



Public Service Commission

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

DATE: November 7, 1996
TO: Division of Records and Reporting
FROM: Patricia Brady, Division of Water and Wastewater *pb BCM*
RE: Docket No. 960734-WS, Request for exemption from Florida Public Service Commission regulation for provision of water and wastewater service in Putnam County by Hiawatha Condominiums WWTF.

Please add to the docket file the attached letter dated August 16, 1996, from Mr. Edward E. Hedstrom to Ms. Patricia Brady. The letter is in response to staff's July 12, 1996, deficiency letter. Thank you.

cc: Alice Crosby, Division of Legal Services

- ACK _____
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DOCUMENT NUMBER-DATE

11887 NOV-7 1996

FPSC-RECORDS/REPORTING

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PALATKA, FLORIDA 32178

TELEPHONE (904) 328-6778
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August 16, 1996

Ms. Patricia Brady
Regulatory Analyst III
Division of Water & Wastewater
Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

RECEIVED
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Florida Public Service Commission
Division of Water and Wastewater

IN RE: Docket No. 960734-WS, Request for exemption from Florida Public Service Commission regulation for provision of water and wastewater service in Putnam County by Hiawatha Condominiums WWTF.

Dear Ms. Brady:

In accordance with your letter of July 12, 1996, I am enclosing the following:

1. BY-LAWS: Attached is a copy of the By-Laws adopted by Hiawatha & Hart Point Treatment Facility, Inc. The original has been forwarded to the Secretary of State's office. As soon as I receive a stamped copy, I will forward you a copy for your records.

2. VOTING RIGHTS: Article IV of the Articles of Incorporation provide for a five (5) member Board of Directors, three of which are appoint by Hiawatha Management, Inc., one each by Lemon Street Restaurant, Inc. and Hart Point Properties, Inc. The wastewater treatment facility is currently permitted for 36,000 gpd. Hiawatha Management, Inc. is allocated 15,000 gpd, the Best Western 9,000 gpd and the restaurant 6,000 gpd. Of the total 30,000 gpd used, the Hiawatha uses 50%, the Best Western 30% and the restaurant 20%. While the members' right to appoint directors is not mathematically equal to their allocated share of the total gpd used, the members did not consider this a problem. Additionally, the members saw no basis for assuming that each director would be bound by the wishes of the member appointing that particular director. Also, if a fourth member was admitted to the corporation to use the remaining 6,000 gpd, the articles would be amended to provide that the fourth member would have the right to appoint one director with the Hiawatha Management, Inc.'s right being reduced to two members.

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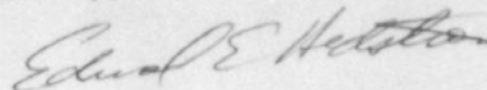
Letter to Ms. Patricia Brady
August 16, 1996
Page Two (2)

3. TURNOVER OF CONTROL: The Lease Agreement provided that the twenty-five (25) year lease would commence on July 1, 1996. All records have been turned over to the new corporation and effective as of that date, the new corporation has control of the facility.

4. LEASE AGREEMENT: Attached is a copy of the recorded Lease Agreement.

5. CORPORATE NAME: Hiawatha & Hart Point Treatment Facility, Inc. does not intend to use a fictitious name and the corporation's full name should appear on all documents pertaining to the facility.

Sincerely yours,



Edward E. Hedstrom

EEH/cw

enclosures

cc: Ben Bates

BY-LAWS

ARTICLE I

Name

The name of the corporation shall be HIAWATHA & HART POINT TREATMENT FACILITY, INC.

ARTICLE II

Principal Office

The principal office of this corporation shall be located at 116 Hiawatha Court, East Palatka, Putnam County, Florida 32131

ARTICLE III

Purpose

The purpose of this corporation is to operate, manage, and maintain a water and wastewater treatment facility for the benefit of the members of this corporation pursuant to a Lease Agreement with Hiawatha Management, Inc. dated June 12, 1996.

ARTICLE IV

Membership

The initial members of this corporation are: Hiawatha Management, Inc., a Florida non-profit corporation; Lemon Street Restaurant, Inc., a Florida corporation; and Hart Point Properties, Inc., a Florida corporation. Additional members may be admitted to the corporation upon a majority vote of the Board of Directors and membership shall be limited to those persons and/or legal entities who connect to the water and/or wastewater treatment facility. New members must pay any connection charges as determined by the Board of Directors and must acknowledge in writing their responsibility to pay expenses in accordance with Article VII of the Articles of Incorporation. Members shall have no right to participate and vote in the business affairs of the corporation, however, each member shall the right to appoint at least one (1) member to the Board of Directors. If a new member is admitted, the Board shall amend the Articles of Incorporation to provide that the new member shall have the right to appoint at least one (1) member to the Board.

ARTICLE V

Membership meetings

The members shall hold an annual meeting at 12:00 Noon on the third Monday in July of each year at the principal office of the corporation for the purpose of appointing the Board of Directors in accordance with Article IV of the Articles of Incorporation. Special meetings of the members may be called at any time by the President or Vice President or by any two (2) members of the Board of Directors. Written notice of such meeting stating the time, place and purposes thereof shall be served by mail upon each member of the organization not less than ten (10) and no more than fifteen (15) days before such meeting at their last known address.

ARTICLE VI

Board of Directors

Section 1. The management of the affairs of the corporation shall be vested in the Board of Directors.

Section 2. Number of Directors.

The initial number of number of Directors of this corporation shall be five (5), three of which shall be appointed by Hiawatha Management, Inc., one of which shall be appointed by Lemon Street Restaurant, Inc., and one of which shall be appointed by Hart Point Properties, Inc.

Section 3. Appointment of Directors.

The Board of Directors shall be appointed by the members of the organization at its annual meeting as set forth above.

ARTICLE VII

Meetings of the Board of Directors

Section 1. The annual meeting of the Board of Directors shall be held in the month of July each year immediately following the membership meeting at the principal office of the corporation.

Section 2. Special Meetings.

Special meetings of the Board of Directors may be called by the President or by any two members of the Board of Directors. Written notice shall be given stating the purpose of such meeting and shall be either delivered to each member of the Board of Directors or mailed to the last known address of each Director at least five (5) days prior to the meeting date.

Section 3. Regular Meetings.

The Board of Directors shall hold regular meetings on a quarterly basis during the months of March, June, September and December of each year. The date, time and place shall be set by the President. Reasonable notice of such meetings shall be communicated to each member of the Board at his or her last known address. An agenda of the activities to be conducted at such meeting shall be included with and attached to the notice.

Section 4. Quorum, Voting.

A majority of the members of the Board of Directors shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the directors present shall be considered the act of the Board of Directors at any annual, special or regular meeting.

Section 5. Voting of Directors.

Each member of the Board of Directors shall be entitled to one vote only at any meeting thereof on any issue or matter of business before such meeting. No member of the Board of Directors shall be entitled to vote at any meeting unless he or she is physically present at such meeting.

Section 6. Compensation of Directors.

Directors shall receive no compensation for their services.

Section 7. Liability.

The directors of the corporation shall not be personally liable for its debts, liabilities, or other obligations.

ARTICLE VIII

Officers

Section 1. Number.

The officers of the corporation shall be the President, Vice President and Secretary/Treasurer.

Section 2. Term of Office.

Officers shall be elected by the Board of Directors at the annual meeting of the Board of Directors immediately following the membership meeting. Officers shall serve for one (1) year.

Section 3. Installation, Commencement of Duties.

The officers newly elected at the annual meeting of the Board of Directors shall be installed and take office on the first day of the month immediately following the date of the annual meeting, simultaneously with the installation of the Board of Directors.

Section 4. Compensation.

The officers of the corporation shall receive no compensation for their services.

ARTICLE IX

By-Law Amendment

The By-Laws of this corporation may be amended, repealed, or altered in whole or in part by a majority vote of the Board of Directors at any duly organized meeting, at which a quorum shall be present. Notice of the proposed change shall be mailed to each member of the Board at his or her last known address at least ten (10) days prior to the time and date of the meeting which is to consider and vote on such change or amendment.

ARTICLE X

Fiscal Year

The fiscal year of the corporation shall commence on the 1st day of January and terminated on the 31st day of December.

ARTICLE XI

Seal

The corporation shall have a seal of such design as may be approved by the Board of Directors.

ARTICLE XII

Distribution of Assets

Upon dissolution, liquidation and winding up of the corporation, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the corporation, dispose of all of the assets of the corporation exclusively for the purposes of the corporation in such manner, and to such organization or organizations organized and operated exclusively for charitable, educational, religious or scientific purposes, as shall at the time qualify as an exempt organization under Section 501 (c)(3) of the Internal Revenue Code of 1954 as amended, as the Board of Directors may determine. Any assets not so disposed of shall be disposed of by a court of competent jurisdiction in the county in

which the principal office of the corporation is then located, exclusively for such purposes, or to such organization or organizations as such court shall determine.

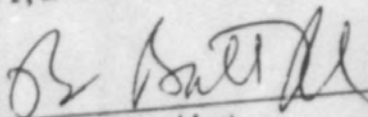
ARTICLE XIII

Records

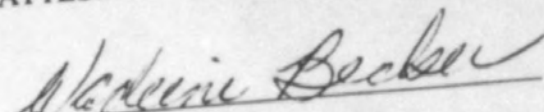
The corporation shall maintain correct and proper books and records and shall keep minutes of all of the meetings of the members and Board of Directors, at the principal office of the corporation. All such records may be inspected by any director, member or the agent or attorney of either, or any proper person, at any reasonable time.

DATED AND ADOPTED: August 13, 1996

HIAWATHA & HART POINT TREATMENT
FACILITY, INC.

By: 
Its President

ATTEST:


Its Secretary

LEASE AGREEMENT

Section 1. **Parties.** This Lease is made between HIAWATHA MANAGEMENT, INC., 116 Hiawatha Court, City of East Palatka, State of Florida, as lessor, and HIAWATHA & HART POINT TREATMENT FACILITY, INC., 116 Hiawatha Court, City of East Palatka, State of Florida, as lessee.

Section 2. **Description of Leased Premises.** Lessor, by this agreement, leases to lessee and lessee, by this agreement, hires from lessor, the facility commonly known as the Hiawatha Condominiums Water and Wastewater Treatment Facility located in the real property described in Schedule "A" attached hereto, and located at 116 Hiawatha Court, East Palatka, Florida.

Section 3. **Term.** The facility is leased for a term of twenty-five (25) years to commence July 1, 1996, and to end at midnight on June 30, 2021, or on such earlier time and date as this lease may terminate as provided below.

Section 4. **Rent.** The lessee is leasing facility for the sole purpose of operating said facility to provide services to the members and, therefore, no rents shall be due from the lessee to the lessor.

Section 5. **Use and Occupancy.** Lessee shall use and occupy the premises solely for the benefit of operating the facility for the benefit of the members and for no other purpose.

Section 6. **Care and Repair of Facility.** Lessee shall be responsible for and maintaining and repairing the facility in accordance with all applicable laws and regulations of the state and county.

Section 7. **Alterations, Additions or Improvements.** Lessee shall not make any alterations, additions or improvements to the facility, except in accordance with the regulations and laws of the State of Florida and Putnam County.

Section 8. **Assignment or Sublease.** Lessee shall not, without first obtaining the written consent of the lessor, assign, mortgage, pledge, or encumber this lease, in whole or in part, or sublet the premises or any part of the premises. This covenant shall be binding upon the legal representatives of lessee, and upon every person to whom lessee's interest under this lease passes by operation of law.

Section 9. **Charges to Members.** The lessee shall charge the members their prorata share based on usage for the cost of operation, maintenance and repair, replacement and any other direct expense incurred in the operation of the facilities, and shall enforce payment by any legal remedies provided by law.

Section 10. **Insurance.** The lessee shall provide adequate liability and hazard insurance to cover the facility and its operation.

Section 11. Termination. This lease shall terminate on the earlier of the following:

- a. Twenty-five (25) years from the effective date;
- b. A voluntary agreement between the lessor and lessee;
- c. If a public water and/or wastewater treatment facility becomes available to the members and a majority of the current members elect to utilize said public facility.

Section 12. Renewal of Lease. Unless this lease is terminated in accordance with Section 11 above, this lease shall automatically renew for an additional twenty-five (25) years.

Section 13. Binding on Successors and Assigns. This provisions of this lease shall apply to, bind and inure to the benefit of the lessor and lessee and their respective successors, legal representatives, and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 12th day of June, 1996.

(corporate seal)

HIAWATHA MANAGEMENT, INC.

By: [Signature]
Its Vice President
Date Signed: 6/11/96

(corporate seal)

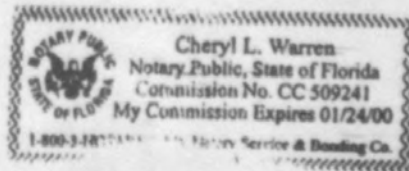
HIAWATHA & HART POINT
TREATMENT FACILITY, INC.

By: [Signature]
Its President
Date Signed: 6/12/96

STATE OF FLORIDA
COUNTY OF PUTNAM

Sworn to and subscribed before me this 12th day of June, 1996

[Signature]
Notary Public, Putnam County, Florida
My Commission Expires



SCHEDULE "A"

Commencing at a concrete monument at the Northwesterly corner of lands described in O.R. Book 298, page 1678 of the public records of Putnam County, Florida and run thence $S1^{\circ}34'15''E$, along call #6 of said lands, a distance of 30.24 feet to the point of beginning of this description. From point of beginning (1) continue $S1^{\circ}34'15''E$, along call #6 of said lands, a distance of 106.0 feet. Return to the point of beginning and (2) run thence $S81^{\circ}15'30''W$, parallel with line #10 of lands described in Deed Book 237, page 578 of said public records, a distance of 16.80 feet to the P.C. of a curve, concave to the Southeast, having a radius of 19.25 feet and a central angle of $90^{\circ}00'$. (3) Thence along said curve, an arc distance of 30.24 feet to the P.T. of said curve. (4) Thence run $S8^{\circ}44'30''E$, on a Southerly projection of the tangent of said curve, a distance of 78.64 feet to the P.C. of a curve, concave to the Northeast, having a radius of 5.0 feet and a central angle of $82^{\circ}49'45''$. (5) Thence along said curve, an arc distance of 7.23 feet to the P.T. of said curve. (6) Thence run $N88^{\circ}25'45''E$, on an Easterly projection of the tangent of said curve, a distance of 18.59 feet to the Southerly end of call (1) and to close.



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DATE 08/13/96 TIME 15:53

ED BROOKS
CO:PUTNAM

CLERK
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