



## Filing Receipt

**Received - 2023-01-12 11:48:22 AM**  
**Control Number - 50788**  
**ItemNumber - 263**

**SOAH DOCKET NO. 473-20-4071.WS  
PUC DOCKET NO. 50788**

<b>RATEPAYERS APPEAL OF THE DECISION BY WINDERMERE OAKS WATER SUPPLY CORPORATION TO CHANGE WATER AND SEWER RATES</b>	<b>§ § § § §</b>	<b>BEFORE THE STATE OFFICE  OF  ADMINISTRATIVE HEARINGS</b>
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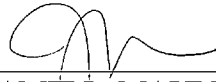
**WINDERMERE OAKS WATER SUPPLY CORPORATION RESPONSE TO  
RATEPAYERS' FIFTH REQUEST FOR INFORMATION**

Windermere Oaks Water Supply Corporation (WOWSC) files this Response to the Fifth Request for Information (RFI) filed by Ratepayers. The discovery request was received by WOWSC on December 20, 2022; therefore, these responses are timely filed. Pursuant to 16 Tex. Admin. Code (TAC) § 22.144(c)(2)(F), these responses may be treated as if they were filed under oath.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE  
& TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
(512) 322-5800  
(512) 472-0532 (Fax)



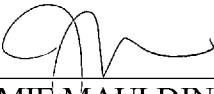
\_\_\_\_\_  
JAMIE L. MAULDIN  
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**ATTORNEYS FOR WINDERMERE OAKS  
WATER SUPPLY CORPORATION**

**CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on January 12, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.

  
\_\_\_\_\_  
JAMIE MAULDIN

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH REI**

**RATEPAYERS 5-1:**

Admit or Deny: that on the November 18, 2022 at the conclusion of the *Rene Ffrench, John Richard Dial, Stuart Bruce Sorgen, Intervenor Plaintiffs, and as Representatives for Windermere Oaks Water Supply Corporation v. Friendship Homes & Hangars, LLC and Burnet County Commissioners Court, Windermere Water Supply Corporation et. al.*, the Jury submitted to the court a Verdict Certificate, attached as Attachment A which answered "No" to the following questions.

- a.) Were the material facts as to Martin's relationship or interest in FFH and as to the Sale Contract or transaction disclosed to or known by the WOWSC's board of directors as of the December 19, 2015 board meeting?
- b.) Was the Sale Contract or transaction fair to the WOWSC when approved by the board of directors?
- c.) In connection with the transaction to purchase the Property from WOWSC, did Dana Martin comply with her fiduciary duty as director of WOWSC?

**RESPONSE:**

- a.) Admit.
- b.) Admit.
- c.) Admit.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH REI**

**RATEPAYERS 5-2:**

Admit or Deny: that on the November 18, 2022 at the conclusion of the *Rene Ffrench, John Richard Dial, Stuart Bruce Sorgen, Intervenor Plaintiffs, and as Representatives for Windermere Oaks Water Supply Corporation v. Friendship Homes & Hangars, LLC and Burnet County Commissioners Court, Windermere Water Supply Corporation et. al.*, the Jury submitted to the court a Verdict Certificate, attached as Attachment A which answered “Yes” to the following questions.

- a.) Whether FHH had been used for personal purposes of Dana Martin.
- b.) Whether FHH used Dana Martin for dishonesty of purpose or intent to deceive.
- c.) Was FHH part of a conspiracy with Dana Martin that damaged the WOWSC?

**RESPONSE:**

- a.) Deny—this rephrases Question 3.
- b.) Deny—this rephrases Question 3.
- c.) Admit.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez

**DOCKET NO. 50788**

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-3:**

Please provide the amount in dollars that Windermere netted from the 2016 land deal to Dana Martin/Friendship Homes and Hanger.

**RESPONSE:**

\$200,000.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH REI**

**RATEPAYERS 5-4:**

As of November 21, 2022, provide an estimate of Windermere's incurred legal expenses in the *Rene Ffrench, John Richard Dial, Stuart Bruce Sorgen, Intervenor Plaintiffs, and as Representatives for Windermere Oaks Water Supply Corporation v. Friendship Homes & Hangars, LLC and Burnet County Commissioners Court, Windermere Water Supply Corporation et. al.*.

**RESPONSE:**

\$626,825.85.

See Attachment Ratepayers 5-4.

Prepared by: Joe Gimenez

Sponsored by: Joe Gimenez

## Billing Summary

Report Period: 1/1/2019 to 12/31/2019

Client Matter	Client Name Matter Name	Date	Bill Number	Bill Tkpr	Fees	Expenses	Interest/Surcharge Taxes	Total
<b>19062</b>	<b>Windermere WS Directors</b>							
00001	Land Sale Litigation			SLO				
	06/30/2019	9564			\$525.00	\$0.00	\$0.00	\$525.00
							\$0.00	
	07/31/2019	9734			\$210.00	\$0.00	\$0.00	\$210.00
							\$0.00	
	08/31/2019	9851			\$180.00	\$0.00	\$0.00	\$180.00
							\$0.00	
	09/30/2019	10009			\$6,360.00	\$23.68	\$0.00	\$6,383.68
							\$0.00	
	10/31/2019	10188			\$3,945.00	\$11.46	\$0.00	\$3,956.46
							\$0.00	
	11/30/2019	10352			\$10,530.00	\$1.87	\$0.00	\$10,531.87
							\$0.00	
	12/31/2019	10518			\$14,370.00	\$1,007.17	\$0.00	\$15,377.17
							\$0.00	
<b>Matter Totals For 00001</b>					\$36,120.00	\$1,044.18	\$0.00	\$37,164.18
							\$0.00	
<b>Client Totals For 19062</b>					\$36,120.00	\$1,044.18	\$0.00	\$37,164.18
							\$0.00	
<b>Report Totals</b>					\$36,120.00	\$1,044.18	\$0.00	\$37,164.18
							\$0.00	



Client: 19062 Windermere WS Directors  
 Matter: (All Matters)

Type	Matter	Bill	Date	Fees	Expenses	A/R Balance	Comment
Bill	00001	10670	01/31/2020	\$7,320.00	\$0.00	\$7,320.00	From bill #10670
Bill	00001	10765	02/29/2020	\$2,340.00	\$0.00	\$9,660.00	From bill #10765
Bill	00001	10910	03/31/2020	\$8,745.00	\$0.00	\$18,405.00	From bill #10910
Bill	00001	11063	04/30/2020	\$5,280.00	\$0.00	\$23,685.00	From bill #11063
Bill	00001	11203	05/31/2020	\$4,290.00	\$22.82	\$27,997.82	From bill #11203
Bill	00001	11342	06/30/2020	\$19,590.00	\$284.85	\$47,872.67	From bill #11342
Bill	00001	11475	07/31/2020	\$12,795.00	\$98.82	\$60,766.49	From bill #11475
Bill	00001	11693	08/31/2020	\$4,785.00	\$0.00	\$65,551.49	From bill #11693
Bill	00001	11871	09/30/2020	\$1,110.00	\$0.00	\$66,661.49	From bill #11871
Bill	00001	11979	10/31/2020	\$45,586.50	\$0.00	\$112,247.99	From bill #11979
Bill	00001	12063	11/30/2020	\$24,601.50	\$187.67	\$137,037.16	From bill #12063
Bill	00001	12185	12/31/2020	\$27,645.00	\$958.90	\$165,641.06	From bill #12185
				<u>\$164,088.00</u>	<u>\$1,553.06</u>		

**Enoch Kever PLLC****Billing Activity**

Report Period: 06/01/2020 - 11/14/2022

Bill #	Fees	Expenses	Interest	Surcharge	Taxes	Total	Advance	Trust
19062	Windermere WS Directors							
00001	Land Sale Litigation							
					Billing Attorney:	SLO		
11342	19,590.00	284.85	0.00	0.00	0.00	19,874.85	0.00	0.00
11475	12,795.00	98.82	0.00	0.00	0.00	12,893.82	0.00	0.00
11693	4,785.00	0.00	0.00	0.00	0.00	4,785.00	0.00	0.00
11871	1,110.00	0.00	0.00	0.00	0.00	1,110.00	0.00	0.00
11979	45,586.50	0.00	0.00	0.00	0.00	45,586.50	0.00	0.00
12063	24,601.50	187.67	0.00	0.00	0.00	24,789.17	0.00	0.00
12185	27,645.00	958.90	0.00	0.00	0.00	28,603.90	0.00	0.00
12335	10,245.00	842.49	0.00	0.00	0.00	11,087.49	0.00	0.00
12553	14,115.00	4,015.30	0.00	0.00	0.00	18,130.30	0.00	0.00
12593	27,295.00	313.93	0.00	0.00	0.00	27,608.93	0.00	0.00
12871	16,140.00	1,388.52	0.00	0.00	0.00	17,528.52	0.00	0.00
12986	20,415.00	294.06	0.00	0.00	0.00	20,709.06	0.00	0.00
13052	5,360.00	0.00	0.00	0.00	0.00	5,360.00	0.00	0.00
13282	5,385.00	0.00	0.00	0.00	0.00	5,385.00	0.00	0.00
13381	3,240.00	0.00	0.00	0.00	0.00	3,240.00	0.00	0.00
13533	165.00	0.00	0.00	0.00	0.00	165.00	0.00	0.00
14166	630.00	0.00	0.00	0.00	0.00	630.00	0.00	0.00
14323	270.00	0.00	0.00	0.00	0.00	270.00	0.00	0.00
14721	45.00	0.00	0.00	0.00	0.00	45.00	0.00	0.00
15037	525.00	0.00	0.00	0.00	0.00	525.00	0.00	0.00
15192	180.00	0.00	0.00	0.00	0.00	180.00	0.00	0.00
16367	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
16822	4,350.00	0.00	0.00	0.00	0.00	4,350.00	0.00	0.00
17124	4,500.00	0.00	0.00	0.00	0.00	4,500.00	0.00	0.00
17421	39,165.00	145.73	0.00	0.00	0.00	39,310.73	0.00	0.00
17561	1,065.00	0.00	0.00	0.00	0.00	1,065.00	0.00	0.00
<b>Matter Totals</b>	289,203.00	8,530.27	0.00	0.00	0.00	297,733.27	0.00	0.00
<b>Client Totals</b>	289,203.00	8,530.27	0.00	0.00	0.00	297,733.27	0.00	0.00
<b>Totals</b>	289,203.00	8,530.27	0.00	0.00	0.00	297,733.27	0.00	0.00



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December 22, 2020

Windermere Oaks Water Supply Corporation  
Attn Joe Gimenez  
Board President  
424 Coventry Road  
Spicewood, TX 78669

Client: 3870  
Matter: 1  
Billing Atty.: JEF

## REMINDER STATEMENT

RE: TOMA Integrity Litigation

Invoice Number	Invoice Date	Fees	Expenses	Invoice Total	Payments / Credits	Balance
97506700	January 16, 2020	32,434.50	979.77	33,414.27	26,823.60	6,590.67
97507343	February 28, 2020	21,277.00	1,022.41	22,299.41	0.00	22,299.41
97507927	March 13, 2020	1,800.00	41.46	1,841.46	0.00	1,841.46
97509397	April 16, 2020	4,200.00	0.00	4,200.00	0.00	4,200.00
97510250	May 26, 2020	1,815.00	0.00	1,815.00	0.00	1,815.00
97511429	June 22, 2020	3,981.00	0.00	3,981.00	0.00	3,981.00
97512452	July 23, 2020	18,789.50	0.00	18,789.50	0.00	18,789.50
97513408	August 24, 2020	2,863.50	0.00	2,863.50	0.00	2,863.50
97515468	October 27, 2020	3,981.00	0.00	3,981.00	0.00	3,981.00
97515984	November 25, 2020	6,328.00	0.00	6,328.00	0.00	6,328.00
Total Amount Due:						<b>\$72,689.54</b>

\*Note: Last payment of \$ 9,414.70 was received/applied on October 13, 2020

## AGED ACCOUNTS RECEIVABLE

0 - 30 Days	31 - 60 Days	61 - 90 Days	91 - 120 Days	Over 120 Days
6,328.00	3,981.00	-	2,863.50	59,517.04

Lloyd Gosselink Rochelle & Townsend, P.C.



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January 19, 2021

Windermere Oaks Water Supply Corporation  
Attn Joe Gimenez  
Board President  
424 Coventry Road  
Spicewood, TX 78669

Client: 3870  
Matter: 1  
Billing Atty.: JEF

## REMINDER STATEMENT

RE: TOMA Integrity Litigation

Invoice Number	Invoice Date	Fees	Expenses	Invoice Total	Payments / Credits	Balance
97509397	April 16, 2020	4,200.00	0.00	4,200.00	0.00	4,200.00
97510250	May 26, 2020	1,815.00	0.00	1,815.00	0.00	1,815.00
97511429	June 22, 2020	3,981.00	0.00	3,981.00	0.00	3,981.00
97512452	July 23, 2020	18,789.50	0.00	18,789.50	0.00	18,789.50
97513408	August 24, 2020	2,863.50	0.00	2,863.50	0.00	2,863.50
97515468	October 27, 2020	3,981.00	0.00	3,981.00	0.00	3,981.00
97515984	November 25, 2020	6,328.00	0.00	6,328.00	0.00	6,328.00
97518327	December 22, 2020	7,580.00	0.00	7,580.00	0.00	7,580.00
<b>Total Amount Due:</b>						<b>\$49,538.00</b>

\*Note: Last payment of \$ 30,731.54 was received/applied on January 06, 2021

## AGED ACCOUNTS RECEIVABLE

0 - 30 Days	31 - 60 Days	61 - 90 Days	91 - 120 Days	Over 120 Days
7,580.00	6,328.00	3,981.00	-	31,649.00

Lloyd Gosselink Rochelle & Townsend, P.C.



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December 29, 2022

Windermere Oaks Water Supply Corporation  
Attn Joe Gimenez  
Board President  
424 Coventry Road  
Spicewood, TX 78669

Client: 3870  
Matter: 1  
Billing Atty.: JEF

## REMINDER STATEMENT

RE: TOMA Integrity Litigation

Invoice Number	Invoice Date	Fees	Expenses	Invoice Total	Payments / Credits	Balance
97519013	January 19, 2021	24,645.50	146.96	24,792.46	0.00	24,792.46
97521030	March 08, 2021	3,815.00	0.00	3,815.00	0.00	3,815.00
97521073	March 26, 2021	11,155.00	0.00	11,155.00	0.00	11,155.00
97521518	April 19, 2021	6,645.00	6.35	6,651.35	0.00	6,651.35
97522038	May 28, 2021	11,810.00	0.00	11,810.00	0.00	11,810.00
97522783	June 29, 2021	16,325.00	0.00	16,325.00	0.00	16,325.00
97523562	July 20, 2021	13,450.00	0.00	13,450.00	0.00	13,450.00
97524460	August 24, 2021	10,625.00	0.00	10,625.00	0.00	10,625.00
97525199	September 20, 2021	12,195.00	0.00	12,195.00	0.00	12,195.00
97525991	October 29, 2021	390.00	0.00	390.00	0.00	390.00
97526873	November 28, 2021	595.00	0.00	595.00	0.00	595.00
97527583	December 03, 2021	480.00	0.00	480.00	0.00	480.00
97528295	January 18, 2022	180.00	0.00	180.00	0.00	180.00
97529033	February 14, 2022	330.00	0.00	330.00	0.00	330.00
97529875	March 30, 2022	952.50	0.00	952.50	0.00	952.50
97530866	April 05, 2022	90.00	0.00	90.00	0.00	90.00
97532567	June 27, 2022	330.00	0.00	330.00	0.00	330.00

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December 29, 2022

Windermere Oaks Water Supply Corporation  
Attn Joe Gimenez  
Board President  
424 Coventry Road  
Spicewood, TX 78669

Client: 3870  
Matter: 1  
Billing Atty.: JEF

## REMINDER STATEMENT

Invoice Number	Invoice Date	Fees	Expenses	Invoice Total	Payments / Credits	Balance
97533249	July 29, 2022	1,341.00	0.00	1,341.00	0.00	1,341.00
97533974	August 23, 2022	4,382.00	0.00	4,382.00	0.00	4,382.00
97535197	October 04, 2022	58,926.50	909.05	59,835.55	0.00	59,835.55
97536849	November 30, 2022	3,959.00	0.00	3,959.00	0.00	3,959.00
Total Amount Due:						<b>\$183,683.86</b>

\*Note: Last payment of \$ 5,852.04 was received/applied on November 21, 2022

## AGED ACCOUNTS RECEIVABLE

0 - 30 Days	31 - 60 Days	61 - 90 Days	91 - 120 Days	Over 120 Days
3,959.00	-	59,835.55	-	119,889.31

Lloyd Gosselink Rochelle & Townsend, P.C.

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RE**

**RATEPAYERS 5-5:**

Please reference the January 23, 2020, WOWSC Board Meeting Minutes Approved, attached as Attachment B to this filing, to answer the following questions

- a.) Page three, Item 8(f) states, "Troupe Brewer communicated WOWSC's request to Lloyd Gosselink to spread invoice payments over several months." Please quantify the meaning of "several months" as referenced in these minutes.
- b.) Did Lloyd Gosselink agree to spread invoice payments over several months? If yes, please state the number of months and provide the Board meeting minutes indicating that Lloyd Gosselink agreed to Windermere's request.

**RESPONSE:**

- a.) More than two months, but not many more. At the time of the discussion, WOWSC hoped the plaintiffs would drop the lawsuit so the Board could lower rates.
- b.) Yes. However, Lloyd Gosselink did not agree to spread the invoices over a specific number of months because it was unclear when the lawsuit would end.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez

**DOCKET NO. 50788**

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-6:**

Admit or Deny: Windemere proposed to Enoch and Kever a plan to spread invoice payments over several months?

**RESPONSE:**

Admit.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez



**DOCKET NO. 50788**

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-7:**

If the answer to 5-3 is Admit, state the number of months and provide the Board meeting minutes indicating that Enoch and Kever agreed to Windermere's request.

**RESPONSE:**

No response. Ratepayers 5-3 did not request that WOWSC admit or deny any statement.

Nevertheless, at the 2021 annual meeting, the Board president informed WOWSC members of WOWSC's arrangement with Enoch Kever. See Attachment Ratepayers 5-7.

Prepared by: Joe Gimenez

Sponsored by: Joe Gimenez



# Windermere Oaks Water Supply Corporation

424 Coventry Rd  
Spicewood, Texas 78669

## 2020 - 2021 Board of Directors:

Joe Gimenez, President  
Patricia Gerino, Vice President  
Mike Nelson, Secretary/Treasurer  
Rich Schaefer, Director  
Dorothy Taylor, Director

**Windermere Oaks Water Supply Corporation (WOWSC) Annual Members Meeting held: Saturday, March 27, 2021 via videoconference using Zoom; election conducted at WO Pavilion.**

**2020 - 2021 Board Members Present:** Patricia Gerino, Joe Gimenez, Mike Nelson, Rich Schaefer, Dorothy Taylor

## Minutes

- 1) Presiding director calls the meeting to order.
  - a) Joe Gimenez called the meeting to order at 11:01AM
- 2) Presiding director will ask the Election Auditor for a total of the members who have voted by mail, delivered, or in person the day of the meeting. The presiding director will report the total number of members who voted, and declare a quorum and that the meeting and election counting may proceed. The Independent Election Auditor will begin counting the official ballots.
  - a) Total number of members who voted by:
    - i) Mail and drop box: 141
    - ii) In person: 47
  - b) Total number of members who voted: 188
  - c) Total number of ballots not counted due to defects: 4
  - d) Total number of ballots not counted provisional: 1
  - e) Joe declared a quorum at 11:03AM and that election counting was to proceed.
- 3) Presiding director allows for the general public to speak (3 minute limit per person)
  - a) None
- 4) Approval of the previous Annual Member Meeting February 1, 2020 minutes.
  - a) Motion made and carried by all to approve the February 1, 2020 WOWSC Annual Member Meeting minutes.
- 5) Update reports
  - a) Report of corporation manager, to include report on system's operations, update of projects and strategic plan for 2021, including completion of LCRA-grant conservation projects, coronavirus impacts, zebra mussel infestation of equipment, plans and application status for new clarifier, and dispersant field expansion at Spicewood Airport.
    - i) 2021 Five Year Plan
 

For 2021:

      - (1) Construct new clarifier: \$400,000
        - (a) George anticipates the project will be approved by TCEQ in the next couple of weeks
      - (2) Water Treatment Plant recycle project: \$24,000
        - (a) Work is in progress and the project is ~50% complete.
      - (3) Zebra Mussel mitigation: \$80,000
        - (a) George is working with TCEQ to gain approval for WOWSC's proposal.

For 2022;

      - (4) Irrigation field expansion: \$100,000

- (a) Ridge Harbor and Barton Creek Lakeside have contacted WOWSC regarding using WOWSC's dispersant fields as they do not have sufficient area in their dispersant fields.

For 2024;

- (5) Distribution system valve replacements: \$175,000
  - (a) Replacing ~40 year old valves that have reached their end of life
- ii) SAPA grass landing strip as dispersant field project at expense of SAPA
- iii) WOWSC completed installation of the back-up generator in February 2020 which was key to maintaining water service and minimizing damage to the system during the recent severe freeze.
- iv) Impact of Covid – since most work outside and procedures in place, no lost time.
- v) TCEQ inspection of the WWTP found no violations
- vi) Joe Gimenez mentioned system growth and the need to address growth and increase in connections in neighborhood
- b) Treasurer's report of Board approved 2021 Budget, 2020 Balance Sheet and 2020 P&L Statement.
  - i) Reviewed the
    - (1) 2020 Year-End Summary of Income / Expense
    - (2) 2020 Year-End Balance Sheet
    - (3) 2020 Year-End Profit & Loss
      - (a) Water & Sewer Services Income = \$535K
      - (b) Legal expenses = \$240.8K
      - (c) Net Ordinary Income = \$62.2K
    - (4) 2021 Budget
      - (a) Water & Sewer Services Income = \$540K
      - (b) Legal expenses budget = \$250K
      - (c) Projected loss = \$49.3K with revenue projection using current rates
- 6) Report of Board President to summarize events and accomplishments of the corporation in the past year and issues going forward, including but not limited to, financing for clarifier, status of lawsuits, and ebilling and automated payments.
  - a) Strengths
    - i) George Burriss, Tommy Collier of Corix Utilities
    - ii) George led WOWSC maintaining water service through the recent severe freeze as well as the drought and the storm that took out WOWSC's water intake barge.
    - iii) The back-up generator installed early last year ago was key to maintaining service during the recent severe freeze.
    - iv) Water quality: no violations from TCEQ for the fourth consecutive year of perfect results
    - v) Recent water pressure test passed
    - vi) TCEQ's inspection of the WWTP found no violations
    - vii) LCRA provided a grant of \$14,094 for WTP and WWTP recycle projects. WWTP recycle project was completed in October 2020 and reduce water loss by ~100,000 gallons per month which reduced the strain on our system during the recent severe freeze.
    - viii) Strong financial position; CoBank loans approval
    - ix) WOWSC's clarifier is reaching its end of life and needs replacement
  - b) Weaknesses
    - i) Key man considerations
  - c) CoBank's feedback: "It wasn't an easy task as the lawsuit and rate challenge are clouding the waters and create some uncertainty. Thanks to your efforts to explain the situation and steps the system has taken to address, we were able to get a comfort in possible outcomes." Opportunities
    - i) Remaining WOWSC land at the Spicewood airport, ~7 acres, is not needed by WOWSC and can be sold
      - (1) Plaintiffs in the ongoing lawsuit have a lis pendens on this land that would make it difficult to be sold at best prices.
    - ii) Dispersant fields: Corix is requesting usage of the WOWSC WWTP's effluent dispersant fields by Ridge Harbor and Barton Creek Lakeside.
  - d) Threats
    - i) Lawsuits
      - (1) Case #47531 (April 2018 – February 2020) Cost ~80,000 total.

- (a) April 2018 TOMA lawsuit to break the contract of the 2016 airport land sale.
- (b) Court found WOWSC violated TOMA but denied all prayers for relief.
- (c) All appeals upheld this ruling.
- (d) WOWSC Board of Directors works to follow the TOMA requirements
- (2) Case #48292 (July 2018 – present)
  - (a) The number of PIA requests increased significantly to gather information to intervene in case #48292 in May 2019.
  - (b) At a July 2019 Board Meeting, the Board approved paying WOWSC's PIO, Joe, \$416/month versus hiring legal help at a much higher rate.
  - (c) The October 2019 a petition to remove Joe from Board resulted in additional WOWSC legal expenses. After the four+ hour October 26, 2019 Board Meeting to discuss amending the original contract, Joe, Dorothy, and Mike were added to case #48292 after improving the 2016 land sale deal for WOWSC by approving the amended and superseding land sale agreement at the October 26, 2019 Board Meeting where it was reviewed, discussed, and improved with WOWSC members for over four hours.
  - (d) WOWSC legal team filed a motion for summary judgement in November 2020.
    - (i) Litigants increased WOWSC's legal costs through more than 50 hours of depositions and discovery.
    - (ii) As of March 24, the motion for summary judgement is now in the hands of the judge to determine if the legal case is to proceed.
- (3) When reviewing the initial Y2020 budget, the Board found WOWSC had very large balances with the legal teams.
  - (a) The Board requested and received help from TRWA to use WOWSC's Y2019 actual expenses to determine new rates. The Board used the TRWA rate analysis in determining the Y2020 rate increase.
  - (b) Members brought a rate appeal to the PUC which is a lawsuit against WOWSC
    - (i) There are significant legal costs to WOWSC for PUC rate case: \$148,747 through January 2021
    - (ii) Rate payer representatives walked away from mediation which would have prevented additional WOWSC legal costs.
- (4) PIA requests continue at a very high rate and many require legal guidance for matters related to the underlying litigation against the WOWSC and directors.
  - (a) WOWSC sought to retain its rights for attorney client privileged documents and brought its cases before the Texas Attorney General to preserve corporate legal strategies. However, in view of case status, the Board voted to release all requested documents and to end this litigation and its legal costs.
- (5) Paid legal fees in Y2020 = \$240,7385
- (6) Outstanding legal balance: \$275,359
- (7) Insurance Coverage ~\$230,000
  - (a) WOWSC has not received a denial of coverage from the Insurance company for case #48292. The Board was aggressively pursuing its claims for coverage with the insurance company
- ii) At the Y2020 Annual Member Meeting, Patti Flunker proposed dissolving WOWSC and selling it to an investor owned utility. Flunker arranged a meeting with Aqual Texas Inc. to meet with members in early Y2020.
  - (1) Flunker and Josie Fuller sent a survey to select members asking about their interest in selling WOWSC to an investor owned utility and published survey results stating members were interested.
  - (2) NewGen Strategies & Solutions provided a financial analysis of WOWSC in their September 3, 2020 report. The reports notes that investor owned utilities have higher overhead due to profits and taxes (property, sales, income) that a non-profit corporation does not pay. Therefore, if WOWSC sold itself to a IOU, customers would see much higher rates.
- iii) Y2020 rate increase increased \$16,000/month to raise funds for ongoing legal matters in the Ffrench, Dial, Sorgen case against the WOWSC and its current and former directors.
- e) Operationally – No problems
- f) Infrastructure
  - i) Clarifier
  - ii) Zebra Mussels
  - iii) Bigger dispersant fields
- g) Financial
  - i) Loans helped save money and build our infrastructure to meet growth

- ii) With the help of NewGen Strategies, the Board adopted financial policies for future boards to use as guidance, especially in view of provisions needed to comply with loan covenants
- h) Threats
  - i) A small group have continued to pursue every legal avenue against the Board in their effort to overturn the land sale of 2015.
  - i) People ask the Board “How does this end and when will rates get lower?” The answer is that when the small group of people end their the lawsuit, drop their rate case, release the lis pendens, and reduce their PIA requests significantly, all the outflowing funds for legal representation can stop, the company can pay its bills, and rates can go lower.
  - j) Sandy Neilson: Thanked all Board Members for doing a great job.
- 7) Election Results Independent Election Auditor submits official report to presiding officer.
  - a) Independent Election Auditor provides the presiding director with a report of the election results for director positions and any other propositions voted on by the members. Auditor emails written results to Board.
  - b) Presiding director announces election results.
    - i) Position 1:
      - (1) Joe Gimenez: 97
      - (2) Allen Hicks: 91
    - ii) Position 2:
      - (1) Rich Schaefer: 102
      - (2) Mark McDonald: 86
    - iii) Position 3:
      - (1) Mike Nelson: 106
      - (2) Josie Fuller: 82
    - iv) No propositions were introduced or voted upon.
  - c) Presiding director introduces newly elected directors, declares them as board members and announces New Board of Directors meeting to elect officers upon adjournment.
    - i) Joe introduced himself, Mike, & Rich; declared them as board members; and announced the new WOWSC Board of Directors will elect officers at the open WOWSC Board Meeting immediately following the conclusion of this Annual Members Meeting.
  - d) Josie Fuller and Bruce Sorgen requested the ballots and envelopes that were used to tally the votes be kept for auditing.
- 8) Closing comments by presiding director.
  - a) Board appreciates all members’ participation
- 9) Meeting is adjourned.
  - a) Motion made and carried by all to adjourn at 12:32PM

Submitted by: Mike Nelson

APPROVED BY WOWSC Board on March 19, 2022



Billing Questions: (830) 598-7511 Ext 1  
 Water or Sewer Emergency: Phone (830) 598-7511 Ext 2

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH REI**

**RATEPAYERS 5-8:**

Please reference Mike Nelson's testimony<sup>1</sup> which states that Windermere entered into an agreement with both law firms to make monthly payments of \$10,000 to answer the questions below;

- a.) Provide Board meeting minutes indicating that the Board voted to enter into agreement with Lloyd Gosselink to make monthly payments of \$10,000;
- b.) Provide a signed copy of the Agreement between Lloyd Gosselink and Windermere;
- c.) Provide Board meeting minutes indicating that the Board voted to enter into agreement with Enoch and Kever to make monthly payments of \$10,000;
- d.) Provide a signed copy of the Agreement between Enoch and Kever and Windermere.

**RESPONSE:**

- a.) The requested information does not exist in the company's records.
- b.) The requested information does not exist in the company's records.
- c.) The requested information does not exist in the company's records.
- d.) The requested information does not exist in the company's records.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez

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<sup>1</sup> Mike Nelson, testimony, Day 1, Dec. 1, 2021, page 198, lines 9-14.

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-9:**

Admit or Deny: Mike Nelson stated under oath at the December 1, 2021 Evidentiary Hearing, that Windermere's rates were increased to pay down the legal balances until the legal balances are gone.<sup>2</sup>

**RESPONSE:**

Admit.

Prepared by: Joe Gimenez

Sponsored by: Joe Gimenez

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<sup>2</sup> Mike Nelson, testimony, Day 1, Dec. 1, 2021, page 198, lines 19-21.

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RE**

**RATEPAYERS 5-10:** If Windermere's Response is Admit in 5-9, please state when the legal balances will be gone.

**RESPONSE:** It is unclear when “the legal balances will be gone.” Although the jury returned its verdict in Cause No. 48292, the plaintiffs could still appeal the court’s final judgment. This would require WOWSC to incur additional legal fees. WOWSC will also continue to pay \$10,000 per month to its legal representatives.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez



**DOCKET NO. 50788**

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-11:** Please provide the amount in dollars that Windermere netted from the 2016 land deal to Dana Martin/Friendship Homes and Hanger

**RESPONSE:** See WOWSC Response to Ratepayers 5-3.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH REI**

**RATEPAYERS 5-12:** As of November 21, 2022, provide an estimate of Windermere's incurred legal expenses in the *Rene Ffrench, John Richard Dial, Stuart Bruce Sorgen, Intervenor Plaintiffs, and as Representatives for Windermere Oaks Water Supply Corporation v. Friendship Homes & Hangars, LLC and Burnet County Commissioners Court, Windermere Water Supply Corporation et. al.*

**RESPONSE:** See WOWSC Response to Ratepayers 5-4.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-13:**

In Windermere's response to Staff's RFI 6-12, please define the meaning of hangar property, the location of the hangar properties and evidence which supports Windermere's statement "that the only property that may be used for non-residential services in the hangar property is in Windermere's response to Staff's RFI 6-10." Please see Attachment F to answer a-f.

- a.) Admit or Deny these properties which are highlighted in red are all in Windermere's service area?
- b.) Are most of these properties in red the hangars referred to in Windermere's answer to Staff's 6-12?
- c.) Do any of these hangars share a grinder pump with another hangar?
- d.) If the answer to the above question c.) is yes, how does Windermere charge for sewer service for shared grinder pumps?
- e.) Do the property owners that share a grinder pump each have a membership?
- f.) Do the property owners that share a grinder pump each pay the base rate for sewer service?
- g.) Please reference the May 23, 2017 WOWSC Board Meeting Minutes Approved: attached as Attachment G, specifically Windermere's Attorney, Mark Zeppa statement on page 2 that "If you look at the evolution of the tariffs, it doesn't say you can't have two people on a grinder pump, it says you can't have two people on the same sewer connection. Admit or Deny the property referred to in Windermere's response to Staff's RFI, 6- 10 shares a sewer connection?
- h.) Admit or Deny the property in Windermere's Response to Staff's RFI 6-10 "Windemere Hangars" is located on the attached Attachment H where the red star is located.

**RESPONSE:**

- a.) Admit, except for the house attached to the hangar in the northeast corner of the image.
- b.) Yes.
- c.) Yes: (1) 225 Airstrip Rd., the original fourplex of the Foy bypass trust; (2) 226 and 228 Airstrip Rd.; and (3) 222 and 224 Airstrip Rd.
- d.) WOWSC charges the standard water and sewer rates.
- e.) Yes.
- f.) Yes.

**DOCKET NO. 50788**

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

g.) Deny. Each building has its own separate pipe that flows into a shared grinder. Thus, consistent with Mr. Zeppa's statement, the buildings do not share a sewer connection.

h.) Admit.

Prepared by: Joe Gimenez

Sponsored by: Joe Gimenez

**DOCKET NO. 50788**

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-14:**

Please reference the May 28, 2011 WOWSC Board Meeting Minutes Approved attached as Attachment C, Admit or Deny the board voted to accept an Agreement in Principle to allow for a property owner to use Windermere's affluent water for irrigation uses?

**RESPONSE:**

Admit.

However, WOWSC and Mr. Armstrong never executed a contract regarding the use of WOWSC's affluent water for irrigation. Mr. Armstrong has never had a treated wastewater tap for irrigation purposes.

Prepared by: Joe Gimenez

Sponsored by: Joe Gimenez

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-15:** Admit or Deny, Werrick Armstrong is the property owner referenced in Ratepayers' 5-16, if Admit are they a member of Windermere?

**RESPONSE:** Admit.  
Mr. Armstrong is a WOWSC member with a water meter. He pays WOWSC's standard rate for water service but does not receive sewer service. He is outside WOWSC's CCN and is therefore not subject to WOWSC's requirement that all members must have water and sewer services.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-16:** Admit or Deny, Mr. Armstrong's, property is not in Windermere's water or sewer CNN area?

**RESPONSE:** Admit. Because Mr. Armstrong's property shares a property line with WOWSC's CCN, the property is within a quarter of a mile of WOWSC's CCN. Thus, TCEQ regulations authorize WOWSC's and Mr. Armstrong's arrangement.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez

**DOCKET NO. 50788**

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-17:** Admit or Deny Mr. Armstrong has a meter?

**RESPONSE:** Admit.

Prepared by: Joe Gimenez

Sponsored by: Joe Gimenez



**DOCKET NO. 50788**

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-18:** Does Mr. Armstrong have tap for potable water service from Windermere?

**RESPONSE:** Yes.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez

**DOCKET NO. 50788**

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH REI**

**RATEPAYERS 5-19:**

Please reference the July 31, 2012 WOWSC Board Meeting Minutes Approved attached as Attachment D; Admit or Deny Mr. Armstrong asked about getting bigger lines to his service from Windermere. Please explain if Mr. Armstrong paid for the installation of the bigger lines.

**RESPONSE:**

Admit—Mr. Armstrong asked about getting bigger lines.

However, Mr. Armstrong has a standard 3/4 by 5/8 meter and, therefore, likely did not pay for the installation of bigger lines.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez

**DOCKET NO. 50788**

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-20:** Please reference the August 30, 2017 WOWSC Board Meeting Minutes Approved attached as Attachment E; Admit or Deny a request was made by a member for additional water meter for irrigation.

**RESPONSE:** Admit. However, the Board tabled the request.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez

**DOCKET NO. 50788**

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-21:** Admit or Deny the board approved this request for an additional water meter for irrigation use?

**RESPONSE:** Admit.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez

**DOCKET NO. 50788**

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-22:**

Admit or Deny the following Members who live in the Windermere Oaks Subdivision each have two meters; one for residential purpose and one for irrigation;

Don Arldt

Essi Atarod

**RESPONSE:**

The requested information does not exist in WOWSC's records. The WOWSC tariff does not require a member, for purposes of obtaining a meter, to distinguish between "irrigation" and "residential" use.

Prepared by: Joe Gimenez

Sponsored by: Joe Gimenez

**DOCKET NO. 50788**

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-23:** Admit or Deny George Marwies was a member of Windermere in 2019? If Admit, is there a structure on Mr. Marwies's property?

**RESPONSE:** Deny.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez

**DOCKET NO. 50788**

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-24:** Has Mr. Marwieh voted in Windermere elections?

**RESPONSE:** No.

In 2020, WOWSC did not have a contested election. In 2021 and 2022, Mr. Marwieh was an eligible voter but did not vote.

Prepared by: Joe Gimenez  
Sponsored by: Joe Gimenez

**WOWSC'S RESPONSE TO RATEPAYERS FIFTH RFI**

**RATEPAYERS 5-25:**

Admit or Deny: Windermere's Tariff allow property owners to have water service without a hangar or single-family residence on the property? If Admit, please explain.

**RESPONSE:**

Admit.

To become a member, an individual must own a lot in WOWSC's service area and provide proof of ownership to WOWSC. If the individual owns the property and pays the membership fee, the individual can pay the tap fee and receive service. This often takes place before construction begins.

Prepared by: Joe Gimenez

Sponsored by: Joe Gimenez