And on Page 13 of your exhibit, which is Page 6 of
21 the financial statements, there is a statement of revenue and
22 expenses for the enterprise fund; correct?

23 A I apologize, what's the page number?

24 Q It's Page 13 of the exhibit, which is Page 6 of the
25 financial statements.

1 A The question was again?

2 Q This is a statement of the revenue and expenses for
3 the enterprise or proprietary fund for the City of Groveland
4 for year-end September 30th, 1999; correct?

5 A And changes in retained earnings, yes.

6 Q And the total operating revenues for the enterprise
7 fund, which is your water, sewer, and sanitation services for
8 1999 were \$877,160; correct?

9 A Operating revenue, yes.

10 Q And a portion of that revenue is attributable to the
11 solid waste or sanitation fees; correct?

12 A Yes.

13 Q And, in fact, if you look through here, you can
14 determine that the amount for solid waste or sanitation, the
15 revenues generated by sold waste and sanitation was
16 approximately \$160,000?

17 A Based on -- where did you get that number?

18 Q It's in the document. It's in the breakdown of the
19 revenues.

20 MS. BROWNLESS: Can you point Mr. Yarborough to that
21 section, please.

22 Q Well, you would agree that a portion of the revenues
23 is attributable to the solid waste?

24 A Yes.

25 Q And that is broken down in these financial

1 statements?

2 A Yes.

3 Q And you don't know what portion of the revenues are
4 attributable to connection fees, do you?

5 A No.

6 Q And the total -- I'm sorry.

7 A No.

8 Q And the total operating expenses for the proprietary
9 fund for the period -- or the year-end 1999 was \$784,793;
10 correct?

11 A Paper expenses, yes.

12 Q Now, one of the entries on your revenue for year
13 1999 was a water quality assurance payment of \$150,466;
14 correct?

15 A Yes.

16 Q And if you look in 1998, there was no similar revenue
17 from water quality assurance payments for 1998; correct?

18 A Yes.

19 Q And at the time of your deposition, you didn't know
20 what the source of this payment was; correct?

21 A Yes.

22 Q And is this a one-time revenue influx into the city's
23 water department?

24 A I don't know.

25 Q You don't know?

1 A (Shaking head negatively.)

2 Q In 1998, isn't it true that the city's proprietary
3 fund had a net loss of \$21,406?

4 A Yes, on paper.

5 Q Now, while we're on this page, under the column
6 operating expenses -- well, before I do that. And if the city
7 had not received a water quality assurance payment of \$150,466
8 in 1999, you, likewise, would have shown a loss in 1999 as
9 well; correct?

10 MS. BROWNLESS: If you don't know --

11 A Yes.

12 COMMISSIONER JABER: Ms. Brownless, please don't lead
13 your witness and don't interrupt cross examination.

14 MS. BROWNLESS: Yes, ma'am.

15 A If you take out that, yes. If you take out the
16 \$877,000 in charges, yes, we would be operating at a loss too.
17 If you take -- yes.

18 Q And I have to ask you this one. On the operating
19 expenses on Line 2, who at the city utility service is spending
20 \$178,986 on personal services?

21 A That's our employees. That's what they are,
22 personnel expenses.

23 Q Personnel. Okay.

24 A Yes.

25 Q Sorry. I haven't --

1 A Yes. You could blame that on the auditor.

2 Q I thought somebody was having a good time on the
3 utility department.

4 If you look at Page 41 of the exhibit, which is the
5 balance sheet, the city's enterprise fund does not have a
6 sinking fund or reserve for equipment replacement or plant
7 replacement, does it?

8 A No, that's not true.

9 Q Well, where is that reflected on the balance sheet?

10 A Water revenue -- hold on a second. It may be called
11 something else, but I know that we have reserves required by
12 our -- actually, it's right here. Our bonds requires us to put
13 reserves aside. Our water and sewer bonds require reserves.

14 Q Do you know if that's for plant equipment, or is that
15 for bond payments?

16 A It's for bond payments, but we lump everything into
17 our reserve account.

18 Q Do you know whether you can tap into the reserve for
19 bond payments to pay plant equipment?

20 A A certain amount is required for the bond payment,
21 but not all of it. Why create another checking account or
22 another that's inefficient?

23 Q If you would, look at Page 43 of the exhibit, which
24 is Page 32 of the financial statements, there is reflected in
25 operating transfer of \$45,482. Am I correct in saying that

1 this is a payment to the general operating fund to the city
2 which is reflected on Page 11 of the exhibit under the general
3 operating fund transfer?

4 A I apologize, what was the reference back to?

5 Q Page 11, which is the statement of revenues for the
6 city's general fund which reflects an operating transfer in of
7 \$45,482.

8 A Yes. That would be -- the city took out a \$378,000
9 loan, and that's water and sewer's sanitation portion loan
10 payment portion of that loan.

11 Q Okay.

12 A It transfers over to the general fund. The general
13 fund cuts the check for the payments.

14 Q Now, the city charges different water and wastewater
15 rates for city residents and noncity residents; correct?

16 A Correct.

17 Q And nonresidents pay rates that are 25 percent higher
18 than city residents; correct?

19 A Correct, as established by Florida Statutes --
20 allowed by Florida Statutes.

21 Q So at this point the noncity residents are
22 essentially subsidizing the city residents in terms of the
23 water and sewer system; correct?

24 A No, I disagree with that statement or that question.
25 No, I disagree.

1 Q You would agree, though, that the noncity residents
2 pay 25 percent higher rates than the city residents?

3 A That's true.

4 Q And noncity residents have no votes for any of the
5 City Council members; correct?

6 A They cannot vote, yes.

7 Q And the City Council members basically determine what
8 the water rates are going to be?

9 A Yes.

10 MR. MENTON: That's all the questions I have. Thank
11 you.

12 COMMISSIONER JABER: Thank you, Mr. Menton. Staff.

13 CROSS EXAMINATION

14 BY MS. CHRISTENSEN:

15 Q I guess picking up on that theme, is the Summit --
16 just to be clear, the Summit is not located within the city
17 limits of the City of Groveland, correct, at this point?

18 A Not at this point.

19 Q And currently, there is no formal plan to try and
20 annex that area?

21 A We only have one direction we can go. We can't go
22 south. We can't go east. We can't go west. The only place we
23 can go is north, and we can't grow in a compact way because we
24 have swamp land and all kinds of nasty stuff that isn't ever
25 going to be built on, so the only place to go is north.

1 Q I understand that, but the question --

2 A It's not in our comp plan.

3 Q No. The question was, currently, do you have no
4 formal plan? There's no ordinance. There's been no vote.
5 There's no formal plan to annex territory --

6 A In our minutes I think you will find a consensus, but
7 not a plan.

8 COMMISSIONER JABER: Ms. Christensen, let me
9 interrupt you here. Mr. Yarborough, the customer that
10 testified last night, Jeffrey Cooper, asked us if we knew if the
11 City of Groveland had plans to annex him into their service
12 territory. And I want to make sure I understood what your
13 answer to Ms. Christensen was a minute ago. He lives on Cherry
14 Lake Drive, and I think you were here last night and heard
15 where he lives.

16 THE WITNESS: Yes, ma'am.

17 COMMISSIONER JABER: So as I understand your
18 testimony, it's your hope, it's your future hope that you are
19 able to annex that part into your current service territory.
20 Would he be included?

21 THE WITNESS: We will invite him, but there's no
22 mandatory -- the City of Groveland has never done a hostile
23 annexation of for which you would call a double referendum
24 annexation. We don't do those. We require voluntary
25 annexations.

1 COMMISSIONER JABER: And basically, he has well and a
2 septic tank, so he can stay on the well and septic tank?

3 THE WITNESS: (Nodding head affirmatively.)

4 COMMISSIONER JABER: Now --

5 THE WITNESS: I apologize. We're going to invite
6 him, give him an offer, but he doesn't have to connect if he
7 doesn't want to.

8 COMMISSIONER JABER: Now, as part of your annexation
9 process, if that goes forward, will he receive notice of the
10 annexation?

11 THE WITNESS: Florida Statutes does not require
12 notice of annexation. Florida Statues does require
13 notification of the rezoning from Lake County zoning to
14 Groveland zoning. So in essence -- because that's all done at
15 the same time. It's almost a de facto notification because
16 you're changing the zoning from one agency to another agency.

17 COMMISSIONER JABER: I just want to ask you one more
18 question in this regard. You said you would invite him. He's
19 not required to. Isn't there a provision in statutes related
20 to septic tank that if a city or a county had existing
21 available facilities, that people within a certain area were
22 required to --

23 THE WITNESS: If they fail.

24 COMMISSIONER JABER: If his current system is
25 failing?

1 THE WITNESS: I believe that is the case. It's
2 either state or federal.

3 COMMISSIONER JABER: Thank you. Do you mind if I
4 could ask you to sit down with Mr. Cooper and talk to him about
5 that? Because I do recall he was -- he asked a question with
6 respect to your plans regarding annexation.

7 THE WITNESS: I have his phone number. I'm going to
8 call him.

9 COMMISSIONER JABER: Thank you. Go ahead, Staff.
10 I'm sorry.

11 BY MS. CHRISTENSEN:

12 Q Okay. So we're clear right now. The Summit
13 development is not within the corporate limits; correct?

14 A Yes.

15 Q And because it's outside the corporate limits, the
16 outside rates apply?

17 A Yes.

18 Q Okay. And those are 25 percent higher than the rates
19 inside the city; correct?

20 A Yes.

21 Q And if somebody were outside the city and had a
22 complaint regarding their water rates, who would they go to?

23 A Start with a utility service or a service customer,
24 and then it goes to the public works director; then it comes to
25 me. And if I can't get any satisfaction, then they can go to

1 the City Council, be requested to be put on the agenda and go
2 before the City Council.

3 Q Okay. Let me -- okay. So they can complain to the
4 City Council. Do they have -- but they have no vote towards
5 who goes on the City Council?

6 A They have a voice; they don't have a vote.

7 Q Okay. When looking at the developer agreement, it
8 appears that the developer is planning on putting in one-inch
9 meters into the Summit development; is that correct?

10 A I assume so.

11 Q Okay. Subject to check, assuming that he were
12 planning on putting in one-inch meters, does the city provide
13 one-inch meters to residential customers?

14 A We can do anything to accommodate a customer, but
15 normally we would put in -- I'm drawing a blank right now --
16 slightly smaller than a one-inch.

17 Q Do you have standard regular service customer rates
18 for, like, a one-inch meter rate?

19 A Do we have different rates for different --

20 Q Size meters?

21 A No, because the high school is on a larger meter.
22 No. Our rates are the same regardless of meter size. The user
23 charges are the same, I should say.

24 Q I'm sorry, what?

25 A The user charges are the same.

1 MS. CHRISTENSEN: Okay. Staff has no further
2 questions.

3 COMMISSIONER JABER: Thank you, Ms. Christensen.
4 Ms. Brownless -- I'm sorry, Ms. Brownless. Commissioners.

5 COMMISSIONER PALECKI: No.

6 COMMISSIONER JABER: Go ahead. They don't have any
7 questions.

8 MS. BROWNLESS: Oh, I'm sorry.

9 REDIRECT EXAMINATION

10 BY MS. BROWNLESS:

11 Q You were asked by Mr. Menton a series of questions
12 about the financial statements that are attached to your
13 testimony. Do you remember those questions?

14 A Yes.

15 Q I think you were asked about a \$984,794 operating
16 expense total; is that correct?

17 A Yes.

18 Q Would some of that money, operating expense money, be
19 associated with the sanitation?

20 A Yes.

21 Q You were asked about the 25 percent rate differential
22 for City of Groveland rates. Do you remember those questions?

23 A Yes.

24 Q Does that 25 percent differential apply across all
25 three types of rates, your regular water rates, your irrigation

1 water rates, and your sewer rates?

2 A Yes.

3 Q You were asked about the rates that would be
4 applicable to a one-inch meter and whether those rates would be
5 the same as a three-fourth-inch meter. Do you --
6 Ms. Christensen asked you that question.

7 A Yes.

8 Q Do you have or have you prepared as part of your
9 deposition exhibits which show your current water monthly
10 service rates inside and outside the city?

11 A Yes.

12 Q Would those rates --

13 A That would be for water outside the city, inside the
14 city, and irrigation inside and outside the city.

15 Q Okay. Thank you.

16 MS. BROWNLESS: We would suggest that if
17 Ms. Christensen wants more specific information, that we would
18 tender Deposition Exhibit Number 3 which lists all those rates
19 in a chart. Ms. Christensen, did ask for those rates at the
20 deposition.

21 COMMISSIONER JABER: She asked questions today; she
22 didn't ask for a late-filed exhibit. But, Ms. Christensen,
23 that's an offer. Do you want --

24 MS. CHRISTENSEN: Staff is satisfied with the answers
25 that were provided in testimony today and that were in the

1 prefiled. I think all of the answers that were in the exhibit
2 to the extent that we need to look at the rates.

3 COMMISSIONER JABER: All right. But, Ms. Brownless,
4 I appreciate that offer.

5 MS. BROWNLESS: Okay. Thank you.

6 BY MS. BROWNLESS:

7 Q You were asked a series of questions about annexation
8 and the city's annexation plans to the north of the city; is
9 that correct?

10 A Yes.

11 Q Have you had any requests for annexation to the north
12 of the city in and/or around the area of the Summit?

13 MR. MENTON: Commissioner, at this point I'm going to
14 have to interject an objection because I think this goes beyond
15 the scope of the cross examination.

16 COMMISSIONER JABER: Ms. Brownless, repeat your
17 question.

18 MS. BROWNLESS: Okay. My question is that a series
19 of questions were asked about annexation, and my question is,
20 has the city received any requests for annexation north of the
21 city in or around the area of the Summit?

22 COMMISSIONER JABER: I'll allow it.

23 THE WITNESS: Yes.

24 BY MS. BROWNLESS:

25 Q Can you describe that request, please.

1 COMMISSIONER JABER: Can you what? I can't hear you.

2 MS. BROWNLESS: Describe that request, please.

3 A We've had contact with various PUDs along the Cherry
4 Lake Road. Wilson Island across from the Summit has requested
5 service. The Ladd (phonetic) Brothers, their developing
6 company, they have requested utility service.

7 Q Okay. In connection with their request for utility
8 service, did they also request annexation into the city?

9 A Yes.

10 MR. MENTON: Commissioners, if I could just --

11 MS. BROWNLESS: We're done with that. We're moving
12 on.

13 MR. MENTON: And I just want to clarify whether we're
14 talking about verbal requests or written requests because I
15 think there's a big --

16 MS. BROWNLESS: Does Mr. Menton get to interrupt my
17 redirect, or does he have to wait and then ask --

18 COMMISSIONER JABER: He gets to make an objection,
19 and that's what he was doing, which is not unlike what you have
20 been doing.

21 Mr. Menton, are you asking for a point of
22 clarification? Is that it?

23 MR. MENTON: Yes. I would ask that the question be
24 rephrased because I think it's vague.

25 COMMISSIONER JABER: Ms. Brownless, there is a

1 request for a clarification as to whether the request was a
2 written request or an oral request. Can you rephrase your
3 question to include --

4 MS. BROWNLESS: I'd be glad to simply ask that
5 question.

6 BY MS. BROWNLESS:

7 Q Mr. Yarborough, have these conversations been
8 memorialized in writing?

9 MR. MENTON: That's a different question.

10 COMMISSIONER JABER: Ms. Brownless, what did you say?

11 MS. BROWNLESS: Have these conversations regarding
12 annexation been memorialized in writing?

13 COMMISSIONER JABER: That's a different question.
14 Mr. Yarborough, with respect to the request for annexation
15 you've received, have they been oral requests by proposed
16 customers or written requests?

17 THE WITNESS: Verbal, several meetings.

18 COMMISSIONER JABER: And any of those verbal
19 requests, have they been memorialized in writing yet?

20 THE WITNESS: Not by the city. I don't know what the
21 developer did.

22 COMMISSIONER JABER: Ms. Brownless, do you have any
23 other questions?

24 THE WITNESS: I apologize.

25 COMMISSIONER JABER: That's all right.

1 THE WITNESS: The city was approached by a developer,
2 other than the developer on the application, who did write a
3 letter to us about annexing the Summit.

4 COMMISSIONER JABER: Okay. Ms. Brownless.

5 MS. BROWNLESS: Thank you.

6 BY MS. BROWNLESS:

7 Q You were asked a series of questions about the
8 ability of customers to vote for City Council members if
9 they're located outside the city. Do you remember those?

10 A Yes.

11 Q And their ability to -- okay. Is it true that
12 Florida Water is regulated by the Florida Public Service
13 Commission?

14 A Yes.

15 Q Do ratepayers get to vote for Florida Public Service
16 Commissioners?

17 A No.

18 Q So if this territory is granted to Florida Water,
19 will customers also -- will customers basically be in the same
20 posture?

21 A Yes.

22 Q Because they can appear before Florida Public Service
23 Commissioners and express their views, and they can also appear
24 before the City Council and express their views, can they not?

25 A Yes.

1 MS. BROWNLESS: Thank you. We have no further
2 questions.

3 COMMISSIONER JABER: Thank you. Let's address his
4 exhibit, Ms. Brownless. Exhibit 25 was JLY-1 through JLY-4.
5 Without objection, let's show Exhibit 25 admitted into the
6 record.

7 (Exhibit 25 admitted into the record.)

8 COMMISSIONER JABER: Mr. Yarborough, thank you very
9 much.

10 THE WITNESS: Thank you all. I appreciate it.

11 COMMISSIONER JABER: I appreciate your having us.

12 (Witness excused.)

13 COMMISSIONER JABER: Let's see, Commissioners, I
14 wanted to address the matter of Ms. Brownless's motion to
15 strike Mr. Tillman's testimony and Mr. Tillman's exhibits that
16 he sponsored and to determine the best way of handling that.
17 I'd like to open it up to the floor for us to discuss, and
18 maybe we could go from there. I've also asked Staff to think
19 about it, and perhaps by now they've got a suggestion.

20 COMMISSIONER PALECKI: Commissioner Baez, I would
21 like to see the parties brief the issues, but I don't think
22 it's necessary to have oral argument on this. I think we've
23 heard extensive argument on at least two or three occasions. A
24 briefing citing the applicable law, I think, might be valuable
25 to the Staff in writing their recommendation, but I certainly

1 don't want to hear this matter argued again.

2 COMMISSIONER BAEZ: I agree. I think we retain the
3 discretion to -- I mean, if there's questions that need to be
4 asked, or what have you, you know, if we can retain that
5 opportunity, but otherwise, I think at least today for my
6 purposes I've heard enough on the motion to strike as I'm going
7 to need.

8 COMMISSIONER JABER: Okay. My thought was that we
9 would have Staff prepare a recommendation and have us address
10 it prior to the final recommendation in this case. And what I
11 hear you all suggesting, which I think is a great idea, we
12 could ask parties to brief the limited issue of expert
13 testimony.

14 But, Staff, do you have any suggestions on what that
15 issue -- there was an issue with respect to Mr. Mittauer's
16 testimony and whether he should be tendered as an expert
17 witness. There was not a motion to strike, but there was -- I
18 asked you to include in your recommendation whether he should
19 be considered an expert witness.

20 MS. GERVASI: Yes, ma'am. And I drafted some
21 language. Let me try -- I came up actually with two issues,
22 and see how these would work. Issue A would be: Should
23 Mr. Tillman and Mr. Mittauer be tendered as expert witnesses,
24 and if so, in what areas? Because I believe that the question
25 came up with respect to both of those witnesses during the

1 course of the hearing.

2 And then Issue B: Should the city's motion to strike
3 those portions of Mr. Tillman's testimonies identified at the
4 July 11th hearing and Exhibits 5 and 6 be granted?

5 COMMISSIONER JABER: Tillman's testimony and
6 exhibits, I think there were more exhibits, Ms. Gervasi.

7 MS. GERVASI: Were there? I recall that 5 and 6 were
8 the prefiled exhibits. And it may be that there were more, and
9 maybe we should just say "exhibits," and then give us time to
10 look through the transcripts, just say the "exhibits."

11 COMMISSIONER JABER: Yes, because it's the exhibits
12 that Ms. Brownless objected to being admitted into the record.

13 MS. GERVASI: Right. Okay.

14 COMMISSIONER PALECKI: I like the wording of both
15 issues, but I think it needs to be made clear that this
16 Commission may grant the motion in part and deny the motion in
17 part. There were very many portions of the testimony that some
18 may be stricken, some may not. So I think the parties should
19 be put on notice to make sure they address all portions that
20 have been requested to be stricken individually rather than as
21 a whole.

22 COMMISSIONER JABER: And it would be helpful, I know,
23 to me also to have what those suggested portions are to know
24 specific pages and lines that parties would offer.

25 COMMISSIONER PALECKI: Well, I think Ms. Brownless

1 read those into the record earlier.

2 MS. BROWNLESS: We did.

3 COMMISSIONER JABER: But perhaps after reading the
4 transcript and considering it some more, Ms. Brownless would
5 have modifications, and perhaps Mr. Menton would offer that
6 some portions be stricken. I don't know. I don't want to
7 preclude parties from identifying in the brief what the exact
8 pages and lines are.

9 MS. BROWNLESS: Yes, ma'am.

10 COMMISSIONER JABER: And the reason I say that is
11 because I encourage you two to sit down and talk about this
12 issue prior to filing the brief. It might be, Mr. Menton, that
13 there is some areas of compromise. I certainly heard it in the
14 last couple of days.

15 Commissioners, I think that's a good idea. My
16 preference would be to have these two issues, Issues A and B,
17 included in the current briefing schedule. And that Issues A
18 and B, however, would come to an earlier agenda, Ms. Gervasi.
19 And I understand currently this is scheduled for a
20 September 20th agenda conference?

21 MS. GERVASI: Correct. And I believe there are two
22 prior agenda conferences in between the brief due date and that
23 posthearing agenda date. So we'll try to bring it to the
24 earliest agenda after the briefs have been filed.

25 COMMISSIONER JABER: Thank you. Commissioners,

1 that's how I'd like to handle it with your agreement.

2 COMMISSIONER PALECKI: Absolutely. I agree that's a
3 good way to handle it. I just want to make sure that the
4 parties understand that they don't have a right to participate
5 at that agenda conference, that the Commissioners may wish to
6 ask questions, but we don't want to hear a rehash of the oral
7 argument we have already heard.

8 COMMISSIONER JABER: Actually, the brief -- my idea
9 with respect, you know, to agreeing to the parties' briefs
10 would be in lieu of participation. I don't find a need to have
11 oral argument. We heard oral argument today. I want the
12 benefit of the parties' briefs. This is an issue, I think,
13 that is a very good one for us to consider, and I would love to
14 have the benefit of the parties' briefs on this issue.

15 MS. BROWNLESS: For my clarification, just so I
16 understand what I'm doing, we'll have the issue as recorded in
17 the transcripts, correct, Issues A and Issues B?

18 COMMISSIONER JABER: Yes.

19 MS. BROWNLESS: And we'll identify them separately in
20 the brief in addition to the issues we've already identified in
21 the prehearing order?

22 COMMISSIONER JABER: Yes. I'm glad you said that,
23 Ms. Brownless. Now, I think currently you have a 40 page limit
24 on the brief.

25 MS. BROWNLESS: Yes, ma'am. That's what I was --

1 COMMISSIONER JABER: Yeah. Why don't we go ahead and
2 talk about how many pages you will need in addition to that?

3 MR. MENTON: Commissioner, maybe I didn't follow what
4 was going on. The brief on these two issues would be filed in
5 accordance with the current briefing schedule. Are we pushing
6 back the other briefs, or are the briefs being filed at the
7 same time?

8 COMMISSIONER JABER: All the briefs would be filed
9 together.

10 MR. MENTON: Okay.

11 COMMISSIONER JABER: You currently have your issues
12 as delineated in the prehearing order. We are adding two
13 issues labeled "A" and "B" that you will add to your current
14 brief, but I recognize that these are legal issues, so the 40
15 page limit is probably no longer appropriate. Is 60?

16 MS. BROWNLESS: Well, maybe could simply not put a
17 limit on the Issue A and B briefs because we don't normally do
18 that for legal briefs, and then we would have the regular
19 limits on the other issues, the normal issues that have been
20 raised.

21 COMMISSIONER JABER: That's fine. That's what we
22 will do. That's fine.

23 MS. GERVASI: And then I might note, and I don't
24 think that it necessarily has to be decided today, but these
25 issues, when they are ruled upon, may need to be ruled upon in.

1 like, a little mini hearing before an agenda conference as
2 opposed to part of the agenda so that it can be included in the
3 record of this case and made a part of the hearing in this
4 case.

5 COMMISSIONER JABER: I'll let you think about that.

6 MS. GERVASI: Okay.

7 COMMISSIONER JABER: And if that's the case, you just
8 let us know --

9 MS. GERVASI: Thank you.

10 COMMISSIONER JABER: -- and we'll issue the
11 appropriate notices.

12 Thank you all. Is there anything else that we need
13 to discuss before we adjourn this hearing?

14 MR. MENTON: Commissioner, I would just point out
15 that Exhibit I believe it was 14, which is the notice of this
16 hearing, we now have, and we have provided it to Staff, I
17 believe.

18 COMMISSIONER JABER: Yes. Exhibit 14 shall be
19 admitted into the record.

20 Thank you, Mr. Menton.

21 (Late-Filed Exhibit 14 admitted into the record.)

22 COMMISSIONER JABER: Thank you both.

23 MR. MENTON: Thank you, Commissioner.

24 MS. BROWNLESS: Thank you.

25 COMMISSIONER JABER: We appreciate your accommodation

1 and your patience. This hearing is adjourned.

2 (Hearing concluded at 12:00 p.m.)

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1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4
5 I, TRICIA DeMARTE, Official Commission Reporter, do hereby
6 certify that the foregoing proceeding was heard at the time and
7 place herein stated.

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

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

18 DATED THIS 26TH DAY OF JULY, 2001.

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