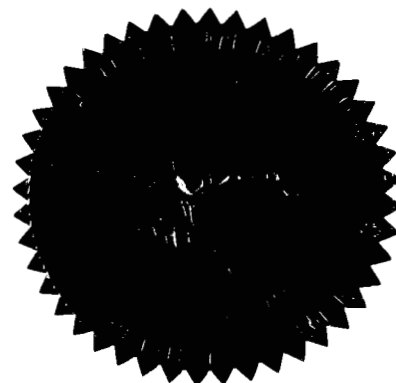


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 020907-WS

In the Matter of

APPLICATION FOR AMENDMENT OF  
CERTIFICATE NOS. 496-W AND 465-S  
TO EXTEND WATER AND WASTEWATER  
SERVICE AREAS IN LAKE COUNTY BY  
LAKE UTILITY SERVICES, INC.



ELECTRONIC VERSIONS OF THIS TRANSCRIPT ARE  
A CONVENIENCE COPY ONLY AND ARE NOT  
THE OFFICIAL TRANSCRIPT OF THE HEARING,  
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

PROCEEDINGS:           PREHEARING CONFERENCE

BEFORE:                COMMISSIONER J. TERRY DEASON  
                            Prehearing Officer

DATE:                   Monday, August 18, 2003

TIME:                   Commenced at 1:30 p.m.  
                            Concluded at 1:45 p.m.

PLACE:                 Betty Easley Conference Center  
                            Room 152  
                            4075 Esplanade Way  
                            Tallahassee, Florida

REPORTED BY:         TRICIA DeMARTE, RPR  
                            Official FPSC Reporter  
                            (850) 413-6736

## 1 APPEARANCES:

2 DONNA HOLSHOUSER STINSON, ESQUIRE, and MAURA  
3 BOLIVAR, ESQUIRE, Broad & Cassel, 215 S. Monroe Street, Suite  
4 400, P. O. Drawer 11300, Tallahassee, Florida 32302, appearing  
5 on behalf of Ames Holdings, LLC, et al. and Hartwood  
6 Properties, Inc., et al.

7 HARRY CHILES, ESQUIRE, Nabors, Giblin & Nickerson,  
8 P.A., 1500 Mahan Drive, Suite 200, Tallahassee, Florida 32308,  
9 appearing on behalf of the City of Clermont.

10 MARTIN FRIEDMAN, ESQUIRE, Rose, Sundstrom & Bentley,  
11 LLP, 2548 Blainstone Pines Drive, Tallahassee, Florida 32301,  
12 appearing on behalf of Lake Utility Services, Inc.

13 ADRIENNE E. VINING, ESQUIRE, FPSC General  
14 Counsel's Office, 2540 Shumard Oak Boulevard, Tallahassee,  
15 Florida 32399-0850, appearing on behalf of the Commission  
16 Staff.

17

18

19

20

21

22

23

24

25

## P R O C E E D I N G S

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

COMMISSIONER DEASON: Call the prehearing conference to order. Could I have the notice read, please.

MS. VINING: Pursuant to notice issued August 4th, 2003, the Florida Public Service Commission has set this time and place for the purpose of conducting a prehearing conference for Docket Number 020907-WS. The purpose of the prehearing conference is further set out in the notice.

COMMISSIONER DEASON: Thank you. Take appearances.

MR. FRIEDMAN: Martin Friedman of the law firm of Rose, Sundstrom & Bentley, 2548 Blainstone Pines Drive in Tallahassee, and we represent Lake Utility Services.

MR. CHILES: Good afternoon, I'm Harry Chiles. I'm with the firm of Nabors, Giblin & Nickerson. I'm standing in today for Greg Stewart, and we're here on behalf of the City of Clermont.

MS. STINSON: I'm Donna Stinson and with me is Maura Bolivar from the law firm of Broad & Cassel. We represent a number of petitioners here that are in the original style of the petition we filed. I can read them off if you'd like, but it's quite a list.

COMMISSIONER DEASON: Let me ask you this. What's listed in the draft of the prehearing order? Of course, I guess it has et al., though. There's no debate as to who you're representing.

1 MS. STINSON: I don't believe so.

2 COMMISSIONER DEASON: Okay. Very well.

3 MS. STINSON: I think it's all the objectors except  
4 the City of Clermont.

5 COMMISSIONER DEASON: Very well. Ms. Vining, any  
6 preliminary matters?

7 MS. VINING: Yes.

8 COMMISSIONER DEASON: Oh, you need to make an  
9 appearance also.

10 MS. VINING: Yes.

11 COMMISSIONER DEASON: Please do.

12 MS. VINING: Adrienne Vining appearing on behalf of  
13 the Commission.

14 COMMISSIONER DEASON: Okay. Any preliminary matters?

15 MS. VINING: Yes, Commissioner Deason. There is a  
16 motion to strike that was filed by Lake Utility Services.

17 COMMISSIONER DEASON: Okay. I have reviewed the  
18 motion and the response thereto, but I will allow the parties  
19 involved to address me concerning that if they so desire.

20 Mr. Friedman, your motion.

21 MR. FRIEDMAN: Yes. It's our motion and I think it  
22 was pretty self-explanatory. We tried to make it so. And we  
23 just believe because the witnesses and exhibits were not  
24 prefiled that it would not be appropriate to allow those  
25 witnesses to testify and those exhibits to be admitted.

1 COMMISSIONER DEASON: Okay. And Mr. Chiles.

2 MR. CHILES: I believe our response is also pretty  
3 much self-explanatory, Mr. Deason. We think that based upon  
4 the particular circumstances in this case and the fact that the  
5 parties have been in a constant dialogue to try to resolve this  
6 matter that it would be unfair to the City of Clermont at this  
7 point, should the matter not resolve itself, to strike all of  
8 the witnesses and exhibits. We would note, as we did in our  
9 response, that in reality we're only talking about two  
10 witnesses that we intend to call. And the other parties, I  
11 think, well know what it is they're going to talk about.

12 MR. FRIEDMAN: In brief rebuttal --

13 COMMISSIONER DEASON: Very briefly.

14 MR. FRIEDMAN: In brief -- I obviously dispute that  
15 we know what those witnesses are going to testify. I mean,  
16 we -- I don't have any idea what those witnesses are going to  
17 testify to, and that's the reason for the prefiled and an  
18 opportunity for us to take their deposition if we need to.

19 As a practical matter, as Mr. Chiles points out, we  
20 have a written settlement agreement that is just awaiting the  
21 political process to go through -- we have signed it and the  
22 City has it -- which will resolve our dispute with them. So  
23 this argument may be academic, but you know the political  
24 process is never one that's a done deal. And so we need it to  
25 preserve our objection to them listing those witnesses and I

1 think rightfully so.

2 COMMISSIONER DEASON: Very well. I will be meeting  
3 with staff at the conclusion of this prehearing. I will be  
4 making a decision and an order will be forthcoming. I will ask  
5 staff to communicate with counsel the nature of that decision  
6 before it is actually put forth in an order, so you may plan  
7 accordingly.

8 MR. FRIEDMAN: Thank you.

9 COMMISSIONER DEASON: Okay. Other preliminary  
10 matters?

11 MS. VINING: None that I'm aware of.

12 COMMISSIONER DEASON: Okay. Do the parties have any  
13 preliminary matters?

14 MR. FRIEDMAN: Lake Utility doesn't.

15 COMMISSIONER DEASON: Okay. City?

16 MR. CHILES: Nothing for us, Your Honor.

17 COMMISSIONER DEASON: Developers? I'll refer to  
18 developers if that's --

19 MS. STINSON: No, we have no preliminary matters.

20 COMMISSIONER DEASON: Very well. For those of you  
21 who may not have the opportunity to appear before the  
22 Commission often, just let me review for a moment my procedure  
23 for conducting these prehearing conferences. We have a draft  
24 prehearing conference -- I mean, a draft prehearing order. It  
25 is my custom to proceed through that section by section in

1 rather rapid fashion.

2           If there are any questions or modifications, changes  
3 that need to be made to that, please speak up, and we will  
4 spend whatever time is necessary to make those corrections or  
5 answer those questions.

6           The whole idea is to facilitate this hearing, to  
7 eliminate surprise and error, and to go about this in an  
8 expeditious, fair, and efficient manner. That's the whole  
9 idea.

10           So having said that, I would suggest that we would  
11 just proceed through the draft prehearing order. And I will  
12 begin with Section I, conduct of proceedings. Section II, case  
13 background. Section III, jurisdiction. Section IV,  
14 confidential information.

15           Just let me ask, is there -- do any of the parties  
16 anticipate producing confidential information at the hearing  
17 for utilization in cross-examination or other purposes?

18           MR. FRIEDMAN: We don't.

19           COMMISSIONER DEASON: Any parties anticipate -- I  
20 didn't think that was the case. This is just kind of standard  
21 boilerplate language that are in all the prehearing orders.

22           Section V, post-hearing procedures. Section VI,  
23 prefiled testimony and exhibits. Section VII, order of  
24 witnesses. Now, I understand that the pending motion may have  
25 some bearing upon the number of witnesses, but assuming that

1 these persons will be testifying, are there any changes to the  
2 order of witnesses as set forth?

3 Very well.

4 Let me ask another question. In some of our  
5 proceedings, we on occasion have the opportunity to take direct  
6 and rebuttal testimony at the same time. I don't know if  
7 there's any desire to do so here, I just asked the question.

8 Mr. Friedman.

9 MR. FRIEDMAN: No, we would not intend to do it that  
10 way. We would --

11 COMMISSIONER DEASON: You want to do it separate.

12 MR. FRIEDMAN: -- expect to do it the --

13 COMMISSIONER DEASON: Very well. The traditional  
14 way.

15 MR. FRIEDMAN: That's correct.

16 COMMISSIONER DEASON: Very well. Section VIII, basic  
17 positions. Section IX, we will proceed issue by issue  
18 beginning with Issue 1. Issue 2. Issue 3. Issue 4. Issue 5.  
19 Issue 6. Issue 7. Issue 8. Issue 9. Issue 10. Issue 11.  
20 Issue 12, and that is the last issue.

21 Mr. Friedman, you had something?

22 MR. FRIEDMAN: Yes, Commissioner. I was going to  
23 just point out that I would expect, depending upon what the  
24 City of Clermont City Council does at their 26th council  
25 meeting, that the position of the City would certainly change



1 if, in fact, the council does what we all expect them to do.  
2 And I don't know how to -- whether we just wait until we get to  
3 the hearing and make some reference to that at the hearing,  
4 because my understanding is that once that happens, then the  
5 issues narrow drastically.

6 COMMISSIONER DEASON: That's a very good question.  
7 Ms. Vining, the question is, how do we proceed if at the City  
8 Commission meeting on the 26th if there is a favorable  
9 determination there that would affect the City's position on a  
10 number of issues and perhaps narrow the scope to some extent?  
11 How should we proceed? Do you have any thoughts in that  
12 regard?

13 MS. VINING: Yes. My understanding is that we won't  
14 know that the City will be dropping out until the first week of  
15 September. Is that still correct?

16 MR. CHILES: I think it's the 26th is their meeting,  
17 and at the time they're going to do a second reading of the  
18 ordinance that's had its first reading and also would take up  
19 the settlement agreement. So we should know pretty much  
20 directly after that meeting.

21 MS. VINING: How soon after that will you actually  
22 file the notice to withdraw, I guess is what I'm getting at?  
23 Because I don't think the -- the prehearing order has to be  
24 issued September 2nd. It's possible if we knew that by that  
25 point in time we could reduce those issues because --

1 MR. CHILES: Yeah, I think we can assure you it will  
2 be filed before then.

3 MR. FRIEDMAN: Yeah. We will just need to  
4 simultaneously file the amendment to the territory expansion to  
5 take out that area that we have agreed to let the City --

6 MS. VINING: Okay. And --

7 MR. FRIEDMAN: It is kind of a dual thing.

8 MS. VINING: And at this point in time the developers  
9 haven't taken positions on any of the issues, so my  
10 understanding is that they've waived those issues.

11 MS. STINSON: I do have a question there. We also  
12 are working with Lake Utility to try to resolve issues and are  
13 very, very close. We've exchanged agreements and are just --  
14 nothing is signed. We're working on the language.

15 In the event -- the hopefully very unlikely event all  
16 that falls apart, obviously we have not done prefiled testimony  
17 of any sort, but we did file a petition and would like to  
18 reserve our right to participate through cross-examination and  
19 filing of post-hearing --

20 COMMISSIONER DEASON: It is my understanding that you  
21 would be allowed to conduct cross-examination and would be  
22 allowed to file a post-hearing brief.

23 Counsel, is that correct?

24 MS. VINING: Yes, that's correct.

25 MS. STINSON: In that case our position is basically

1 as it's set out in our petition. So it's not a hidden position  
2 or anything like that.

3 MS. VINING: You're just not taking a specific  
4 position on each of these 12 issues then.

5 MS. STINSON: Right.

6 MS. VINING: Okay.

7 MS. STINSON: I mean, we haven't up to this time but  
8 would reserve the right to argue those in the post-hearing. I  
9 think you can read our petition and tell what our position is  
10 on each of those issues.

11 COMMISSIONER DEASON: Mr. Friedman, do you have any  
12 objection to that process?

13 MR. FRIEDMAN: I mean, I would prefer -- and I agree  
14 with Ms. Stinson. I mean, we've worked together, and I expect  
15 that we will enter into an agreement that resolves their  
16 objections too. But as she points out, it may not happen, and  
17 I don't think we should have to go through their petition and  
18 try to pick out what her positions are on these specifically  
19 enumerated issues. And, I mean, I don't have any objection if  
20 she wants to provide those sometime before the actual  
21 prehearing order is entered, but I think it would certainly  
22 give us the due process of knowing what their position is and  
23 where they're coming from.

24 I agree with you that they've got a right to  
25 participate to the extent that we've identified issues the way

1 we've identified issues, but I think that they should  
2 articulate what their positions are on each of those issues so  
3 that we'll know what they are when we get to hearing.

4 COMMISSIONER DEASON: Ms. Vining, when would you need  
5 those? In the unlikely event that there are going to have to  
6 be positions taken before the hearing, when would you need  
7 those for inclusion in the final prehearing order?

8 MS. VINING: Preferably the Thursday before September  
9 2nd.

10 MS. STINSON: That would not be a problem. We'll be  
11 happy to do that.

12 MS. VINING: Okay. And of course, earlier if you --

13 MS. STINSON: It shouldn't be a problem at all. We  
14 can state our position on each of the -- what is it -- 12  
15 enumerated issues pretty quickly, I think.

16 COMMISSIONER DEASON: Very well. I think we have an  
17 understanding. That seems to be workable.

18 MS. STINSON: Thank you.

19 COMMISSIONER DEASON: Okay. Any other questions or  
20 concerns about the issues? Hearing none, Section X, exhibit  
21 list. Section XI, proposed stipulations. I think that we've  
22 discussed the process we would follow post-Commission meeting  
23 and hopefully developer agreements as well. Are there any  
24 questions as to how we're going to proceed in that regard?

25 I think it's clear. We don't have any stipulations

1 as of right now, I understand, but we're hopeful.

2 MR. FRIEDMAN: Yes.

3 COMMISSIONER DEASON: Okay. We have the pending  
4 motion to strike. Are there any other pending motions any of  
5 the parties are aware?

6 MR. FRIEDMAN: We have none.

7 COMMISSIONER DEASON: No other pending motions;  
8 correct?

9 MS. VINING: None that I'm aware of.

10 COMMISSIONER DEASON: Very well. Okay. And the  
11 motion to strike will be ruled upon shortly. Are there any  
12 other matters to come before the Prehearing Officer at this  
13 time?

14 MR. FRIEDMAN: Nothing.

15 COMMISSIONER DEASON: Nothing. Thank you. I want to  
16 compliment the parties for your preparedness and the efficiency  
17 with which we were able to conduct this. And I am hopeful that  
18 your hard work in this regard in addressing these issues will  
19 be fruitful, and it's possible we may not even have to have a  
20 hearing, potentially, I understand.

21 MS. VINING: That's correct. I'm hopeful.

22 COMMISSIONER DEASON: Very well. Thank you all again  
23 for your participation. This prehearing conference is  
24 adjourned.

25 (Prehearing conference concluded at 1:45 p.m.)

1 STATE OF FLORIDA )

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON )

4  
5 I, TRICIA DeMARTE, RPR, Official Commission Reporter, do  
6 hereby certify that the foregoing proceeding was heard at the  
7 time and 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 21st DAY OF AUGUST, 2003.

19  
20  
21  
22  
23  
24  
25  


TRICIA DeMARTE, RPR  
FPSC Official Commission Reporter  
(850) 413-6736