

State of Florida



Public Service Commission

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

RECEIVED-FPSC
12 MAY 17 PM 1:19
COMMISSION CLERK

DATE: May 17, 2012
TO: Dorothy E. Menasco, Commission Deputy Clerk II, Office of Commission Clerk
FROM: Martha A. Golden, Regulatory Supervisor/Consultant, Division of Economic Regulation
RE: Docket No. 090385-WU, Application for transfer of majority organizational control of Colina Bay Water Company, LLC to Colina Bay Homeowners Association, Inc., and cancellation of Certificate No. 632-W, in Lake County

Please add the following attached documents to the above referenced docket:

1. March 6, 2012 e-mail from Gregg Welstead of the St. Johns River Water Management District regarding Colina Bay Water Company's Consumptive Use Permit and Priority Water Resource Caution Area information.
2. March 12, 2012 e-mail from Martin Friedman regarding the Colina Bay Homeowners Association membership.
3. March 12, 2012 e-mail from Martin Friedman providing the November 21, 2011 Colina Bay Homeowners Association Special Meeting Minutes approving the purchase.

Thank you.

Attachments

DOCUMENT NUMBER DATE
03146 MAY 17 2012
FPSC-COMMISSION CLERK

Martha Golden

From: Robert Simpson
Sent: Tuesday, March 06, 2012 4:20 PM
To: Martha Golden
Subject: FW: Water use restrictions

I did not get a response from Shannon Joyce so I decided to email the question to Gregg Welstead. This is his response. It is in a priority water use caution area.

From: Welstead, Gregg [mailto:GWelstead@lakecountyfl.gov]
Sent: Tuesday, March 06, 2012 4:12 PM
To: Robert Simpson
Subject: RE: Water use restrictions

Colina Bay Water Company was issued Consumptive Use Permit #103822 from SJRWMD in 2007 just as the economy crashed. This is what it looks like in an aerial from 2011 (red outline). Only thing there at this point is a model home/sales center at the entrance and what appears to be the water plant at the bottom right corner.



Restrictions county-wide are by ordinance and are listed here:
[http://www.lakecountyfl.gov/departments/conservation and compliance/lawn and landscape](http://www.lakecountyfl.gov/departments/conservation_and_compliance/lawn_and_landscape)

It is located within a Priority Water Resource Caution Area. I just checked with SJRWMD and

3/23/2012

this is the term they use for a WUCA, so yes. It is also within the Central Florida Coordination Area/Central Florida Water Initiative area.

Gregg Welstead
Director, Conservation and Compliance Department
Lake County Board of County Commissioners
315 W. Main Street, Suite 421
Tavares, Florida 32778
352.742.3960 (O) 352.343.9106 (F)

 **Go Green: Please do not print this e-mail unless you really need to.**

Please note: Florida has a very broad public records law. Most written communication to or from government officials regarding government/public business is public record available to the public and media upon request. Your e-mail communications may be subject to public disclosure. The opinions expressed in this email are strictly those of the author and not necessarily those of Lake County Board of County Commissioners.

From: Robert Simpson [<mailto:RSimpson@PSC.STATE.FL.US>]

Sent: Tuesday, March 06, 2012 3:48 PM

To: Welstead, Gregg

Subject: Water use restrictions

Good Afternoon:

I found your email on-line as I was researching to determine whether this company called Colina Bay Water Company which is located in Montverde, Florida in Lake County, has any water use restrictions. Is this community in a water use caution area? What are the restrictions? It would be greatly appreciated if I could get some help. Thank you.

Sincerely,

Robert Simpson
Engineering Specialist
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
Phone: (850) 413-7001
Fax: (850) 413-7002

3/23/2012

Martha Golden

From: Martin Friedman [MFriedman@sfflaw.com]
Sent: Monday, March 12, 2012 2:19 PM
To: Martha Golden
Subject: {BULK} FW: Docket No. 090385-WU - Transfer of Colina Bay to Colina Bay Homeowners Association
Importance: Low

#1

MARTIN S. FRIEDMAN

PLEASE NOTE: Our changed firm name and email address.
Please update your contacts accordingly. Thank you.

**SUNDSTROM,
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Attorneys | Counselors



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From: Martin Friedman
Sent: Saturday, March 10, 2012 1:07 PM
To: 'Martha Golden'
Cc: Ralph Singleton; Bob White
Subject: RE: Docket No. 090385-WU - Transfer of Colina Bay to Colina Bay Homeowners Association

Martha,

There are no homes in Colina Bay, but there are 13 lot owners other than those related to the prior owner of Colina Recovery, Inc. who owns the other 60 lots. All of the members of the HOA were duly noticed of the meeting whereby the purchase of the water system was to be considered. I hope to email you the Minutes on Monday, but the purchase was approved without any dissenting votes. The owners of all lots are required to be members of the HOA, and the water system only serves the members of the HOA.

Sorry it took so long to get back to you on this. Please do not hesitate to give me a call if you need any additional information.

5/16/2012

Regards, Marty

MARTIN S. FRIEDMAN

**SUNDSTROM,
FRIEDMAN & FUMERO, LLP**
Attorneys | Counselors



< o:p>

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From: Martha Golden [mailto:MGolden@PSC.STATE.FL.US]
Sent: Monday, March 05, 2012 4:17 PM
To: Martin Friedman
Subject: Docket No. 090385-WU - Transfer of Colina Bay to Colina Bay Homeowners Association

Hello Marty,

As follow-up to my voice message, I am trying to complete the Colina Bay transfer recommendation to be filed on March 15 for the March 27 Agenda Conference if possible. I need some additional information regarding the membership of the Colina Bay Homeowners' Association (HOA) and whether all the members were involved in the decision to purchase the Colina Bay stock so we can determine whether any additional noticing may be needed.

Specifically, have any of the lots in Colina Bay been sold to other parties (such as individual homeowners), and if so, are they members of the HOA? Were all of the HOA members notified and given an opportunity to vote on the transfer of stock from Colina Recovery to the HOA? Is there any documentation regarding the vote, such as minutes of the HOA Board meeting? Please e-mail me or call me at 850-413-7015, whichever is more convenient. Thank you for your help.

Martha

5/16/2012

Martha Golden

From: Martin Friedman [MFriedman@sflaw.com]
Sent: Monday, March 12, 2012 2:19 PM
To: Martha Golden
Subject: {BULK} FW: Docket No. 090385-WU - Transfer of Colina Bay to Colina Bay Homeowners Association
Importance: Low
Attachments: Colina Bay HOA - executed minutes - 11-21-11.pdf
#2 Let me know if you need anything else.

MARTIN S. FRIEDMAN

PLEASE NOTE: Our changed firm name and email address.
Please update your contacts accordingly. Thank you.

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From: Martin Friedman
Sent: Monday, March 12, 2012 10:02 AM
To: 'Martha Golden'
Subject: Docket No. 090385-WU - Transfer of Colina Bay to Colina Bay Homeowners Association

Martha,
Attached are the Minutes approving the purchase. Let me know if you need anything else.
Marty

MARTIN S. FRIEDMAN

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COLINA BAY HOMEOWNERS ASSOCIATION, INC.
SPECIAL MEETING MINUTES
November 21, 2011

A Special Meeting of the members of Colina Bay Homeowners Association, Inc. (the "Association") was held at the offices of White & Luczak, P.A. at 10:00 a.m. on November 21st, 2011 pursuant to notice provided to the Association's members in accordance with its by-laws.

Ralph Singleton, who is the "manager" of Colina Bay Investments, LLC, a Member of the Association owning 64 lots in the Colina Bay subdivision (the "Subdivision"), acted as the "chairman" of the meeting and called it to order at 10:00 a.m. The Chairman noted for the record that no members of the Association other than Colina Bay Investments, LLC were present for the meeting either in person or by proxy. The Chairman also observed that, never the less, a quorum of the Association members was present at the meeting, pursuant to the Association's by-laws, as a result of the attendance of Colina Bay Investments, LLC, as owner of 64 lots in the Subdivision. The Chairman thereupon opened the meeting for the conduct of business.

The Chairman presented a proposal to the Members that the Association purchase all of the outstanding and issued capital stock (the "Stock") of Colina Recovery, Inc. ("CRI") The Chairman pointed out that CRI was the owner of the water plant equipment, improvements, operating permits and licenses (the "Water Plant") that supplies potable water to the Subdivision and that it had offered to sell the Stock to the Association in accordance with the terms and conditions set forth in a proposed "Agreement For The Purchase And Sale Of The Stock Of Colina Recovery, Inc." (the "Stock Purchase Agreement"), a copy of which was circulated at the meeting for review. The Chairman then noted that, in his opinion, the purchase of the Stock, pursuant to the proposed Stock Purchase Agreement, was in the best interests of the Association for the following reasons:

1. The Water Plant supplies potable water to all of the Subdivision; and
2. Under the terms and conditions of the "Declaration of Easements, Covenants, Conditions and Restrictions" for the Subdivision, the Association is charged with overseeing, administering and managing certain portions of the "Common Areas" for the common use and enjoyment of its "Members"; and
3. A consistent supply of potable water meeting the health requirements of Lake County, Florida and the State of Florida is vital for the common use and enjoyment of each of the lots in the Subdivision; and
4. It is in the best interests of all of the Association's Members that the Water Plant be owned and administered by the Association for common benefit of all of its Members rather than allowing it to be owned and operated by a private third party.

Following his presentation, the Chairman requested that the Association's members adopt a resolution authorizing its officers to execute and deliver the Stock Purchase Agreement on behalf of the Association and thereafter cause the Association to perform its duties and obligations thereunder including, without limitation, acquiring the Stock at the closing thereunder and executing and delivering the purchase money promissory note to CRI as set forth therein. A discussion ensued and thereafter, upon motion made and seconded, the Association's members duly adopted the following resolution:

RESOLVED that the officers of the Association are hereby authorized to execute and deliver the Stock Purchase Agreement on behalf of the Association and thereafter cause the Association to

perform its duties and obligations thereunder including, without limitation, acquiring the Stock at the closing thereunder and executing and delivering the purchase money promissory note to CRI as set forth therein.

The Chairman then observed that, at such time as the Association became the owner of the Stock pursuant to the Stock Purchase Agreement, then the current officers and directors of CRI would resign and the Association would be required to elect a new board of directors of CRI. Mr. Singleton requested that the Association's members adopt a resolution authorizing its officers to elect a board of directors for CRI from among themselves, in accordance with the terms and conditions of its by-laws and articles of incorporation, at such time as the Association becomes the owner of record of the Stock. A discussion ensued and thereafter, upon motion made and seconded, the Association's members duly adopted the following resolution:

RESOLVED that the officers of the Association are hereby authorized to elect the board of directors of CRI, from among themselves, in accordance with the terms and conditions of its by-laws and articles of incorporation, at such time as the Association becomes the owner of record of the Stock.

The Chairman advised those present at the meeting that, at such time as the officers of the Association elect the board of directors of CRI, then its officers, acting as the CRI directors, will need to take up the consideration of a resolution of the board of CRI reducing the potable water connection fee, for lots located in the Subdivision, from \$12800.00 per lot to \$4,000.00 per lot. Mr. Singleton requested that the Association's members adopt a resolution authorizing its officers, acting in their capacities as members of the board of directors of CRI, to adopt a resolution of the board of directors of CRI, reducing the potable water connection fee, for lots located in the Subdivision, from \$12800.00 per lot to \$4,000.00 per lot. A discussion ensued and thereafter, upon motion made and seconded, the Association's members duly adopted the following resolution:

RESOLVED that the officers of the Association, acting in their capacities as members of the board of directors of CRI, to are hereby authorized to adopt a resolution of the board of directors of CRI, reducing the potable water connection fee, for lots located in the Subdivision, from \$12800.00 per lot to \$4,000.00 per lot.

There being no new business to be discussed, a motion was made to adjourn the meeting, which was seconded and approved.



Ralph Singleton
Secretary