

BEFORE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Del Tura North )  
Limited for a Wastewater Certificate in) DOCKET NO. 890975-SU  
Lee County, Florida. ) ORDER NO. 22157  
 ) ISSUED: 11-6-89  
 )

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman  
THOMAS M. BEARD  
BETTY EASLEY  
GERALD L. GUNTER  
JOHN T. HERNDON

ORDER GRANTING CERTIFICATE

BY THE COMMISSION:

Background

On July 25, 1989, Del Tura North Limited Partnership (Del Tura North or Utility) filed an application with this Commission for a wastewater certificate in Lee County. The Utility is the Developer of the Del Vera Country Club, which is the subdivision the utility will serve. The utility will serve approximately 606 equivalent residential connections (ERC) in phase one of the Del Vera Country Club. The system capacity of phase one will be 150,000 gallons per day (gpd). At buildout, the system will serve approximately 2,000 ERCs.

At this time, Del Tura North is in the process of obtaining permits necessary for the construction of the wastewater system. The Utility's engineers are working to establish construction costs for the system. Further, the Utility has provided preliminary information to begin developing the information necessary to determine rates and charges. However, in its application, Del Tura North requested that the Commission grant the certificate prior to establishing rates and charges in order to avoid delays in system permitting and construction. It has been the policy of this Commission to expedite the issuance of certificates in circumstances such as these.

DOCUMENT NUMBER-DATE

10879 NOV-6 1989

FPSC-RECORDS/REPORTING

Application

The application is in compliance with Section 367.041, Florida Statutes, and Rule 25-30.035, Florida Administrative Code, concerning applications for certificates. In particular, the application contains:

1. A check in the amount of \$900.00 which equates to the correct filing fee as prescribed by Section 367.141, Florida Statutes.
2. An adequate territory map and service territory description as required by Rule 25-30.035(3)(h) and (i), Florida Administrative Code. The system maps will be filed along with the engineering and accounting data to determine rates. A description of the territory to be served is appended to this Order as Attachment A.
3. Proof of notice to all interested governmental and regulatory agencies, and all utilities within a four-mile radius of the territory to be served, and proof of advertisement in a newspaper of general circulation in the county as prescribed in Rule 25-30.030(2)(e) and (f), Florida Administrative Code.

No objections to the notice have been filed and the time in which a valid protest may be filed has passed.

Del Tura North has provided proof of land ownership of the treatment plant site. However, the warranty deed provided encompasses a large parcel of land in the service territory. The Utility does not yet know where in this parcel the treatment plant will be located. Del Tura North has agreed to file a warranty deed specific to the plant site at the time it files the engineering and accounting information necessary to determine rates and charges.

We have reviewed the financial statements of those providing the principal funding to the utility. From our review, it appears that the net worth of the partners is sufficient to provide the capital to operate the utility in the initial years of development.

As stated previously, Del Tura North is the developer of the Del Vera Country Club, which comprises the requested service territory. Water service to the development will be provided by Lee County. The County does not have wastewater service available in the area and it appears that no other utility is in a position to provide the service. Therefore, we find that it is in the public interest to grant Certificate No. 456-S to Del Tura North for the area described in Attachment A.

Rates and Charges

Since we do not have the information necessary to determine appropriate rates and charges for Del Tura North, rates and charges will be set in a subsequent order. Del Tura North is directed to file the information necessary to determine rates and charges and a warranty deed for the treatment plant site within 90 days of the date of this Order. The Utility cannot charge for wastewater service prior to the establishment of authorized rates and charges by this Commission.

It is, therefore,

ORDERED by the Florida Public Service Commission that Del Tura North Limited Partnership, 18621 North Tamiami Trail, North Fort Myers, Florida 33903, is hereby granted Wastewater Certificate No. 456-S, authorizing it to provide service to the area set forth in Attachment A of this Order. It is further

ORDERED that Del Tura North shall file the information necessary for the establishment of rates and charges and a warranty deed for the treatment plant site within 90 days of the date of this Order. It is further

ORDERED that Del Tura North shall not charge for service prior to the approval of appropriate rates and charges by this Commission. It is further

ORDERED that this Docket shall remain open pending determination of the Utility's rates and charges.

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By ORDER of the Florida Public Service Commission  
this 6th day of NOVEMBER, 1989.



STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

ALC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

ATTACHMENT A

A PARCEL OF LAND IN SECTIONS 2, 3, 4, 5, & 10, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 3, TOWNSHIP 43 SOUTH, RANGE 24 EAST; THENCE N.89°57'30"W. ALONG THE NORTH LINE OF THE NORTHEAST ONE QUARTER OF SAID SECTION 3 FOR 355.01 FEET TO AN INTERSECTION WITH THE WESTERLY RIGHT OF WAY LINE OF THE FORMER S.A.L. RAILROAD AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE N.89°57'30"W. ALONG SAID NORTH LINE FOR 2313.55 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST ONE QUARTER OF SAID SECTION 3; THENCE S.89°48'38"W. ALONG THE NORTH LINE OF SAID NORTHWEST ONE QUARTER FOR 2667.53 FEET TO THE NORTHWEST CORNER OF SAID SECTION 3; THENCE N.89°42'40"W. ALONG THE NORTH LINE OF SECTION 4, TOWNSHIP 43 SOUTH, RANGE 24 EAST FOR 5335.96 FEET TO THE NORTHWEST CORNER OF SAID SECTION 4; THENCE S.89°33'20"W. ALONG THE NORTH LINE OF THE NORTHEAST ONE QUARTER OF SECTION 5, TOWNSHIP 43 SOUTH, RANGE 24 EAST FOR 1671.76 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF NORTH FORT MYERS PARK ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 9, PAGE 113 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.26°03'40"E. ALONG SAID NORTHEASTERLY LINE FOR 318.64 FEET TO AN INTERSECTION WITH THE SOUTHEASTERLY LINE OF LOT 3 OF SAID PLAT OF NORTH FORT MYERS PARK; THENCE S.63°56'20"W. ALONG SAID SOUTHEASTERLY LINE FOR 300.77 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY RIGHT OF WAY LINE OF TAMiami TRAIL (S.R. 45, U.S. 41) BEING A POINT ON THE ARC OF A CIRCULAR CURVE CONCAVE TO THE SOUTHWEST, SAID POINT BEARING N.63°13'24"E. FROM THE RADIUS POINT OF SAID CURVE; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE HAVING FOR ITS ELEMENTS A RADIUS OF 7739.44 FEET AND A CENTRAL ANGLE OF 0°42'56" FOR 96.66 FEET TO THE POINT OF TANGENCY; THENCE S.26°03'40"E. ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE FOR 1943.40 FEET TO AN INTERSECTION WITH THE SOUTHEASTERLY LINE OF THE NORTHWESTERLY ONE HALF OF LOT 24 OF THE AFOREMENTIONED PLAT OF NORTH FORT MYERS PARK; THENCE N.63°56'20"E. ALONG SAID SOUTHEASTERLY LINE FOR 300.17 FEET TO AN INTERSECTION WITH THE AFOREMENTIONED NORTHEASTERLY LINE OF NORTH FORT MYERS PARK; THENCE N.26°03'40"W. ALONG SAID NORTHEASTERLY LINE FOR 4.46 FEET TO AN INTERSECTION WITH THE SOUTHERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORD BOOK 1032 AT PAGE 707 OF THE AFOREMENTIONED PUBLIC RECORDS; THENCE N.89°48'47"E. ALONG SAID SOUTHERLY LINE FOR 3357.09 FEET TO AN INTERSECTION WITH THE EAST LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORD BOOK 410 AT PAGE 690 OF THE AFOREMENTIONED PUBLIC RECORDS; THENCE S.0°06'41"E. ALONG SAID EAST LINE FOR

2040.37 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN DEED BOOK 224 AT PAGE 437 OF THE AFOREMENTIONED PUBLIC RECORDS; THENCE S.89°48'47"W, ALONG SAID SOUTH LINE FOR 2698.40 FEET TO AN INTERSECTION WITH THE AFOREMENTIONED NORTHEASTERLY RIGHT OF WAY LINE OF TAMiami TRAIL; THENCE S.26°03'40"E. ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE FOR 370.00 FEET; THENCE N.89°48'47"E. FOR 3845.26 FEET; THENCE N.0°11'13"W. FOR 332.91 FEET TO AN INTERSECTION WITH THE AFOREMENTIONED SOUTH LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN DEED BOOK 224 AT PAGE 437 OF THE AFOREMENTIONED PUBLIC RECORDS; THENCE N.69°48'47"E. ALONG SAID SOUTH LINE FOR 4368.67 FEET TO AN INTERSECTION WITH THE NORTHERLY EXTENSION OF THE WEST LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORD BOOK 388 AT PAGE 80 OF THE AFOREMENTIONED PUBLIC RECORDS; THENCE S.0°02'36"W. ALONG SAID NORTHERLY EXTENSION AND ALONG THE WEST LINE OF SAID PARCEL FOR 2553.91 FEET; THENCE S.89°56'45"E. ALONG THE SOUTH LINE OF SAID PARCEL FOR 1711.91 FEET; THENCE N.0°02'36"E. ALONG THE EAST LINE OF SAID PARCEL FOR 16.72 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORD BOOK 1516 AT PAGE 1802 OF THE AFOREMENTIONED PUBLIC RECORDS; THENCE S.89°56'45"E. ALONG SAID SOUTH LINE FOR 441.17 FEET; THENCE N.0°02'36"E. ALONG THE EAST LINE OF SAID PARCEL FOR 2546.26 FEET TO AN INTERSECTION WITH THE AFOREMENTIONED SOUTH LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN DEED BOOK 224 AT PAGE 437 OF THE AFOREMENTIONED PUBLIC RECORDS; THENCE N.89°48'47"E. ALONG SAID SOUTH LINE FOR 775.65 FEET TO AN INTERSECTION WITH THE AFOREMENTIONED WESTERLY RIGHT OF WAY LINE OF THE FORMER S.A.L. RAILROAD; THENCE N.11°11'01"W. ALONG SAID WESTERLY RIGHT OF WAY LINE FOR 4190.51 FEET TO THE POINT OF BEGINNING.

A TRACT OR PARCEL OF LAND LYING IN SECTION 4, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF LOT 45 OF UNIT NO. 1, NORTH FORT MYERS PARK ACCORDING TO A PLAT THEREOF RECORDED IN PLAT BOOK 9 AT PAGE 113. PUBLIC RECORDS OF LEE COUNTY, FLORIDA, RUN S 89°59'E ALONG THE SOUTH LINE OF THE LANDS CONVEYED BY DEED RECORDED IN DEED BOOK 224 AT PAGE 437 OF SAID PUBLIC RECORDS AND ALONG THE SOUTH LINE OF SECTION NO. 1, UNIT NO. 1, LAKEVILLE, ACCORDING TO A PLAT THEREOF RECORDED IN PLAT BOOK 10, PAGE 48, OF SAID PUBLIC RECORDS AND SECTION NO. 1, UNIT NO. 2, LAKEVILLE ACCORDING TO A PLAT THEREOF RECORDED IN DEED BOOK 298 AT PAGES 303 TO 306, INCLUSIVE, OF SAID PUBLIC RECORDS FOR 1,940 FEET TO THE SOUTHEAST CORNER OF SAID SECTION NO. 1, UNIT NO. 2 AND THE POINT OF BEGINNING OF THE LANDS HEREIN DESCRIBED.

FROM SAID POINT OF BEGINNING CONTINUE S 89°59'E ALONG THE SOUTH LINE OF THE LANDS CONVEYED BY SAID DEED RECORDED IN DEED BOOK 224 AT PAGE 437, FOR 425 FEET TO A CONCRETE MONUMENT AT THE SOUTHWEST CORNER OF THE LANDS DESCRIBED IN AND CONVEYED BY DEED RECORDED IN DEED BOOK 300, PAGE 633, OF SAID PUBLIC RECORDS; THENCE RUN N 0°01'E ALONG THE WEST LINE OF SAID LANDS FOR 2040 FEET TO A POINT IN THE CENTERLINE OF A ROADWAY EASEMENT 80 FEET WIDE WHICH POINT IS MARKED BY A CONCRETE MONUMENT; THENCE RUN N 89°59'W ALONG SAID CENTERLINE FOR 500 FEET TO A POINT ON A PROLONGATION OF THE EAST LINE OF SAID SECTION NO. 1, UNIT NO. 2, LAKEVILLE WHICH POINT IS 40 FEET NORTH OF THE NORTHEAST CORNER OF SAID SECTION NO. 1, UNIT NO. 2; THENCE RUN SOUTH ALONG SAID PROLONGATION AND ALONG THE EASTERLY BOUNDARY OF SAID SECTION NO. 1, UNIT NO. 2, S 0°01'W FOR 335 FEET, S 89°59'E FOR 60 FEET, S 0°01'W FOR 600 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF A CURVE OF RADIUS 236.25 FEET FOR 131.72 FEET, THENCE RUN S 89°59'E FOR 39.71 FEET, S 0°01'W FOR 125 FEET, N 89°59' W FOR 35.48 FEET, S 0°01'W FOR 650 FEET, N 89°59'W FOR 25 FEET AND S 0°01'W FOR 205 FEET TO THE SOUTHEAST CORNER OF SAID SECTION NO. 1, UNIT NO. 2, LAKEVILLE AND THE POINT OF BEGINNING. SUBJECT TO ROADWAY EASEMENTS OVER AND ALONG THE NORTH 40 FEET AND OVER AND ALONG THE NORTH 80 FEET OF THE SOUTH 855 FEET BEING AN EXTENSION OF LAKEVILLE DRIVE AS SHOWN ON SAID PLAT OF SECTION NO. 1, UNIT NO. 2, LAKEVILLE. ALSO GRANTING AND EASEMENT FOR ROADWAY PURPOSES OVER AND ALONG A STRIP OF LAND 40 FEET IN WIDTH NORTH OF AND ADJACENT TO THE NORTHERN BOUNDARY OF THE ABOVE DESCRIBED LANDS AND AN EASEMENT FOR ROADWAY PURPOSES 80 FEET IN WIDTH EXTENDING FROM THE WESTERLY BOUNDARY OF THE ABOVE DESCRIBED LANDS WESTERLY ALONG THE NORTHERN BOUNDARIES OF SAID SECTION NO. 1, UNIT NO. 2, AND SECTION NO. 1, UNIT NO. 1 OF LAKEVILLE AND THROUGH LOT 24 OF SAID UNIT NO. 1, FORT MYERS PARK TO THE TAMiami TRAIL (STATE ROAD NO. 45).