

PETITION

City of Harrogate, Tennessee Regarding Exclusive Franchise of Claiborne Utility District

The petitioner hereby requests that the County Mayor find and declare that the public convenience and necessity require that the exclusive franchise of Claiborne Utility District, Claiborne County, Tennessee (the "District") to provide wastewater service within the City of Harrogate "City's" boundaries be modified. In support of such petition, the Petitioners represent and state to the County Mayor as follows:

1. The District is a utility district located in Claiborne County, Tennessee and is organized under the Utility District Law of 1937, codified in Section 7-82-101 et seq. of Tennessee Code Annotated (the "Act"). As authorized by prior orders of the County Judge of Claiborne County, Tennessee, and its successor, the County Executive, the District operates a wastewater collection system in the Southern portion of Claiborne County (Tazewell).
2. The City is a municipal corporation chartered and organized under the provisions of Tennessee Law.
3. The City has provided \$1.6 million (\$1 million in grants and \$600,000 from city reserves) for a connecting force main between the City of Harrogate and the Claiborne Utility District (CUD) wastewater treatment plant and for approximately 200,000 gallons per day capacity in anticipation of providing wastewater service to the area.
4. CUD does not presently provide wastewater service to the area and because of the high associated capital costs, is unwilling to provide the necessary capital funding required to develop a wastewater collection system within the City of Harrogate. CUD is willing to operate the system provided the City will build it and give it to CUD.
5. A CUD management representative, Mr. Carl Doane, has stated that "if the City wants to develop its own wastewater facilities, go ahead."
6. The City of Harrogate has determined that a wastewater facility built near Powell River would better provide for its citizens, commercial, industrial, and institutional development in the future.
7. Private wastewater systems within the City are failing and present a serious health and sanitary risk for its residents.
8. Pursuant to Section 7-82-301 of Tennessee Code Annotated, the District has the sole right to provide wastewater services in its defined boundary area "unless and until it has been established that the public convenience and necessity requires other or additional services." The County Mayor has

jurisdiction to determine whether public convenience and necessity require that the District not retain its exclusive right to provide wastewater service. Tennessee Code Annotated, Section 7-82-301(a).

9. Petitioner maintains that amending the District's wastewater franchise to a nonexclusive franchise will permit the City of Harrogate to provide wastewater customers within the city and within the City's Urban Growth Area with wastewater service at comparable costs. In support of this contention, Petitioner submits Exhibit I, projected alternative for providing wastewater service prepared by a consultant with the University of Tennessee's Municipal Technical Advisory Service.
10. The District's franchise to provide wastewater utility services authorized under the Act, should be modified because the District does not provide any such service and is unwilling to fund the cost of additional development of the Harrogate wastewater system from District revenues.
11. The interest of the Petitioners and the public convenience and necessity require that the District's exclusive right to provide wastewater service be declared a nonexclusive right and that the City of Harrogate also be granted a nonexclusive right to provide wastewater service within the City of Harrogate's municipal boundaries as depicted on the County's Urban Growth Plan, including the City's Urban Growth Boundary. Petitioners also aver that it is in the public's best interest and convenience to modify the District's exclusive franchise.
12. Any District outstanding bonding obligations will not affect the District's debt, utility rates or ability to repay outstanding bonds. There are no capital investments of CUD that are associated with the City of Harrogate.
13. In support of this petition, the Petitioner requests that the County Mayor consider the following:
 - a. The City of Harrogate has a population of 4,400 and with reasonable and projected residential, commercial, industrial, and institutional growth, the City will require adequate wastewater services to meet present and future development needs of the area. The present needs are not being adequately met.
 - b. The City's private wastewater systems are a potential health and sanitary risk for the community.
 - c. Lincoln Memorial University's future development plans will place an additional need upon the City for wastewater service. (see Exhibit II).
 - d. The City of Harrogate has existing plans for the development of the wastewater collection system to be built within the City.
 - e. The City of Harrogate is prepared to develop a wastewater treatment plant to serve the City and its Urban Growth Area in the future.

PREMISES CONSIDERED, Petitioners request as follows:

- A. That the County Mayor call a public hearing on the Petition as required under the Utility District Law of 1937 and that proper notice thereof by publication be given.
- B. That the County Mayor find that the public convenience and necessity require that the District's exclusive franchise to operate and maintain a "wastewater system" within the City of Harrogate's municipal boundaries be modified and that the City of Harrogate be granted an exclusive franchise to operate and maintain a "wastewater system" within the City of Harrogate and its Urban Growth Area.
- C. That after said public hearing, a proper order be entered by the County Mayor ordering and decreeing that the District's franchise to operate and maintain a "wastewater system, sanitary sewer system, sewer disposal and treatment facilities" within the District's entire boundaries be modified.
- D. That such further action be taken and such further relief be granted with reference to these matters as may be proper or desirable.

IN WITNESS WHEREOF, the Petitioner has submitted this Petition as of the _____day of July, 2005.

Petitioner;

City of Harrogate, Tennessee

By: Bill Fultz, Mayor

CERTIFICATE OF NOTICE

The undersigned hereby certifies that an exact copy of this petition has been noticed to the following interested parties by certified mail, return receipt requested, at the following addresses:

Claiborne Utility Board
Attn: Mr. George Coots, General Manager
P.O. Box 606
New Tazewell, TN 37825-0606