

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: November 12, 2014

TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk

FROM: Kyesha R. Mapp, Attorney, Office of the General Counsel *KRM*

RE: **Docket No. 140208-WS** – Notice of abandonment of water and wastewater systems in Highlands County by Country Club Utilities, Inc.

Docket No. 120172-WS – Application for staff-assisted rate case in Highlands County by Country Club Utilities, Inc.

Docket No. 140031-WS – Initiation of show cause proceedings against Country Club Utilities, Inc. in Highlands County for violations of Rule 25-30.120, FAC, Regulatory Assessment Fees; Water and Wastewater Utilities.

Attached please find a copy of the Petition to Appoint Receiver for Country Club Utilities, Inc. filed by Highlands County in the circuit court of Highlands County, Florida. Please file the document in the above docket files and reference Docket No. 140208-WS with the filing.

Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to contact me.

KRM

cc: Kelley F. Corbari (GCL)

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COMMISSION
CLERK

Kelley Corbari

From: Ross Macbeth <ross@macbethlaw.onmicrosoft.com>
Sent: Monday, November 10, 2014 3:59 PM
To: Robert S. Swaine ; Kelley Corbari; Kyesha Mapp; Matthew Smith-Kennedy; Amy Wells Brennan
Cc: Carolyn Durbin
Subject: Highlands County v. Country Club Utilities, Inc. GC14-611
Attachments: scanned Petition to Appoint Receiver.pdf

Hello One and All,

I have attached the Petition to Appoint Receiver that was filed with the Highlands County Clerk of Courts on November 6, 2014, in the Circuit Court of the Tenth Judicial Circuit in and for Highlands County, Florida, GC14-611.

J. Ross Macbeth
2543 US Hwy 27 S
Sebring, FL 33870-2125
Phone: (863)385-7600
Fax: (863)385-7911
E-mail: ross@macbethlaw.com

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR HIGHLANDS COUNTY, FLORIDA

HIGHLANDS COUNTY,
a political subdivision of the State of Florida

Petitioner,

vs.

Case No.: GC 14-611

COUNTY CLUB UTILITIES, INC.,
a Florida corporation,

Respondent.

PETITION TO APPOINT RECEIVER

HIGHLANDS COUNTY, a political subdivision of the State of Florida, hereby petitions the Court to appoint a receiver pursuant to Section 367.165, Florida Statutes, on the following grounds:

1. Petitioner, Highlands County, is a political subdivision of the State of Florida.
2. Respondent County Club Utilities, Inc., is a corporation organized and existing under the laws of the State of Florida. County Club Utilities, Inc., owns and operates Country Club Utilities located in Highlands County, Florida.
3. Pursuant to Section 367.165, Florida Statutes, and Section 62-620.610(15), Florida Administrative Code, Country Club Utilities, Inc., delivered a Notice of Abandonment to the Florida Public Service Commission and Petitioner Highlands County, on or about October 22, 2014, a copy of which is attached to this Petition as Exhibit A.
4. Pursuant to Section 367.165, Florida Statutes, Petitioner Highlands County, petitions this Court to appoint the City of Sebring, a Florida municipal corporation to be the a receiver of Country Club Utilities and related facilities.

Respectfully submitted this 9th day of November, 2014.


J. ROSS MACBETH
County Attorney
Florida Bar No. 0186278
2543 U.S. 27 South
Sebring, FL 33870-2125
Telephone: (863) 385-7600
ross@macbethlaw.com (primary)
carolyn@macbethlaw.com (secondary)

COUNTRY CLUB UTILITIES, INC.

3035 Wynstone Drive
Sebring, Florida 33875

October 22, 2014

June Fisher, County Administrator
Highlands County Board of County Commissioners
600 South Commerce Avenue
Sebring, Florida 33870
Email: jfisher@hcbcc.org
Certified Mail #7008 0150 0002 3588 6870

Art Graham, Chairman
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Certified Mail #7009 2250 0000 3182 2142

Re: Abandonment of Country Club Utilities

Ladies and Gentlemen:

Be advised that Country Club Utilities, Inc., a Florida corporation, hereby gives notice of its intent to abandon, in strict compliance with Section 367.165, Florida Statutes, the water and waste water utilities ("Country Club Utilities") within and serving the Country Club of Sebring, Highlands County, Florida.

The abandonment shall be effective sixty-five (65) days from the date this notice is dispatched to and receipt is confirmed (whichever is later) by the Board of County Commissioners of Highlands County, Florida and the Florida Public Service Commission. If necessary to accommodate the Court, the prospective receiver, or the residents of the Country Club of Sebring, the abandonment may be postponed by agreement for a reasonable time.

The Board of County Commissioners is respectfully requested to file the appropriate action in the Circuit Court seeking the appointment of a receiver to operate the Country Club Utilities so that there will be no interruption of service; and asking the court to establish a reasonable rate so that the outstanding encumbrances on Country Club Utilities may be paid.

Abandonment has become necessary because Country Club Utilities cannot pay its cost of operation. Rates have not been increased in over thirty (30) years. The current rate is \$.70 per thousand gallons (compared to the Southwest Florida Water Management District's average rate for equivalent service of \$2.70 per thousand gallons). Our rates are controlled by the Florida Public Service Commission ("PSC"). They have determined that Country Club Utilities does not qualify for a rate increase under the applicable statutes and rules.

The Florida Department of Environmental Protection ("DEP") mandated several actions and improvements (all to protect the public health--the most recent mandate requires Country Club Utilities to replace a second collapsed back-up well). Because Country Club Utilities cannot obtain a rate increase under the current PSC statutes and rules, Country Club Utilities does not have the capital to comply with the actions and improvements mandated by DEP. Country Club Utilities acknowledges that the DEP mandates are required by the statutes and

rules under which DEP operates. DEP worked diligently to assist Country Club Utilities in complying with the rules and statutes for the protection and benefit of the public.

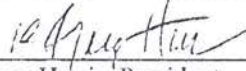
The South West Florida Water Management District ("Water District") brought legal action against Country Club Utilities to compel it to comply with the Water District's water use permit and to cease over-pumping. However, Country Club Utilities has no authority to force its customers to use less water. That authority resides with the Water District. Country Club Utilities is faced with a fine for over-pumping because its customers use more water than its permit allows. Country Club Utilities does not have the capital to pay the fine, nor the authority to reduce its customers' water use.

Greg Harris, as owner of Country Club Utilities, has personally invested a very significant amount of money to fund Country Club Utilities' attempt to comply with the DEP mandates, to petition the PSC for a rate increase, and to seek compliance with the Water District permit. However, these statutory schemes have, in this case, made compliance impossible and further attempts futile. Hence, Country Club Utilities will be abandoned so that utility service may be provided by one or more governmental agencies.

Based upon the above, Country Club Utilities, Inc., gives this notice that it intends to abandon the utilities so that government may provide the service.

Sincerely,

COUNTRY CLUB UTILITIES, INC.

By: 
R. Greg Harris, President

cc: Department of Environmental Protection
Southwest Florida Water Management District
City of Sebring
Prairie Oaks Community Association