

Position Paper On Central Lake CDD Wastewater Proposal To Town Of Howey In The Hills

To The Residents of Howey In The Hills, and its Town Council:

As I am sure you are aware, the Howey-Groveland area will be the next major growth area in Central Lake County, Florida. Mr. Scott Line and Mr. Bud Beucher, Managing Members of the Sewer & Water Plant Investments, LLC (the Private Utility) and its wholly controlled entity, the Central Lake Community Development District (the CDD) have proposed a privately owned alternative for wastewater services in the Town of Howey In The Hills (the Town) Water and Wastewater Service Area (attachment 1), presented to the Town Council on July 10, 2023. The issues the Town has identified in this proposal that require adjustment to make it more equitable to the Town and its residents include, but may not be limited to the following:

- a. The proposal suggests that the Town invest public funds into the expansion of a privately owned wastewater treatment facility that the Town would have no equity interest therein. The Town would be more comfortable with a proposal that results in the Town having an equity ownership interest in the wastewater treatment plant and the underlying real property.
- b. The proposed method of recouping the Town's capital outlay cost through a "CIAC" charge is the normal practice in the water and wastewater industry, and virtually every publicly and privately owned utility in the State of Florida use it to recover their capital investment. The Town could easily use these same procedures without the additional overhead costs of the CDD/Private Utility owner.
- c. After sixteen years of operation, the Town recognizes the current wastewater fee structure may now have reached a point where it makes it difficult for the Private Utility wastewater plant owners to received their desired investment rate of return. If this current rate is inadequate, the July 10, 2023 proposal provides no basis for adjusting the rate to a different amount.
- d. The Town also recognizes the concerns of its residents who are the ultimate customers of the wastewater treatment plant. Many of these residents in the Venezia and Talichet subdivisions report water and wastewater expenses greater than \$200 a month and find them unaffordable. We note that the current contractual arrangement between the CDD and Private Utility directs all reclaimed water to a privately owned golf course, resulting in the Town residents having to use much more expensive potable water to irrigate their lawns and landscaping. Until recently there was mutual, beneficial ownership of the privately owned wastewater plant and the privately owned resort golf course. The future separation of the ownership of these quite different services and their related revenues and expenses need to be explained and the method of provision of affordable reclaimed water to Town residents addressed.
- e. We understand that the current CDD lease with the Private Utility owned wastewater treatment facility still has almost 25 years of its original 40 years remaining. The new proposal from the CDD/Private Utility owners asks for the Town to provide it the right to

provide wastewater and reclaimed water to Town customers in perpetuity. This is not an acceptable condition to the Town.

- f. In addition, to providing its wastewater services in perpetuity, the CDD/Private Utility owner asks for exclusive rights to provide wastewater and reclaimed water services to residents in the Town's service area. This is likewise not acceptable to the Town.
- g. The use of the CDD government designation, obtained from Lake County in 2001, appears to provide two benefits to the Private Utility owners. First, the definition of the CDD boundaries has been purposely configured to allow the owners of the Private Utility to be the only persons allowed to vote in CDD Board elections, hence the privately owned utility effectively controls the CDD. Thus, it does not meet the minimum requirements recognized by the Federal Internal Revenue Service to be a true government entity. As such, the CDD would not be able to issue lower interest rate municipal debt to obtain capital for expansion, as a Federal tax exempt entity.
- h. Second, through use of the CDD to provide the services, this allows the privately owned utility to escape regulatory oversight and public rate review by the State of Florida Public Service Commission. The method of rate regulation of this Private Utility to make sure it is charging reasonable rates is not addressed in the Private Utility/CDD proposal.
- i. The Private Utility/CDD proposal lists six advantages to the Town that this proposal would present. However, all six of the items suggested are already within the purview and powers of the Town, and could be used regardless of the acceptance of this proposal.
- j. Finally, the proposal suggests that the rates the Town pays the CDD/Private Utility for what is referred to as wholesale services be increased and a mechanism for Town residents to receive future rate increases be put in place. There is no benefit proposed for the Town or its residents nor methodology explained for increasing their rates and payments. This would solely benefit the private owner of the wastewater plant facility with no return benefit to the Town or its residents.

In summary, the Town Council agrees this proposal would be a "win" for the private owner of the wastewater plant. It appears to be much less satisfactory to the Town and its residents, who would pay for the wastewater treatment services. A true "win-win" is where both parties would benefit equally. It would provide the private owners receive a fair market price for their services and property and the Town would acquire equity ownership and spend the capital resources necessary to reconstruct, update and expand the 20 plus year old treatment plant to meet the expected increase in service demand, while affording its residents and customers reasonable prices commensurate with the services provided.

The Town would appreciate a fair market value sale proposal from the current owners of the treatment plant, transmission lines, easements, and other wastewater and reuse facilities owned by them. This would better serve the Town's needs and also reduce the need to construct as much additional wastewater treatment plant capacity for the anticipated future development. Please provide a price valuation proposal for the wastewater treatment plant at your earliest opportunity to address a Town purchase option for the private facilities, including

treatment plant, transmission lines, lift stations, easements and all other facilities owned in the Town service area by the Sewer & Water Plant Investments, LLC.

Prepared by:

David R. Miles,
Town Council Member

INTRODUCTION. The Town of Howey-In-The-Hills (the "Town") has the opportunity to provide and control wastewater service to future developers, residents and businesses within the Town's Utility Service Area through an expanded relationship with the Central Lake Community Development District (the "CDD").

BACKGROUND. The Town and the CDD have a current contractual relationship regarding wastewater service that dates back to 2007 and covers (i) the Reserve Property, (ii) Venezia South and Townhomes, (iii) Talichet Phases 1 and 2, (iv) Lake Hills, (v) Lake County School Board, (vi) Bishop's Gate, and (vii) certain businesses located in Downtown Howey, including the library.

The CDD's wastewater facility is 26 acres, has a 4.4 million gallon lined pond, and has a capacity of 870,000 gallons per day (which is equivalent to 3,480 homes). All of the current capacity in the CDD's wastewater facility has been purchased by third parties. However, the CDD's wastewater facility can be expanded to add an additional 2.61 million gallons per day of capacity (which is the equivalent to 10,440 additional homes). Such expansion greatly exceeds the number of potential new homes projected under the Town's Major Development Summary dated October 2022 (prepared by TMH Consulting, Inc.) Due to engineering requirements, any expansion of the CDD's wastewater facility would need to be constructed in increments of 435,000 GPD (which is equivalent to 1,740 additional homes).

As part of the expansion mentioned in the above paragraph, new pipes and lift stations would also need to be installed from the developments to the CDD's wastewater facility. The new pipes would send the wastewater to the CDD's wastewater facility and also for the return of re-use to the developments/homes. This would be done under a Pioneer Agreement whereby the Town incurs the costs up front (including the cost to upsize pipes) but recoups such costs from future developers. See the attached map showing (in yellow) the general location of where the new pipes would need to go in order to serve potential new developments on the north and west side of the Town, including Drake Point, Westminster, Lake Hills, Bouis Sisters' property, and Cedar Creek.

PROPOSED PLAN. The Town would fund the expansion of the CDD's wastewater facility and the new pipes and lift stations. The size of the expansion would be determined by the Town based on the amount of additional capacity it desires (but note, the increments and maximum expansion details mentioned in the Background paragraph above). The Town would then "own" such additional capacity and would be able to sell it to third parties in the Town's Utility Service Area that need wastewater capacity. The Town would be able to recoup all (and likely more than) its capital investment by charging a wastewater Contribution In Aid of Construction ("CIAC") fee to a new homeowner/business utilizing such capacity (note, the CIAC fee charged shall not be less than the CDD's then current standard wastewater CIAC fee, but the Town would have the discretion of charging a higher amount) and also by charging developers for their share of the costs incurred to install the new pipes and lift stations.

The Town and the CDD would need to negotiate an amendment to their current Wholesale Wastewater Service Agreement to address the above plan, but the overriding structure of such agreement would continue, which is that the CDD would be the wholesale provider of wastewater capacity to the Town and the Town would be the retail provider of wastewater capacity to its customers. From the CDD's perspective, it is important that such agreement provides for a fair wholesale rate for wastewater (as the current \$24 rate is too low and hasn't been increased in 16 years), provides for a wholesale rate for re-use, the term of the agreement runs in perpetuity, and that the CDD will be the exclusive provider to the Town (up to the maximum capacity that the CDD's wastewater facility can be expanded to). Importantly, the Town would control the service of wastewater to its customers, including, but not limited to:

- (i) being able to serve and manage future developments in the Town's Utility Service Area,
- (ii) setting the retail rate to its customers,
- (iii) setting the wastewater CIAC fee,
- (iv) setting the recoupment amount under the Pioneer Agreement,
- (v) requiring and being able to provide re-use for lawn/landscape irrigation, and
- (vi) eliminating any package plants or septic tanks, which are less environmentally friendly than a traditional wastewater treatment facility.

Equally as important, the Town's only future financial obligations would be to maintain the pipes and lift stations on its side of the point of connection to the CDD's wastewater facility, pay a reservation fee for any un-used capacity (note, the current reservation fee is \$4/month per 250 GPD of capacity) and pay the wholesale rate to the CDD for the wastewater capacity/re-use utilized by the Town's customers.

SUMMARY. The above plan provides the Town with the ability to control wastewater service in its Utility Service Area without the significant cost, risk and time of developing, operating, staffing, and maintaining its own wastewater facility (or facilities). It also avoids the practical and political challenges of finding an acceptable location in the Town for the Town's own wastewater facility, including finding a large enough piece of land that is located away from current (and future) residents and that can also accommodate the size requirements for the lined ponds and rapid filtration basins. It also is financially beneficial to the Town, as the Town will be able to recoup all of its up-front capital costs (and in all likelihood will be able to recoup additional amounts as the CIAC fee for wastewater gets adjusted to reflect inflation and increased construction costs) from future developers. Furthermore, as the retail provider, the Town will retain the difference between the monthly wholesale rate it pays the CDD for wastewater service and the higher monthly retail rate it charges its residents, and multiplying that difference by 1,740 additional homes will result in significant monthly and annual revenue to the Town. In short, this is a win-win for the Town and the CDD.



