


State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: July 23, 2010
TO: Apryl C. Lynn, Director, Division of Administrative Services
FROM:  Thomas J. Walden, Utilities System/Engineering Specialist, Division of Economic Regulation
RE: Docket No. 100334-WU; Notice of Abandonment of water system by San Sebastian Water, LLC in Brevard County, FL

Attached is an Order Appointing Receiver in this docket. The receiver is Brevard County

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IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL
CIRCUIT IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO: 05-2010-CA-038775-XXXX-XX

In re: the Petition of BOARD OF COUNTY
COMMISSIONERS OF BREVARD
COUNTY, FLORIDA, a political
subdivision of the State of Florida, to
Appoint Receiver for San Sebastian Water,
LLC Water Utility,

Petitioner.

ORDER APPOINTING RECEIVER

This matter was presented for hearing on the petition of Brevard County, through its attorney in behalf of the Board of County Commissioners.

1. It appears to the court from the affidavit of sworn to on, and the papers and pleadings on file in this action, that both plaintiff and defendant wish to invoke the provisions of section 367.165, Florida Statutes, relating to the receivership provision applicable to the abandonment of the water utility operated by San Sebastian Water, LLC.
2. It further appears that: Brevard County is a political subdivision of the State of Florida;
 - a) San Sebastian Water LLC ("San Sebastian") is a Class "C" water utility domiciled in Brevard County, Florida, at 8800 7th Avenue, Micco, Florida 32976;
 - b) San Sebastian provides water services in and/or around the residential San Sebastian Woods Subdivision located in Brevard County, Florida. The water system operated by San Sebastian is in a state of disrepair and requires the immediate installation of the improvements and equipment specified in Exhibit A, attached to the Petition filed in this case.

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c) The water utility operated by San Sebastian serves existing customers and the supply and availability of water provided to those customers is in jeopardy if the system is not repaired.

d) On June 7, 2010, San Sebastian gave notice to the County that the utility was financially distressed and was being abandoned. That notice is attached hereto as Exhibit B.

e) In accordance with section 367.165, Florida Statutes, after receiving the notice attached as Exhibit B, Brevard County filed a petition in circuit court requesting the court to appoint a receiver for the Utility.

f) Under section 367.165, Florida Statutes, the abandonment takes effect 60 days after the date of the notice attached as Exhibit A.

g) Pursuant to Section 367.165(2), Florida Statutes this Court has jurisdiction to appoint a receiver to operate the utility, which may be the governing body of a political subdivision.

h) Brevard County, as the operator of its own water system, has the experience necessary to bring the San Sebastian water system into good working order.

i) Brevard County has requested the Board of County Commissioners, through the County Utility Services Department, be appointed as receiver on an interim basis for the purpose of operating, leasing, selling or otherwise disposing of the Utility and its assets.

3. It further appears to the Court that a receiver is necessary to operate the utility pending the lease, sale, transfer or other disposition of the utility, its plant and service, or alternatively, the dissolution, termination and settlement of the affairs of the utility.

IT IS THEREFORE, ORDERED that:

1. Brevard County, through its Utility Services Department is hereby appointed as receiver of the San Sebastian Water, LLC plant, assets and improvements;
2. As receiver, Brevard County shall have the authority to:
 - a) Operate, maintain, improve the San Sebastian Water LLC water system;
 - b) To apply for all permits, permissions or other authority required from state agencies governing the service and financial operations of the system;
 - c) Collect service charges;
 - d) Pay expenses of the system;
 - e) Borrow funds and encumber the assets of the system as security, if necessary;
 - f) Take possession of the assets of the system including accounts and records, which the receiver shall maintain;
 - g) Subject to court approval, arrange for the transfer of ownership of the system, whether by lease, sale, dedication or conveyance to a qualified investor-owned utility, cooperative of customers or homeowners, not-for-profit corporation or other entity qualified to operate or retain an operator for the system;
 - h) With court approval, file for bankruptcy or otherwise dissolve and dispose of the assets of the system to the extent the system is no longer physically or economically viable as a water supply entity;
 - i) Do all other things reasonably required to operate and maintain the system as a viable water supply system;
 - j) File a semi-annual report regarding the financial and operating status of the system with the Court.

DONE AND ORDERED in Chambers, Viera, Florida, this 23rd Day of July, 2010.

ORIGINAL SIGNED ON

JUL 23 2010

BY ~~JEFFREY MAHL~~
Hon. Jeffrey Mahl, Circuit Court Judge

Cc: Scott L. Knox, Attorney for Petitioner
Charles H. Wahlen, Agent for San Sebastian Water, LLC