

## AGENDA ITEM 2-a

MINUTES OF A REGULAR MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, DECEMBER 15, 2008, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

Prior to opening the public hearing, Chairman Allen proceeded with an invocation and requested Commissioner Diesen to lead in the Pledge of Allegiance immediately following.

(1) Preliminary Public Hearing RE: Public Discussion and Consideration of the Utilities Commission's direction Regarding Additional PURPA Standards and a Non-PURPA Standard:

Chairman Allen stated as we begin, we're going to begin with a preliminary public hearing of the Utilities Commission, City of New Smyrna Beach in reference to discuss and consider the Utilities Commission's direction regarding additional PURPA standards and Non-PURPA standards. He then requested for a roll call to be taken and all of the Commissioners were in attendance as follows:

A roll call was taken and all of the Commissioners were in attendance as follows:

Commissioner Oscar Zeller  
Chairman Walter Allen III  
Commissioner Jeanne K. Diesen  
Commissioner William E. Hall  
Commissioner William H. Reynolds

Others in attendance were as follows: R. Rodi, General Manager/ CEO; L. Klinkenberg, Director of Finance; R. Mitchum, Director of Electric Operations; T. Beyrle, Director of System Ops. & Generation; J. White, Director of Engineering; R. Lemoine, Director of I.T.; P. Di Chiara, Director of H.R.; D. Hoover, Director of Water/Water Reclamation; B. Bilinski, Controller/Budget Supervisor; J. O'Brien, Materials Manager; E. Fisher, Public Information Manager; D. Wood, Customer Service Manager; D. Zorge, Customer Service Supervisor; D. Simmons, Executive Asst./Recording Secretary; B. Preston, Interim U.C. Legal Counsel; Bob Tolley, Kirk Bauer, Kent Titcomb, Mr. Titcomb, Sr., and several unidentified men (approx. 5) and women (2), all members of the public.

Chairman Allen then requested Mr. Preston to read the notice of public hearing and proposed resolution.

Mr. Preston then proceeded to state the proposed resolution by title only. He stated this is a resolution by the Utilities Commission, City of New Smyrna Beach, Florida, further declaring the U.C.'s direction with regard to the requirements of the Public Utilities Regulatory Policies Act (PURPA), supplementing U.C. Resolution No. 2-08. Appropriately published in the Orlando Sentinel (notice appeared at least ten days prior to this date and were placed on the bulletin board at the Utilities Commission office at 200 Canal Street and City Hall at 210 Sams Avenue. Proof of publication of advertisement of this hearing will become a part of the minutes), and rescinding all resolutions, or portions thereof in conflict herewith, and providing for an effective date.

Chairman Allen stated okay, this public hearing is open for discussion, comments, for or opposed to this matter and/or resolution.

(1) Preliminary Public Hearing RE: Public Discussion and Consideration of the Utilities Commission's direction Regarding Additional PURPA Standards and a Non-PURPA Standard (cont.):

Mr. Rodi asked if the Commission would like some background.

Chairman Allen stated yes, please.

Mr. Rodi stated this particular proposed resolution includes with it the PURPA actions that you have already taken.

Chairman Allen interjected they can't hear in the back.

Mr. Rodi then stated let me try it again and confirmed they could now hear in the back of the room. He stated this particular proposed resolution, no. 1-09, includes the previous PURPA actions that this Commission has already taken. The reason why they're included here is that you will see some similarities between the PURPA actions and a parallel action that was taken as a result of the Energy Independence Security Act of 2007. He stated if I can frame this very easily, because it's a very complicated provision, but if one thinks back to the time when solar energy was being promoted in the net metering. The idea behind that was certainly to provide grants and encouragement for homeowners, like you and I, to put solar panels on top of your roof, and then be able to put energy out onto the system when you have a lot of extra energy available.

Mr. Rodi stated one of the PURPA resolutions that we decline to participate in on a mandatory basis, but opted for a voluntary basis, was an interim net metering rider. And basically what we did was we took some middle ground because the Public Service Commission, that does not directly regulate us, had mandated with the Investor Owns that they must offer this. I have that provision included here because since that time the Florida Department of Revenue is now considering any sales onto an electric system as income. So consequently what that has meant is it has changed the relationship amongst the parties. This particular provision looks at industrial customers, so SIC codes that have industrial identifiers with them means that usually those customers may have waste heat as part of their process. So if they use natural gas for heating, or if they have flare gas, there is an encouragement for that waste heat to be turned into electrical energy. From two perspectives, one, in our service territory we don't have, to my knowledge, any SIC industrial customers. But secondarily, this provision also provides for a retail reimbursement and it has some complicated provisions that relate to the transport of the energy. He stated so with that background, one of the things, since this is not also a PURPA standard, we are considering it now. And by considering it, after you decide, then there's a two year period before it needs to be considered again, or if a customer comes forward. So that's pretty much the background on this, I tried to boil it down.

Chairman Allen thanked Mr. Rodi for his comments and then asked if there were any other comments toward this, for or against. There being no comments, Chairman Allen closed the preliminary public hearing at 6:08 p.m.

REGULAR U.C. MEETING:

Chairman Allen opened the regular U.C. meeting with a roll call with the same persons in attendance as shown previously in the opening of the preliminary public hearing.

(1) Agenda Changes, Additions and Deletions:

Chairman Allen then asked if there were any agenda changes, additions or deletions.

Mr. Rodi stated, those of you who had not notices, we did amend the agenda and added one item. For those who aren't aware the add-on item (item 2-f.), under the consent agenda, is the Revision to Interest on Customer Deposits and that item is basically saying to put it in line with what the banks are doing. So I wanted to make that comment, and during possible other business, I've got several items I'd like to go over.

Chairman Allen stated okay.

(2) Approval of Consent Items:

Chairman Allen then stated item two is approval of consent items and asked if there was a motion to accept them.

Commissioner Hall made a motion to approve the consent items: item 2-a. Minutes of Special UC Meeting Held 11-10-08, and item 2-b. Minutes of Regular UC Meeting Held 11-17-08, approve both sets of minutes as submitted; item 2-c. Review of Developer Contributions to Utility Infrastructure, approve the annual cost revisions, pursuant to the annual review requirement, for the developer contributions to utility infrastructure, and approval for UC staff to make needed corrections and modifications to said costs providing staff presents to the UC the reasons for and the changes to said costs; item 2-d. Inspections and Treatment of Electric Utility Distribution/ Transmission Wood Poles – FMPA/OUC RFP 2491 OQ, approve award of P.O. No. 00008245 in an amount not-to-exceed \$80,000.00 to Osmose Utilities Services, Inc., the low and responsible bidder to FMPA/OUC RFP 2491 OQ, for the inspection and treatment of approximately 1,500 UC electric distribution and transmission wood poles this year; item 2-e. Arc Flash Assessment Study, approve for the UC to enter into an agreement with SET Solutions, LLC, to prepare the arc flash assessment study as outlined in the proposal attached to the agenda item for an amount not-to-exceed \$37,270, and authorization for the General Manager/CEO to execute any necessary documentation associated with this matter to accomplish same; and add-on agenda item 2-f. Revision to Interest on Customer Deposits, approve the interest rate of .75% to be computed on customers' deposits during 2009, and to become effective with the first billing cycle of January, 2009. Commissioner Reynolds seconded the motion and it passed unanimously on a roll call vote.

(3) Public Participation:

Chairman Allen stated okay we come to item 3. Public Participation and asked if anyone from the public would like to have participation. After a man indicated he would, Chairman Allen asked him to step up to the podium and give his name.

The man addressed the Commission and stated good evening, my name is Kirk Bauer. I'm an attorney at 223 South Woodland Boulevard in Deland. I represent Amicorp, Inc. and many of you may remember Amicorp coming before you in 2006 where the Utilities Commission entered into a developer's agreement with Amicorp for Amicorp to be able to construct a single family residential community. It's located off Pioneer Trail over by I-95, it was a 196 lot, single family residences were suppose to be built on the property. The roads are going to be public, the utilities were going

(3) Public Participation (cont.):

to be dedicated to you, and plans were ultimately submitted to you and approved. And since then the subdivision has been under construction, utility lines have been put in, roads are ready to be paved; that's the current status at this point. My client to my knowledge has paid all the fees he's suppose to pay, including the utility infrastructure contributions of \$426,000 and some change. I think that was on part of your agenda tonight, those fees have been paid by my client.

Mr. Bauer stated since 2006, as most of you know, market conditions have changed and my client's intentions to move forward with the project have changed. Amicorp now wants to change the development from 196 single family residences to one single unified ownership development in which it would be an upscale manufactured, modular manufactured residential community. It would be an over 55 community in which the entire property would be owned by Amicorp. (Someone from the audience asked him to show a picture.) Mr. Bauer answered I'm going to, I think we have a screen over there. Mr. Bauer then continued but it would be 196 leased lots on the same property, roads would stay in the same position, but instead of it being owned by individual owners, it would be owned by one person, the park owner, who would then lease the spaces to the owners.

Mr. Bauer stated for history, Mr. Titcomb, Sr., is present here. He started in the mobile home business, I believe it was almost 60 years ago in Hartford, Connecticut. The company itself has had multiple parks in Connecticut and in Florida and in California. Currently operates two parks in Deland, they're mobile home parks, this would be a little different.

Mr. Bauer then stated I saw that the computer, or you had a screen, can I show a photo up there, or can I pass a photo across the panel; either way will work. He then stated I don't know if it works, and added I'll be glad to pass it.

Mrs. Fisher assisted Mr. Bauer to display his photos on the U.C.'s opaque projector.

Mr. Bauer stated these photos are of a similar community that is in California, a modular home community. These are not the typical manufactured home, these are modular homes, they come in by crane, and they are beautiful. He stated this home happens to not have metal roofs, but the intention is to have metal roofs on the homes, similar to the Seaside and Watercolors community. The next photo is kind of an interior picture of the home. These are nice residences and not just a manufactured home, these are modular homes that would be going on the property. The property would also be an over 55 community that would have a prospectus and each property would be leased.

Mr. Bauer stated on December 4<sup>th</sup> I submitted to legal counsel, Mr. Preston, a letter requesting that the Commission change the Developer's Agreement, modify it to change the property to where it is not going to be public roads, public utility systems, but it will be private roads and it will be a private system. And we're asking for the developer's agreement to be amended so that we could hook up the utilities to your system, basically at the property line, at a lift station for the sewer system, and then where you would have each meter, or a separate meter at each of the homes within the project; that was the idea.

(3) Public Participation (cont.):

Mr. Bauer stated we submitted a letter with a proposed change to the agreement and believe that the changes would directly benefit you because you would no longer be responsible for the maintenance, repair, and further improvement of those utility lines. That they would actually be the responsibility of the owner of the property and the park owner would be responsible for the maintenance, repair, and care of the lines. While at the same time the U.C. would be able to collect its fees and collect its charges for water and sewer and other utilities that you might govern. We didn't really address the issue of lights, street lighting, and things like that but the first shot was regarding sewage and water.

Mr. Bauer stated last week Mr. Preston sent me an email basically saying that the Utilities Commission does not accept private systems and no exceptions have been made since the inception of that policy. The purpose of me to come before you tonight is to ask you to allow Amicorp's connection of their private system, to allow for the change of the developer's agreement. I've got several reasons, and I'm going to go really fast, for why I would ask you to reconsider the policy that Mr. Preston mentioned.

Mr. Bauer stated one of those is, I believe that you have accepted private systems. I believe that each time that you accept an apartment building, or a condominium, or a shopping center. Driving into town I saw one shopping center I think it had 30 stores in it. Duplexes, professional offices, and multi-family residences, I believe those are all private systems. They are a system where there's a series of pipes that ultimately connect to your system at one point or more points.

Mr. Bauer stated secondly, I think private systems are found nationwide. You can travel in any community and you will find mobile home parks and similar type private systems that have been contemplated by the Florida statutes, have been contemplated by law, and are hooked up to utility systems all across the nation.

Mr. Bauer stated as with private systems, the U.C. is not responsible for any of the repairs or maintenance of those systems. When a tenant has a problem, when a homeowner within the private park under a prospectus has a problem, with their sewer line or with their toilet not being able to flush, wherever they are, they have to call the park owner or the condo association and say hey, listen, I've got a problem with my toilet. And at that point, the owner of the property is responsible to come forward and clear that clog or fix the pipe or correct the problem that is out there.

Mr. Bauer stated it's our intention that if you accept this private system, that Amicorp would sign covenants that would govern them, much like what we signed with St. John's River Water Management District, to maintain ponds and things within the subdivision. They would be legally obligated to maintain this system for each of the owners within the property.

Mr. Bauer stated I've read your minutes, Mr. Preston was nice enough to send them to me, I got them from somebody at staff. Basically the minutes and memo that I looked at were your February 2006 meeting. I believe Mr. White presented a memo to you. I don't think it was, it was an agenda item, but I do not believe that you acted on that, I think it was for an informational purpose memo. But basically his presentation to you was that unless certain criteria are met that the Commission shouldn't accept private systems. To my knowledge, I'm unaware of you as a Commission taking action to say no private systems will be allowed.

(3) Public Participation (cont.):

Mr. Bauer stated considering water lines, all these are brand new water lines and we would submit that you would have water meters at the end of all these lines and that each homeowner would pay for the water used. I had spoke about it before, that the repairs, maintenance, and replacement would be the responsibility of my client. And I know there may have been some discussion to each of you or some reports given that there has been a dialogue between staff and my client concerning the current construction and whether the current construction of the sewer lines has met the plans that were submitted to you. I don't want to argue that point with you tonight, whether we're .03 off on a line or whether a line is 1" too low or 1" too high, but I would submit to you that engineers and surveyors have been out to the property and that the system, as it's currently installed, is in substantial compliance with the requirements of those plans.

Mr. Bauer stated in summary just to, I don't want to keep you too long, we would ask for you to allow the private system to be attached to your systems. We would ask for you to allow legal counsel and myself to help amend the developer's agreement so that Mr. Titcomb's and Amicorp's subdivision can proceed as a single unified ownership property with multiple spaces for lease and that you wouldn't be responsible for maintaining it, that would be the owner's responsibility. So thank you for your time, and he added we'll be glad, there are a lot of people here that can answer questions if you have any.

Another gentleman indicated to the Commission that he wanted to speak.

Mr. Bauer stated to this man, you wanted to speak, say your name and address too.

Mr. Kent Titcomb then addressed the Commission and stated his address as 125 Interlake, Deland, Florida. He stated as far as I understand, and I've been wrestling with this for quite awhile so I think I'm knowing all the nuances, I think Mr. White didn't want to take any more private systems because you took a mobile home park on Mission Avenue (sic Mission Road) that had a lot of water intrusion and that was taxing the sewer plant. Basically you were getting a lot of water from ground water and you don't want that. So he said unless these things are built to our standards, we don't want any more private systems. Well, this system is brand new, it has the rubber boots around the sewer lines, it has the coatings inside the manholes, and it's been pressure tested. And Mr. Saxon, and Ms. Dana Hale have all been out there to observe it through the construction and there's no way that you can get the water intrusion because the system's are dry, you can look at it, we've passed those tests. He then stated so I feel, I have felt like, and I told Mr. Bauer, I don't understand why the Commission would not accept the private system if there's no extra water coming in. And that's just one detail I wanted to say.

Mr. Bauer stated now I get to add to him. Also we would propose that the sewer system be metered at the ultimate lift station before it goes to your system so that we could actually monitor and know exactly what's coming into your system by this development. So, thank you.

Commissioner Reynolds indicated he had a question. He stated this has nothing to do with this decision but just where do you stand with the City in terms of getting a change in your development agreement.

(3) Public Participation (cont.):

Mr. Bauer stated yes sir, we're actually in the County and application has been made for the amendment for the PUD. We have spoken with staff at the County and it's in final review right now. From what we've been told so far they see no problem with this. Originally this project was approved to be either single family residences or a mobile home park, and so we don't see any problem and they don't see any problem with it being that. That's a good question.

Mr. Rodi indicated to the Chairman he would like to speak.

Chairman Allen stated go ahead Mr. Rodi.

Mr. Rodi stated just if I may, not getting into whether or not the tests have been passed and what have you, but our CUP allowance from St. Johns does not permit master metering. And that's what you're proposing, we cannot allocate water to you and thereby sewer because of that, and that was part of our requirement for our new CUP. So that is a fundamental issue that we cannot get passed, we could talk about all these other things, and I know you and counsel, our counsel, have continued to exchange information but beyond that I think that is one of the key drivers.

Mr. Bauer stated does the same issue apply if each residence is metered.

Mr. Rodi stated no, that's not a master meter. It's just like you were describing the private system of the pipes inside someone's house.

Mr. Bauer stated but our proposal would be that each home be metered at the water meter.

Mr. Rodi stated then we're back into having an appropriate passage of a test. See you're saying that we would still maintain all that system.

Mr. Bauer stated well my, I don't want, I want to be clear, my suggestion, I think Mr. Titcomb's suggestion is that each home would be metered at the street for water and that also there would be a master meter for sewage at the point where it leaves the lift station at the end of the subdivision and goes into your transmission lines. So two things, water meters would not be a master meter where it would be sent out to all homes, it would actually be metered at each home. We would give the easements, you know the right to be able to maintain the meter, and then the sewer line would also be, not only would you have the ability to know what water was being used in the subdivision but according to engineering we can also get a master meter at the lift station to measure what's flowing out in the sewage.

Mr. Titcomb stated that was just to get insurance that there's no ground water going through the system. There's no need for it, we've got a park in Deland, and we have a City of Deland water meter. The meter reader comes out and reads it, just like a site built house, and then the effluent goes through the sewer pipe and the sewer's based on the water charge. And we were just saying, if you guys are afraid of ground water coming through a private system, we can put a meter on and monitor. We know what's coming through the water meter and we'll know what's going out of the development. But that was just "frosting on the cake", that's a weird analogy but...

(3) Public Participation (cont.):

Commissioner Reynolds stated so as I understand it, you would maintain the water lines. We would be responsible for the meter, we would have no responsibility to ensure that those water and sewer lines are maintained as we hope we maintain them throughout the rest of our systems.

Mr. Titcomb stated right.

Commissioner Reynolds stated I see right away that's a real change in itself from a condo for instance, because we don't have individual meters on a condo, we have a meter. They're responsible for all those pipes inside, one pops and it drains 200,000 gallons of water out of that thing, then they pay for it. What you're suggesting as I understand it is that we would have no responsibility or authority to do anything with the water or sewer lines if something happened or didn't meet code or broke, but yet we would be responsible for putting the meters in. Is that correct?

Mr. Titcomb stated yes, basically, to me it's a win for you guys. You guys collect all the revenue that you normally would collect but there's no obligation to repair within the 88 acres that the development resides on. And I think most of the rub has been the sewer line, the water lines meet pressure tests, we passed a chlorine test already, although it's been so long now we'll have to rechlorinate. The biggest rub has been the sewer lines, there are a couple of runs that are about 2" too low in 300'. Mr. White and Mr. Saxon are saying it doesn't say 4% slope on your survey and that's what we want. And I said well, you know it's going to be a private manufactured home or modular park, let's just keep them private and then you guys don't have to worry, I can go curly q's if I want as long I deliver it to the lift station.

Commissioner Reynolds stated let's go ten years from now.

Mr. Titcomb stated all right.

Commissioner Reynolds stated the systems needs renovation, the owner of the mobile home park would say well, you know I don't really think it does. And we're saying well we see bacteria getting into the system.

Mr. Titcomb asked sewer or water?

Commissioner Reynolds answered water. So now we're stuck with a situation of where we don't have the authority to go in and repair or bring to standard that, we would depend on you, yet the water being delivered to the customer may not be satisfactory. So that presents some problem down the road.

Mr. Titcomb stated well, I'd be willing for you guys to take the water, that's not really an issue. I think, like I said, the rub's been the sewer line and I'd be glad to covenant for the next 500 years or a 1,000 years or whatever you want, that we'll take care of the sewer. And that's not going to be a problem for a homeowner or for the Commission, and if you're worried about the water, it doesn't matter if you guys want it. We own two communities right now, we've owned up to six and the State required that we keep the bacteria out of the systems for the water, but if it's a worry for you, you guys can take it.

(3) Public Participation (cont.):

Commissioner Reynolds stated I was just being hypothetical, I mean I'm not the one to make the decision on that, that will be staff to give us a recommendation. But I was just sort of interested in how you foresee it down the pike.

Mr. Titcomb stated well, all I know is it works in 50 states in the union and pretty much every county in every state. And I know this particular body, the Utilities Commission, is probably as particular about the details of any government body I've ever run into. And so I can see, you know, that you want to do the right thing and cross the t's and dot the i's, and I'm in favor of that. But I can't see any logical reasonable reason why the sewer system can't be private and it won't be any skin off you guys' nose, and we can go happily down the road.

Commissioner Diesen then asked Mr. Titcomb if this was an urgent issue with him.

Mr. Titcomb stated well, I lost, it was a \$9 million development until Maronda said you've timed out on your contract, now it's down to a \$6 million, and we're whittling away because I don't have that money, I've been paying the interest. When I was actually, the \$469,000, and you don't call it impact fees, you call it infrastructure availability fees, but I borrowed basically \$4.2 million and I'm paying the interest on that every month so it's about \$18,000 a month. And I'm borrowing the \$18,000, it's an interest reserve, and my interest reserve times out. I know the economy's not great and it's not your worry, but when you say is it urgent. You know we waited about six months before that user availability fee got approved by the board, and yet my blueprints were finished and reviewed and ready to go, and I came to you and said you know this isn't fair, but I paid the \$469,000. Now, I'm running into this rub, so if you needed an extra month to decide, I'm not going to scream and holler, but if it was something that could be resolved in a timely fashion, that would be wonderful for me.

Commissioner Diesen stated well, that's where I was going with this, we're sort of being hit somewhat out of the blue and I don't think it's fair to you or to us. And I would suggest that it needs to be an agenda item, probably at our next meeting which I think is around the 19<sup>th</sup> of January. And that would give staff and the Commission an opportunity to have some interaction even if it requires a special meeting or whatever but at least, I just don't think it's fair. I mean we're happy to have you present tonight from my perspective but I also believe that it needs to be an agenda item for us.

Mr. Bauer stated I talked to Mr. Preston a minute right before the meeting and we talked earlier today. There are some of these issues that Mr. Reynolds pointed out that I think could be resolved with several people from whether it's staff members and council together that might be able to be hammered out to where it could be a workable solution.

Commissioner Diesen stated well and I think we all need that opportunity, that's why I asked if this was something that was absolutely urgent you know because you might get a different answer if you tell me that you have to have an answer tonight as opposed to our being able to be better informed.

Mr. Titcomb interjected it's more important to me to get a favorable answer than be in a hurry.

(3) Public Participation (cont.):

Commissioner Diesen commented well I'm not making any guarantees I'm just telling you that your opportunities are greater, and that's from my perspective, but I think I speak for the majority of the Commission because we want to be fair, but we want to be well informed. And you've given us a lot of information but we need the opportunity to hear from staff as well, and for you and staff to work together, you all may work it out, who knows. But tonight is, you know...

Mr. Titcomb stated yes, I understand, we'll get our foot off the throttle. I think the only thing I would like, leaving this meeting, is that conceptually the idea of a private system being hooked to the U.C., if staff and Amicorp could work out the details, that you guys are open to that concept.

Commissioner Diesen stated there's so many variables there, and you've covered a lot but I want to make sure that from my perspective, that we know all the variables and all the what ifs and the where as's and we don't all get ourselves into you know grid lock somewhere down the road. She added because I was on this Commission I think 20 years ago when we had a very unhappy situation and I started reliving that in my mind and it had to do with a lot of extra water and the fall guy was the Utilities Commission, or there was an attempt to make it. So you have to understand too from our perspective, but I think it certainly would be more favorable to everyone if we could be better informed.

Mr. Bauer stated I understand your next meeting is the 26<sup>th</sup>, I think the 19<sup>th</sup> is a holiday when I looked on your schedule for next year.

Commissioner Diesen stated I missed that.

Mr. Bauer stated so if we could be placed on that agenda, I would do my part to meet with whoever we need to meet with to try to at least address some of your concerns.

Commissioner Diesen stated in the meantime, yes, you'll have an opportunity. Maybe that's even better because with the holiday and everything. She stated yes, I misspoke, I forgot the holiday.

Mr. Bauer stated that would be fine.

Chairman Allen confirmed Commissioner Hall didn't have any comments, and then Chairman Allen stated one of the things is this Commission has policies in place for reasons and some of the things I can think about in the past, things that have come about. And the system is a system that is shared with all customers and to somewhere in the future assume a private system falls on the burden of others to correct errors that were done in the past, to try to get things back to where they need to be. And so we have policies that we have to follow by and that directs, guides us. Staff, I think if you would sit down and work with staff. If I was paying \$18,000 a month for interest, and you talk about back in 2006, you received approval for your PUD, and if there was problem with a 2" slope, and industrial standard gives you a four degree slope, I would have thought the ideal thing to do is make the corrections and be able to have that, it would be public. You can't, one of the problems I see is trying to say put meters on each individual unit, and then the mains are going to be private, and so consequently you end up having a break and waters running and somebody's got to figure out who's going to fix it. So there's a lot of complication in there so we'll put you on the agenda for the 26<sup>th</sup> of January and get with staff to try to work this out.

(3) Public Participation (cont.):

Commissioner Reynolds stated one of the things we are thinking about is we assumed the responsibility for the utilities out at Sugar Mill and that has cost a very lot of money to our customers to get that system up to stuff. Now Sugar Mill had been operating their system for a number of years, I don't know how many, quite a few, so the system was never maintained in the shape that we are required by law to do. So that's one of the things that we try to think in the future what might happen if somebody, say you sold the development and somebody said what we would really like to do is turn this over to the City, so that's probably. I agree with our Chairman here, see if you can't work something out and do a cost analysis on repairing what you've got now and let us take it over or whether it's worth you guys doing; we're open.

Mr. Titcomb stated all right, maybe we should talk about this in January, but the Utilities Commission's acting engineer at the time said that my slopes were okay, and she said go ahead and commence with the water line, reclaimed water, electrical conduits, fiber optic conduits, curbing and base, and we'll come back and look at it. So at one time I was given the go ahead and approval. And then later, I got a nasty gram from Mr. White saying hey wait a minute, your slopes aren't okay. We sat down and met and he said I don't care what the other engineer said, she shouldn't have said that. But I got the green light and the go ahead based on her verbal approval and every approval I've gotten for the pressure testing, the slope, mandrel testing, was all verbal, I never got anything in writing. And the developer's agreement that Mr. Rodi and Mr. Preston said follow it to the letter, I never got within 10 days of notification that it was wrong. So here I am 2006, 2007, and I could have gone and fixed. I can go back still and fix that 2" but it's about \$200,000 and I'm thinking why am I going to fix it for 2" when it doesn't make any sense. You know it's like I stepped on somebody's toe and they're going to make sure that I pay and I just feel like that's not really fair. So, and if I keep it a private system, why does it matter.

Commissioner Reynolds stated well let's do this, let's see if we can work it with staff like Commissioner Diesen said. And I think we would like that because obviously we don't have all the facts and all the details up here tonight. In fact I'm sure if Mr. Rodi said we can get this done and have a special meeting, we'll all be happy to take a little break on eggnog and come back.

Mr. Titcomb commented I like the eggnog idea.

Mr. Bauer then stated thank you very much, appreciate it, and then he said to Mr. Rodi, we'll meet and we'll talk.

Chairman Allen then asked if there was any other public participation, and there being no further participation, he closed public participation.

(4) R. Rodi - General Manager's Report:

Chairman Allen stated item four, the General Manager's Report, Financial Status, Ms. Klinkenberg.

Mr. Rodi stated I wanted to, and I'll ask Ms. Klinkenberg to step in here if I misspeak, but one of the things I wanted to bring to your attention, in the General Manager's Report for this month, you see the UC Key Performance Indicators, referring to those as KPI's. These are going to become important benchmarks for us and as you can see I've taken the UC's objectives and have placed a

(4) R. Rodi - General Manager's Report (cont.):

number of these KPI's so that you can see how we're comparing to some type of a benchmark. Over time we will refine these so that we will continue to get better at what we're doing, but I know that it becomes important to see where we are from a pricing standpoint, an affordability standpoint. The definition that I'm using for affordability is one that I presented during our budget hearings that was based upon, for example, an affordable house should be 30% of your income, and then energy alone should then represent 2% of that, so you get a 6% of your income. So there are a number of definitions that go with these KPI's and I thought as we proceed through the year you'll be able to keep track of them and we'll continue to add a few more to them. Obviously some are blank, and we have numbers but we haven't put them in. This is the first month and I'm just trying to push it in to get it into our system, the routine.

(4-a) Financial Status – November 2008:

Mr. Rodi stated with regard to the financials, if you go to the combined system, it shows for year to date we have a loss of \$95,877, as far as a change in net assets. One of the very startling issues that we're dealing with is compounded not only by the weather, but the economy. In cooling degree days our actual comparison to a year ago is they're down some 23%. Economic impacts are amounting to some 6%, and we've lost just about 1% of our customers in the electric side of the house. So about 200 accounts, these are general service accounts. As you can see this is a period of normally low usage, but we're running at a very thin margin and we expect by year end to be okay, and part of what we're doing is continuing to make improvements in our economic performance as we go through this. But I think it really starts to show that as you reduce your consumption through efficiency and any number of items, it raises the issue of the sunken investment that you have to have in order to maintain the system. So that's why in the past we've talked a little bit about decoupling and those issues that are now being talked about frankly at the State level because of Governor Crist's Executive Orders and the push to severely reduce consumption. So when you do that, I mean those are some of the next steps, the decoupling is what I am referring to. With that I wanted to just give that overview of the finances for this particular month, it was a month mostly impacted by weather but there were also some other impacts there.

(4-b) Update Water/Reclamation Process Changes:

Mr. Rodi stated on the positive side of the ledger, Dave Hoover has been doing some very good work with his team. A lot of this has come from some adversarial situation, some have come from just a need to understand and challenge the way we've done it. Mr. Hoover has taken that challenge well and what I've asked him to do is make a brief presentation so that you can see some of the good work that he and his team have been doing.

Mr. Hoover then addressed the Commission and stated as Mr. Rodi says, we were working hard last winter looking at both treatment facilities seeing if there was any opportunity to save some costs on energy. I'm not sure if you all might have caught it in the newspaper yesterday but one of our neighboring cities was making statements about how high the costs for pumping water was and the treatment chemicals how much that had risen, and that they were implementing an energy tax to help defray the costs. In like fashion, in our water and water reclamation department, both plants have high costs for electric consumption. In fact it's the most costly component of our total cost structure, following that is salaries and then chemicals. So there's opportunity to see what we were

(4-b) Update Water/Reclamation Process Changes (cont.):

doing and see if there was any room for improvement. We know that there's a capital improvement coming soon, a 20 inch line, that will help us lower the pressure grid all across the potable distribution system, and that will help greatly but it's still a year or so off. So in discussing these things with Mr. Rodi in our workshops each month, we thought it would be worth it to look into this. I gave him a report last week that told what those conclusions were and he thought we should share that tonight.

Mr. Hoover stated so one thing that we've done for many years, in our annual operating summary is looked at the cost per 1,000 gallons, the kWh consumed per 1,000 gallons for both potable water and for reclaimed water. He stated I'm going to put that up here on the board in a second, but at both plants we could see some variations between the shifts. At the water plant our highest demand during the day is from customers, and yet at night time we put all of our effort into making sure we cycle our tanks, our storage tanks, at Smith Street and the South Beach, to assure that fresh water is maintained. In the reclaimed systems, for the largest part, there was a mind set that if we keep the pressure maximum in our distribution system, we can make sure that as much use is achieved as possible.

Mr. Hoover then placed a paper on the opaque projector and stated what we have here is a page from the Annual Operating Summary and in these bottom categories we see the total kilowatts consumed for potable water, and this will actually include wellfield, treatment, pumping, and distribution. Some of the costs under treatment is also the pumping at the plant, so it doesn't appear from looking at the pumping category that it's the highest component, but it truly is. So if we look in the bottom columns we can see that from 1998 through 2007 there's just been a dramatic increase there from almost a factor of 2 to a factor of 3 by the end of this decade of data. So everyone of us, when we learn to drive cars, we've been told, if you drive smoothly and anticipate your stops and don't take off too fast, that's going to be the most fuel efficient way to drive a car. Then along comes the cruise control and we're told that's going to save us even more money. In reality there's time that cruise control's not going to save you money. If you look at your tachometer and the rpm's, and you end up finding a way to use both a smooth manual operation as well as the automation. And this is what we did at both plants, we have variable frequency drives that you can set to a pressure and no matter what the demand is, they'll ramp up or down. We have SCADA systems and PDI loops which will allow the technology to feed back programmed integral relationships between pressure or level in tanks so that you can try to maintain one pump over a very wide range. What we did at both plants was try to come up with actual very detailed instructions for the operators for the day shift, the afternoon, and the midnight shifts. To more clearly define the operating pressures that we desired, as well as the tasks that we wanted to accomplish in those time periods. We also had several workshops with the operations staff so they could give us input and help understand why they needed to do this and why it was imperative for us to try to shave any energy costs where we could.

Mr. Hoover then stated once you do an undertaking like this you want to set up some criteria by which you can evaluate and quantify it, so again this kilowatt table came to mind. About ten years ago, rather than just looking on a yearly basis, we made up tables in which we take all of our energy bills on a monthly basis and keep them tabulated. Much to the chagrin of the administrative assistant who has to enter this information, this page right here is almost mind boggling but it represents, if you look at the left column, the lift station energy bills. There's times we can find out

(4-b) Update Water/Reclamation Process Changes (cont.):

things just from looking at it, the consumption from month to month, but we're up to over 90 lift stations at this point and it's quite a bit of manual inputting, but our operational staff looks at this data and sometimes can determine things that wouldn't come up otherwise. This page here displays the monthly costs for water treatment and our FP&L bills for the wells, as well as pumping stations, and the water reclamation facility as well. What we did was try to come up with just the bottom line which is right here, the summary of the monthly total kilowatt hours per 1,000 gallons.

Mr. Hoover stated we implemented the changes at the water plant in May and at the Water Reclamation Facility in June, so we had a six month examination period for water. I'll be giving you a handout, the calculation page on this, but we saw an 8% (.08 factor) drop in the energy bills for the water plant and a .2 factor drop at the Water Reclamation Facility. If we look at that together, that averages out to about a 14% reduction in energy costs. If we expanded that, on a 12-month basis, we could expect to see about \$170,000 shaved off of what is a cumulative electric bill of about \$1.2 million. So what this has told us is that, even in a reasonably well operated system, there are areas for improvement. And when you're doing something 24 hours a day, 365 days a year, sometimes some minor modifications that do improve things could accumulate to some significant savings.

Mr. Hoover stated so the report which I've already given the Chairman and Commissioner Zeller (right before the meeting started), looks like this, and there were also some interesting side benefits from it. In water, when we reduce some of the operating pressures that some would have considered adequate at high demands, but possibly excessive at lower demand periods, lowering the pressures all together, one could envision that there could be less waste because if they're irrigating or the customer is using it for the tap or the shower, they're going to use less. And this month we're putting together our fiscal operating summary for 2008, and this figure, 211 gallons per day per connection is a very significant statistic. It tells us how much water the average customer uses per connection. In 2007 it was 211, now it's dropped to 195. So we feel another benefit of dropping the pressure is there's been a little bit more ease in conserving a resource.

Mr. Hoover stated at the Water Reclamation Facility, we sort of changed the mind set. In the past if there was excess reclaimed water, it just sort of went to the river if there wasn't room in our 13 acre pond. We undertook a second project where we modified the irrigation systems at the plant property as well as the 13 acre pond. Implemented delineated instructions whereby the operators would put excess reuse in rather than go to the outfall. It's easy to see using that product at our plant site, rather than pumping it five miles through pipelines, would save some money. Also reducing our outfall and the water supply to our property has a greater chance to percolate and get into the aquifer, again conserving the fresh water resource.

Mr. Hoover stated in the last month I've seen operation staff in the Water Reclamation Facility take a lot of pride in the results that have come up. At both plants, not only the electric end of it, they're feeling their position in part of the conservation equation, I think, in a way they never have before.

Mr. Hoover stated in the back here, these are the calculations, but the savings at the Water Plant, on a 12-month period, would be about \$55,000, and at the Water Reclamation Facility, about \$114,000. Again, just about \$170,000, which we'll see in the next fiscal year we'll have these implemented for the entire period. And as Mr. Rodi said, it took getting the operators to develop

(4-b) Update Water/Reclamation Process Changes (cont.):

some new routines and actually even ingraining in the Superintendents the need to do so in this economy.

Mr. Rodi stated I wanted Mr. Hoover to have some time because for about the last six months I've been like a two year old, why, why, why; and for those of you who remember those days. But what's important about that is that Mr. Hoover has taken the time to really look at some rather mundane and presumptive issues on the part of well, this is the way that we've always done it. And he had combined, for example, the number of 195 gallons per account is less than 100 gallons per day per person. That includes all the flushing, and as you remember last year we had heavy flushing. What's happened is because of the free chlorine, the reduction in pressures, the methodology of how we add our disinfectants to the water, that process. All of these ideas in looking at how the system operates in detail has caused this kind of result. So I didn't want it to go by unnoticed and in every other area there are similar things going on and we just don't often bring them here but I thought that was one you wanted to be aware of. So I thought it was worth the time for you to just to hear that.

Commissioner Diesen stated absolutely.

Commissioner Reynolds stated it was interesting. He then stated to conserve gas or electricity I bought myself one of those on demand water tanks. Well, it turns out that as we've lowered the pressure I have to turn on two faucets in order to get it to be activated. Just to show you that on the end of us, and I had to redo my whole sprinkler system in the yard in order to get coverage; so some of our ideas are really good. He added but I've solved that problem with the heater, I called the company and I was able to turn it down to 108 degrees and turn on two faucets and get it going, it stays on now.

Mr. Hoover stated it's amazing that you mentioned that because one of the aversions that we had from the operational staff was, oh my goodness, what are we going to do, the people that have irrigation systems won't have enough water. So we said let's trim them and if we have to, we'll start adjusting them back up. We'll trim them how much we think we can, and we had a couple of complaints, and guess what, it was the reclaimed system. And it didn't take much to get them where they needed to be but it still was shaving some of the pressure we were using before.

Commissioner Diesen stated very good, thank you, and I appreciate it. I think it's good that you bring these to us because you have staff working hard to do these kinds of things and they need the recognition.

Mr. Rodi stated they really are, and a lot of ideas are being challenged, presumptive ideas are being challenged.

Commissioner Diesen stated it's hard to change the culture of an organization when everyone thinks it's okay to do it, that we've always done it that way. This is very difficult, this represents change and it's hard. She stated to Mr. Rodi, it's hard to change culture of an institution and you're doing it effectively, congratulations.

(4-b) Update Water/Reclamation Process Changes (cont.):

Chairman Allen stated one of the other things I'd like to say, in reference to that is, as you work with your staff and your employees that are on shift, as they buy into that, they see the results and become part of that process. The uniqueness of being able to do that is that gives you another mind and another mind that is thinking to even go a little bit further. So just express our appreciation to them to their buying into it and being a part of it and moving forward and making things better.

(5) Commission Counsel's Report:

Chairman Allen then moved on to item 5 and asked Mr. Preston if he had a report.

Mr. Preston stated no report. I was going to say that this past month has been one that has been somewhat ordinary, but I'm not quite sure what ordinary is, so it's been quieter this month, not much to report.

(6) Committee Meeting Reports

There were no committee meeting reports.

(7) Old Business

There were no old business items to consider.

(8) New Business

There were no new business items to consider.

(9) Possible Other Business – Time for Commissioners:

Chairman Allen then stated we are coming to possible other business, for Commissioner time.

Commissioner Diesen stated doesn't Mr. Rodi have some items.

Chairman Allen stated we'll let Mr. Rodi go first.

Mr. Rodi stated if I may, I have several items, and one is just a report on our enQuesta S&S system. It continues to improve and that's another one of those joint efforts. I think our financials closed pretty readily this month. They closed in good part because of some reports that were written by our own IT staff that facilitated obtaining the kinds of information that we need to get from this system. So it's still just like it was last month when I reported, we're making progress and it's slow but it's steady and so far it appears as if this will be a very good system when we're finally completed. He stated that's Ms. Klinkenberg shaking her head yes, okay.

Mr. Rodi stated switching gears, I had sent an email to you about what may be happening with Clean Generation Energy. I had a phone call, I don't know ten days or so ago, and this was after I had made a presentation to, by telephone, a legislative group and an office in Governor Crist's office. I think it's Climate and Energy Control, a new office. So between those two contingents I

(9) Possible Other Business – Time for Commissioners (cont.):

was supporting the technology. The phone call I received was one that related to well, we may need some grants, you know are you willing to do that, and I said well it depends. I had said going in that we would not take any financial risks with this particular project. I haven't heard back from Clean Generation since then. My read of that is with the economy the way it is, perhaps some of their funding sources are dissipating that they thought they had. I don't know, I haven't pursued that, but what I have pursued is a competitor and that competitor is Horizon Energy. Horizon Energy just signed a contract with Progress Energy to provide a 36 MW plant, same thing we're talking about. Instead of using a molten salt, this uses molten iron. And with your permission, we'll ask them to make a presentation here. They have some on the ground, actual plants that are up and running, you can kick the tires. I did list the wrong Enerchem in my email to you, and it's ENERKEM, instead of "chem", so I needed to correct that. Our next step is to have public presentation, but it's essentially the same thing only they make ethanol, and we're asking them to make diesel instead of ethanol. We think there's a better market. It would be a purchased power agreement, we'll work out some of the details but I thought I needed to act on this because the other one looked like it stalled. And I've asked several questions from Clean Generation Energy that I've not had timely responses on, so I think it's time to round up somebody else.

Mr. Rodi stated along the lines of things that can be contested, since we were talking earlier about water, we received a phone call from Daytona Beach, and there were several of us that participated in a telephone conference call. The basis of that conference call was the proposed regulation of reuse water, reclaimed water, by St. Johns, to treat it much as they do potable, and that becomes a very difficult situation for us. What we're interested in is having a resolution because according to the attorney, and Counselor Preston participated as well, that we were speaking with out of Tallahassee, there probably has been a little meandering away from the authority that the water districts have, and there's a legitimate legal issue here. What I do request, and I said this to them at the conclusion of the call, that we be a part of the settlement with this. Of course, when you get involved the first steps are going to be to try to talk it through to some resolution, and after that there's an intent to litigate. Many cities in the St. Johns District are a part of this, the League of Cities is a part of it, and the League of Cities, we're told, intend to also introduce legislation to prohibit this. So tied with that is money and I'm requesting, because I'm bringing it up at this time, up to \$25,000 for legal fees, which is a proportionate share. Daytona had requested \$50,000 from their City Commission which was approved. WAV is a part of this, the County is a part of it, and a number of other cities are contributing to this as well. So I wanted to, on this short lead time that we're on, I wanted to bring it to your attention and request that I be able to move forward with that.

Commissioner Diesen stated you mentioned someone else is a friend of the court too, didn't you.

Mr. Rodi stated yes, and it's Tampa Bay Water. Tampa Bay is very interested in this because of the processes that they're using and the need for them to be able to use reuse at their discretion. Now that's a different water management district and at this point St. Johns is spearheading, if you will, this particular effort.

Commissioner Zeller then asked why are they wanting to get involved in the reuse?

Mr. Rodi stated I'm really not sure. I think, there's a lot of speculation, the science doesn't seem to support it but it implies power, control over, you know, just an opinion, over millennia whoever

(9) Possible Other Business – Time for Commissioners (cont.):

controls the water controls civilization and a lot of other things; that's proven out over time. He added that maybe is a little too blunt, but the initial promise was if we complied with the original sourcing and maintained all the health requirements and then processed the effluent, then we should have an incentive and be able to use that reclaimed water to the benefit of our citizenry. And that also offsets, as we've shown, the use of the potable supply. So the reuse could be recycled several times and that's why several months ago I made somewhat of a bad joke about turning us all into astronauts, you know, you don't know where that regulator would end up going. But nevertheless they're engaging this and they've bifurcated, they split their approach to separate potable supply so that if there is a legal challenge it's limiting only the reclaimed provision.

Commissioner Diesen stated they're the only district at the moment going, or they're the lead dog.

Mr. Rodi answered they're the only ones. They're the only ones currently and the other districts are watching over their shoulders.

Chairman Allen stated they're going to bring the lead on it.

Commissioner Diesen stated well they're all way too political, that's my only comment, in my opinion.

Mr. Rodi stated if I may, and if that, with your permission, I would like a resolution if you would.

Chairman Allen inquired do we need a motion or a resolution.

Mr. Rodi stated I think you need a motion to, yes.

Chairman Allen stated just a motion to entertain up to \$25,000 to be a part of this. Okay, who wants to make a motion.

Commissioner Diesen stated I'll make the motion. She added I don't even think it's required, for up to \$25,000.

Mr. Rodi stated well, no it's not, but what I have done with all of these, it's just like contracts I bring them to you.

Commissioner Diesen interjected transparency at it's finest.

Mr. Rodi stated you bet, you know what I'm doing.

Commissioner Diesen stated yes, I'll make the motion up to \$25,000 be made available for this standoff with the water district.

Commissioner Zeller seconded this motion.

Chairman Allen stated we have a motion and a second, any other discussion.

(9) Possible Other Business – Time for Commissioners (cont.):

Commissioner Reynolds stated I have a little discussion on this thing. I think what we need to do for the public record is to explain in some detail what this is about.

Commissioner Diesen stated I thought Mr. Rodi just did that, I'm sorry, you mean in the motion?

Commissioner Reynolds stated yes, in the motion, when it's written up

Commissioner Diesen stated okay, you don't want me to try to say all that. She commented Mrs. Simmons will do that, she'll wordsmith it.

Mr. Rodi stated yes, in order for the Utilities Commission to adequately represent its customers, I'm requesting we be allowed to spend up to \$25,000 for the potential resolution (regarding regulation of reuse/reclaimed water), along with other cities in the St. Johns Water Management District, and a legal challenge should it be needed.

Commissioner Diesen stated and that's what I would have said, that's my motion.

Commissioner Reynolds stated thank you.

Chairman Allen confirmed there was no further discussion and asked for a vote to be taken on the motion.

The recording secretary confirmed Commissioner Zeller seconded that motion, and Commissioner Diesen's motion then passed unanimously on a roll call vote.

Mr. Rodi stated along the lines of water conservation, I sent another email to you from Dr. Jones, from the University of Florida. I had met Dr. Jones at the Restoration meeting that was a joint meeting between the City of Edgewater and the City of New Smyrna Beach. He does not represent Restoration, he represents the University of Florida and their technical capability for efficiency and conservation with water and energy. He was very interested in perhaps using the U.C.'s irrigation metering system, where we have irrigation meters that are potable water meters for irrigation purposes, and to use a new technology that visually looks like an old VHF television antenna that is placed into the ground to sense moisture in the ground. And that is because rain sensors don't work, in fact many codes require that the rain sensor be put under the eave, and if put under the eave, then you don't get the rain. So there are just a lot of peculiarities, not only with those administrative requirements but then also the malfunctioning. What they're trying to do is show that these sensors can pay for themselves and then further reduce the need for potable consumption and eventually these can also be used for reclaimed water purposes. So it would be as important there, which would give us better conservation and efficiency measures. My concern about this program is if it's like some other academic interests, there are a lot of whistles and bells in grants and you know, I think it really needs to be effective and I don't know the answer to that at the moment. I have had a run done by our IT folks so that we have a listing and the consumption for the past year of all of our irrigation accounts as a beginning point and a benchmark. But I think we should proceed with this, I'm going to follow up with him after the meeting tonight. I had promised him a return call, and find out what kind of costs are you talking about, who's going to pay for what. There really needs to be some legislative reinforcement with this because if we make these

(9) Possible Other Business – Time for Commissioners (cont.):

savings then they should give us credit for efficiency measures under our Consumptive Use Permit, but if it's going to be, you know I just have this feeling now, Lucy and Charlie Brown and the football. After, you know the reclaimed issue, it is sort of a disincentive, but I do think we should pursue that. Sometimes it's difficult to hold two competing thoughts in the mind at the same time, but I try to separate them, so we really should continue to pursue conservation and efficiency, and I think Dave Hoover and his team has shown us that with the water presentation tonight, but at the same time stand up for our rights with St. Johns. I wanted just to bring that out into the public and talk about it a little bit and answer any questions, rather than just rely on the email.

Chairman Allen stated okay, and thank you to Mr. Rodi. He then asked Commissioner Hall if he had any comments.

Commissioner Hall stated yes, the agenda, I'm going to suggest we drop the Committee Reports item. That was a hold over from Kevin Para as Chairman, we had committees but they never were very active if I remember correctly. He added, and I don't think we have any committees, unless you're going to tell us you're going to set up some committees.

Chairman Allen stated I don't plan on setting up committees.

Commissioner Hall stated so I'm going to suggest we drop that off the agenda. And secondly, would someone remind me of what our public participation policy is concerning time limits.

Mr. Rodi stated it should be a three minute rule but generally the Commission has not limited individuals if it's somewhat reasonable. It's just like the explanation we had tonight, there are a lot of other complicating issues that I'm sure you're aware of, so generally what we request is that someone asks to be on the agenda. There was a request made but the agenda was out so in this case only public participation was available.

Commissioner Hall stated I'm going to assume we're going to get detailed notes of what they said because it was...

Mr. Rodi stated it will be a part of the minutes, yes.

Commissioner Hall continued with two men popping up to speak.

Commissioner Diesen added it's going to be an agenda item when it comes back.

Commissioner Hall stated yes, good, thank you.

Mr. Rodi stated and if I may, when we meet it will be Counselor Preston, myself, and whoever else from staff in order to understand the ebbs and turns on this.

Commissioner Hall then stated I'm going to suggest we do not have a special meeting for this, that we go with the 20<sup>th</sup> whatever it is, go with the 26<sup>th</sup>.

Mr. Rodi stated okay, thank you.

(9) Possible Other Business – Time for Commissioners (cont.):

Chairman Allen then asked if Commissioner Zeller had any comments.

Commissioner Zeller stated he would like to see it worked out for these people, we need the jobs, but I do not want to see it put us in peril. And I can't see how they can own part of the water line and us own part of the water line.

Mr. Rodi stated just another part if I may.

Commissioner Hall interjected, may I ask a question of Mr. Rodi. You mentioned during the discussion that the CUP for water was going to be a big issue, is that still the case.

Mr. Rodi stated well, I think it is. For example, the electric supply was left out of the discussion, and so there are a lot of bits and pieces with this. And I have empathy, you know, for the situation but this isn't anything new, there has been sufficient notice. So rather than arguing about lots of things, I've made it, at least my own procedure to listen carefully and see if there is some common ground.

Commissioner Diesen stated well I can just see that if there's a water leak it's obviously going to be the meter.

Commissioner Zeller commented it's going to be our fault.

Commissioner Diesen stated I'm telling you 20 years ago there was a nightmare with a group and I could just see all that flashing before me tonight when they were talking. I have empathy, again for them but.

Commissioner Reynolds stated they seemed to concede that we wouldn't be in charge of the potable water.

Mr. Rodi stated well I think what we need to do is get this locked down because there were some things that need to be locked down. And noting that there are attorneys involved I'm hesitant to make other statements and that's why I've been careful, I've been sort of dancing around making definitive statements here.

Chairman Allen then confirmed Commissioner Zeller had no further comments and asked Commissioner Diesen if she had any comments.

Commissioner Diesen stated I have to tell you when I first got the email about the antenna or whatever, I looked at it and read it and thought is he talking about "witching" for water. I could just see that they were going to "witch" for water in my yard, I can tell them where the water is. Anyway, that aside, that's interesting and if it works and if we're part of grant that it's all paid for, you know, no harm no foul. She then stated I'd just like to wish everyone a Happy Holiday season and say that we certainly had a good year. She stated to Mr. Hoover thank you very much for all the work you've done, and we appreciate that report. I think that's it, and added it's been a calmer year this year.

(9) Possible Other Business – Time for Commissioners (cont.):

Chairman Allen then asked Commissioner Reynolds for his comments.

Commissioner Reynolds stated two things. First, of course, I wish you all Happy Holiday, Christmas, Hanukah, whatever. And also your hard work has really paid off and we sit up here and we get a chance to see your successes, and that's really cool, thank you. He stated lastly, I was looking at the St. Johns email you sent and the whole thing of changing watering rules and when people can turn it on and off, they don't every supply the funds to enforce this stuff.

Mr. Rodi stated that's right.

Commissioner Reynolds stated I remember talking to our past Mayor Vandergriff, and he said I'm not sending policemen out you know to check everybody's yard. And they put those, they're good guidelines but it seems to me we should say how about ya'll providing funds for one water "Nazi" and then that will be fine, we'll be more than happy to enforce your rule.

Mr. Rodi stated and in our situation, we have as a Commission and by Charter no police authority, and the monitoring of this is by code enforcement. I know that the issue has come forward before in City Commission discussions about allocating code enforcement time to do this and of course that, as you well know, is a very difficult thing with so many different demands upon that body. So, I think your point is well made, it's almost like a Federal mandate to a State, or a State mandate to a City.

Commissioner Diesen interjected unfunded, unfunded mandate.

Mr. Rodi stated yes, we'll make you do it but no money.

Commissioner Reynolds stated and there are so many exceptions, this is why you can't police that. You can say oh, I just planted this plant, or I just put in this thing here, and then you're authorized to water; oh, I've got a special deal. So it's impossible to police or enforce it.

Commissioner Diesen interjected and then you drive down or run down the beach and you see at 11:00 a.m. in July and every condo has their sprinkler system on.

Mr. Rodi stated and that's a part if you may recall, just for some clarification on this, we had indicated at the last budget discussion that we would be looking at, for the fiscal year 2010, rates for water, wastewater, reuse, and electric from a conservation and efficiency standpoint. And most economists say that really what you need is the effect of the financial aspect to help drive efficiency and conservation. And I think \$4.25 gasoline showed just how dramatically that can bring about a lot of change and habit. And so, not that I'm suggesting that for a punitive approach but there really does need to be a consequence in order for that conservation to occur because we do a lot of education and talk to achieve some of these things but it only goes to a certain point, and some people can't, so...

Chairman Allen stated I just had one comment in reference to the year, it's been a great year, look forward to a better year. And as we all know the prices of oil are coming down and so often it gets to the be the thing where people begin saying well, we're going to get, things are coming down, it's

(9) Possible Other Business – Time for Commissioners (cont.):

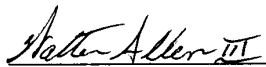
going to be cheaper, so you back away from all the alternative resources. In my mind set, that's the wrong thing to do. We should have been more proactive years ago. One of the big things I see, as far as the Utilities Commission, any resources that were added weren't economical resources. When you depend upon others you get yourself basically bottlenecked where you have to depend upon and you're open to just grabbing anything that they have if you're going to keep the lights on. When we look at alternative fuels and alternative energy and R&D projects, I believe we're heading in the right direction and that needs to be on the fore front and put us in a better position for the future because it's just a matter of time before we see oil prices changing, and we never know when that's going to happen. I'm thankful for staff here and the employees as they've stepped to the forefront and made this place work and function, and it's been good to work with each one, and I wish you all a Merry Christmas.

Commissioner Diesen interjected and a Happy New Year.


Chairman Allen reiterated that sentiment, and then asked if there was a motion to adjourn.

There being no further business to come before the Commission, Commissioner Reynolds made a motion to adjourn. Chairman Allen closed the regular U.C. meeting at 7:25 p.m.

APPROVED:

  
CHAIRMAN

ATTEST:

  
SECRETARY-TREASURER

These minutes were formally approved by the Utilities Commission at their January 26, 2009 meeting.