

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS**

**FEBRUARY 6, 2013**

**JOINT WORKSHOP WITH THE CITY OF BUNNELL**

Present: Chair Nate McLaughlin, Vice Chair George Hanns, Commissioners Barbara Revels, Charles Ericksen and Frank Meeker, Clerk Gail Wadsworth, County Administrator Craig Coffey, County Attorney Al Hadeed, and Clerk's Secretary to the Board Rhea Cosgrove

City of Bunnell Mayor Catherine Robinson, Vice Mayor Jenny Crain-Brady, Commissioners Daisy Henry, Elbert Tucker and John Rogers, City Manager Armando Martinez, City Attorney Sid Nowell and Assistant City Clerk Sandi Bolser

**ITEM 1 - CALL TO ORDER**

Chair McLaughlin called the meeting to order at approximately 6:00 p.m. in the Emergency Operations Center of the Government Services Complex in Bunnell, Florida.

Mayor Catherine Robinson called the City of Bunnell Commission meeting to order at approximately 6:00 p.m.

**ITEM 2 - PLEDGE TO THE FLAG AND A MOMENT OF SILENCE**

Chair McLaughlin led the Pledge of the Flag and requested a moment of silence.

**ITEM 3 - WELCOME**

Chair McLaughlin welcomed everyone.

**ITEM 4 - OVERVIEW FROM CITY MANAGER AND COUNTY ADMINISTRATOR**

County Administrator Coffey gave an overview of the Plantation Bay Utility system noting it was part of a DRI (Development of Regional Impact) with just over 5,000 units. Pointed out the utility had approximately 1,500 customers with 750 in Flagler County and 750 in Volusia County along with a little over 250 platted lots in each county; in addition there were about 3,000 future units. Stated the utility had been active for approximately 28 years and the engineering report noted there were many issues with it relating to water quality, reuse water quality and the treatment of effluent coming into the system. Stated they had been contemplating how they would fix the current environmental and water quality problems and the operation of flow for the entire system. Pointed out the utility had not been maintained as it should have been and staff was approaching it as a long term issue that needed to be corrected and fixed.

Bunnell City Manager Martinez stated the reason for Bunnell becoming a part of the process was to reduce the economic impact it would have on the citizens receiving services from the utility. Pointed out the City of Bunnell would be able to apply and receive grant funding that would reduce the impact and Bunnell had been through the process before when they fixed their own plant. Stressed the important part was a deep concern to keep the rates as low as possible and to reduce the impact to the citizens that received services and to provide them with good quality water that they deserved.

**ITEM 5 - DISCUSSION OF ACQUISITION OF PLANTATION BAY:**

**ITEM 5A - ENGINEERING ANALYSIS**

Oscar Duarte, engineer with WadeTrim, stated WadeTrim was hired by the County to provide a condition assessment of the Plantation Bay Utility. Stated as part of the assessment they toured the site and reviewed the regulator documentation and additional historical information provided by the developer. Stated from the information gathered a report was prepared listing their findings and list compiled of projects to be looked into. He continued with a power point presentation (*on file in the Clerk's Office*).

Clayton McCormack, WadeTrim, continued with the presentation on the quality of water. Stated in the assessment the facility was determined to be in fair to good condition and needed repairs. Pointed out the items that needed repair was the mixing unit inside of the softener which had not been working for a few years and led to the use of excess of chemicals. Noted the sand filters had been rehabilitated but the lid on the chlorine contact tank was rusted and there were three sets of pumps that were approximately 25 years old. Stated the tank that stored finish water was in good condition but there were worker safety issues.

He continued with wastewater. Pointed out the problem with the plant had been under administrative order by the DEP for four years was in fair to poor condition.

Chair McLaughlin questioned the dollar amount of the fine that could be imposed.

County Administrator Coffey replied it could be as much as \$500 a day for every day it was out of compliance.

Mr. McCormack noted the utility had no redundancy or back up in place to clean or repair the system; he explained further.

Chair McLaughlin asked if the plant was up to speed what would be its value.

Mr. McCormack replied he could not answer the question, but a typical wastewater plant should last 20 years and this plant was now 28 years old.

Commissioner Meeker asked if dual redundancy was needed in the water treatment process.

Mr. McCormack replied water was different and did not have to meet the specific requirements, but he felt it should.

Commissioner Revels asked where the sludge was disposed of.

County Administrator Coffey replied Rainbow Ranch on Flagler County's southwest side.

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**(Item 5a – continued)**

Commissioner Ericksen asked how many items could be fixed without shutting the plant down.

County Administrator Coffey replied a new facility would have to be built before the old one could be repaired.

Mr. McCormack stated the three filters could be changed without shutting the plant down.

Commissioner Hanns stated his concern was the plant had not been brought up to standards, but the developer wanted a lot more than what it was worth. Stated the County had been dealing with the plant for a long time and he was not comfortable with it at all.

County Administrator Coffey stated the condition of the plant was not known until recently, but he was recommending moving forward in order to correct the issues.

Bunnell City Manager Martinez stated they felt there was an obligation to provide quality water.

Bunnell Commissioner Rogers stated he felt the plant needed a total overhaul.

Dan Burden, engineer with WadeTrim, went over the cost estimates and stated they had identified mechanical bar screen, redundant treatment facility, rehab of existing sand filters, redundant chlorine contact basin, redundant effluent storage pond and reuse instrumentation and monitoring for effluent disposal for a total estimated cost of \$3.4 million. Stated capital improvements were estimated at \$1.9 million and the renewal and replacement projects were estimated at \$2.3 million.

Mr. Duarte stated the facility was operational, but needed substantial improvements being it was 28 years old, but noted it had the capacity to handle the current demand and a little more development in the short term. He suggested the future owners should consider a capacity analysis to ensure the facility could handle future growth. Reviewed the recommendations made by WadeTrim.

There was discussion on water color.

Commissioner Meeker requested a hard copy and electronic copy of the presentation from WadeTrim. He asked if the concept was to allow the current system to operate then construct a new facility adjacent to it and then tear down the old facility.

Mr. Duarte replied no, a new wastewater treatment ring steel tank would be installed next to the existing one and then that would be taken down for repairs.

Bunnell Mayor Robinson asked how the fines would be determined.

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**(Item 5a – continued)**

County Administrator Coffey replied there would be standards in the consent order when negotiated and there would be inspectors.

There was discussion on wells and well fields.

Chair McLaughlin stated the people needed to have drinkable water, but the numbers were bothersome compared to the condition of the facility.

County Administrator Coffey explained the numbers added up to a little over \$5 million but if FDEP grant was received that would lower to \$3.5 million. Noted the renewal and replacement items would be part of the yearly plant operations as part of the enterprise fund.

Stated there were two wells and the engineering report addressed the threat of over pumping. Noted there were peak days when water use would spike and the water tanks would help.

Mr. Duarte stated the wells could handle enough to meet the capacity of current day, but if one of the wells went out one pump would not be able to handle the load.

County Administrator Coffey asked how the system was monitored.

Mr. Duarte replied wells one and two were monitored by signals that the operator at the plant could control, but wells three and four could be turned on manually. Pointed out the signal cabling ran through the tree branches, but they should have been run through underground cables.

County Administrator Coffey confirmed an older generator was on the water system and also one on the wastewater plant. He asked if the lift stations had generators.

Mr. Duarte stated a portable generator would be used on the lift stations.

There was further discussion.

Commissioner Meeker stated the plant needed to be replaced and someone had to replace it and the best estimate was \$13.1 million which was about \$650,000 a year over 30 years at 2.5%.

County Administrator Coffey agreed his numbers were close.

There was further discussion on fines.

Commissioner Hanns stated he felt the owner of the plant should not make a profit on a plant he did not maintain that now put people's health at risk.

**ITEM 5B - FINANCIAL ANALYSIS**

Robert Ori, CPA with Public Resources Management Group, gave a presentation (*on file in the Clerk's Office*). Stated he would speak on the financial forecast and observations they saw regarding the acquisition. Noted the objective was to fully recover the cost of the utility; he continued with the presentation.

**ITEM 5C - WATER PURCHASE AND SALE AGREEMENT**

County Administrator Coffey stated the sale agreement was between Plantation Bay Utility Company and the City of Bunnell with Flagler County being a third part beneficiary. Noted the closing date had been pushed back to May 31, 2013; he continued to go over the agreements.

County Attorney Hadeed explained the County Administrator and the Bunnell City Manager negotiated with the seller without the attorneys being present. Stated they would work out the deal points and then the attorneys would translate the agreements into words. He stressed "the devil is really were in the details". Noted the document given to the BCC as the basis for their briefings with the County Administrator. Stated the seller had delivered yet another document to him earlier this day that was different from what the BCC had.

Advised the County Administrator and City Manager along with the legal team told the seller they would no longer negotiate the points; he further explained. Pointed out the agreements the BCC was to consider where the one's given to them and no other.

**ITEM 5D - WASTEWATER DONATION AGREEMENT**

County Administrator Coffey stated the donation agreement was basically a mirror of the purchase and sale agreement; he explained the benefits.

County Attorney Hadeed introduced John Jenkins hired by the County and noted his expertise was in utility law.

John Jenkins, Nators, Giblin & Nickerson Attorneys at Law, confirmed the donation agreement largely mirrored the purchase agreement; he further explained. Stated the utility would be purchased in an "As Is" condition and once purchased the Flagler County and Bunnell would have to deal with the problems.

Pointed out a scrivener's error in Section 3.1 provided the utility (Flagler County) would sell the reclaimed water to the developer at one hundred and twenty million gallons a year; he stated the error was on an annual everyday basis the number should be 328,500 gallons.

There was further discussion on well fields.

Commissioner Revels questioned the wording in the Utility Developer Agreement, Section 9.0 Future Potable Water Wells that read "future well sites outside the well field will require payment to the developer of \$20,000 each, or four prepaid water and wastewater ERC's".

**(Item 5d – continued)**

County Administrator Coffey replied the number came from a letter the owner's engineer wrote in 2004; he continued to explain.

Commissioner Meeker suggested adding the language "for property owned by the developer" to the agreement.

Mr. Jenkins noted if it was unclear to people reading the agreement they should add their point in order to make it clear that it only applied to the developer's property.

*The BCC recessed at 8:55 p.m. and reconvened at 9:05 p.m.*

**ITEM 5E - INTERLOCAL AGREEMENT BETWEEN THE CITY AND COUNTY REGARDING THE PLANTATION BAY UTILITY SYSTEM**

County Administrator Coffey stated the agreement was a way to iron out their working relationship and how they would pursue operating the utility. Noted the agreement would make them equal partners; he further explained.

There was further discussion.

County Attorney Hadeed explained any change in the service area would be by amendment to the agreement approved by both bodies.

**ITEM 5F - REQUIREMENTS OF FLORIDA STATUTE**

County Administrator Coffey presented for the record binders of public briefing documents (*on file in the Clerk's Office*) and explained each one:

- City of Bunnell Plantation Bay Utility System Business Plan;
- Plantation Bay Utility System Financial Analysis, Utility Valuation Analysis Report and Engineering Condition Assessment Report;
- Plantation Bay Utility City of Bunnell Water Facilities Plan;
- Purchase of Plantation Bay Utility System, Florida Statutes 180.301 for the City of Bunnell and 125.3401 for Flagler County

County Hadeed presented for the record proof of advertising while noting they were not by statute required to advertise (*on file in the Clerk's Office*).

**ITEM 5G - FDEP LOAN REQUIREMENTS**

County Administrator Coffey stated there were a series of things that had to be done for the FDEP requirements; he further explained.

**ITEM 6 - PUBLIC COMMENT**

Jane Gentile-Youd, Plantation Bay, spoke on the possibility of the utility rates going up and suggested setting up an email system for the utility with the ability to pay online. Commented annexation by City of Bunnell could be considered if the area was allowed to keep the name of Plantation Bay, Florida.

Russ Reinke, Plantation Bay, noted after reading all of the materials he found it hard to tell exactly how much they would spend purchasing the utility. Stated the people of Plantation Bay needed quality water but noted the governments would be purchasing a questionable utility. Stated the current owner was under a DRI that stated he must do certain things.

Alan Peterson, Palm Coast, suggested the BCC delay its decision because the owner of the utility was under state requirements to improve the system or he would be fined. Noted the engineers stated the utility was in poor/fair condition, but the Florida Governmental Utility Authority did a study 15 months ago that stated the utility had no value. Pointed out the County had another option under the DRI that allowed it to purchase the plant on request at a much different formula. He questioned if it was a fair to pay the owner \$5.5 million for the system and spend another \$5.5 to \$7 million for repairs and then assess the users of Plantation Bay the entire cost over a period of time.

County Attorney Hadeed explained the DRI.

**ADJOURNMENT**

**A motion was made by Commissioner Creeker to adjourn at 9:58 p.m. Seconded by Commissioner Revels.**

APPROVED AND ADOPTED \_\_\_\_\_

ATTEST:

FLAGLER COUNTY BOARD OF  
COUNTY COMMISSIONERS

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Gail Wadsworth  
Clerk and Ex Officio Clerk to the Board

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Nate McLaughlin  
Chair