

AGENDA ITEM 2-a

MINUTES OF A REGULAR MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, DECEMBER 17, 2007, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

Chairman Spangler requested Commissioner Allen to proceed with an invocation. Chairman Spangler then proceeded to lead in the Pledge of Allegiance immediately following.

Chairman Spangler requested for a roll call to be taken with all of the Commissioners in attendance as follows:

Commissioner Walter Allen III
Commissioner Jeanne K. Diesen
Commissioner William E. Hall
Chairman Richard L. Spangler
Commissioner Oscar Zeller

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 Operations & Generation; D. Hoover, Director of Water/ Wastewater; J. White, Director of Engineering; R. Lemoine, Director of I.T.; P. Perez, Director of H.R.; E. Mahle, Public Information Manager; J. O'Brien, Materials Manager; B. Bilinski, Controller/Budget Supervisor; D. Wood, Customer Service Manager; D. Zorge, Customer Service Supervisor; D. Simmons, Executive Asst./Recording Secretary; and a few other U.C. employees; B. Preston, Interim U.C. Legal Counsel; City Commissioner R. Richenberg (arrived at 6:08 p.m.); Melanie Stawicki-Azam, Reporter for the NEWS JOURNAL; Bill Rogers, Bob Tolley, and an unidentified woman (arrived at 6:29 p.m.), all members of the public.

(1) Agenda Changes, Additions and Deletions:

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

Mr. Rodi stated I just have an informational note. I believe one of the Commissioners has to leave by about 6:45 p.m., so if you see someone exit, it's due to a pre-commitment.

Chairman Spangler then commented maybe we'll get right through.

(2) Approval of Consent Items:

Chairman Spangler stated we'll move on to approval of consent items and asked if there were any comments. He then stated I do. I want to comment on the minutes of the meeting of December 3, 2007. I don't want to change them, they are correct, but I did want to comment on the ex parte phone calls that we had. When an ex parte phone call comes in, and counsel can correct me whenever I'm wrong, we have to disclose it as Commissioners at a Commission meeting. We're not as rigid as some bodies where you have to actually discourage, or in some situations the person calling you from even talking and then making a written report. But what we do want to be careful about is if the phone call has an intent, if they're saying we would like for you to vote this way or that way or whatever, we need to disclose that. Now, three of us had a phone call, not five, just three, before the last meeting and it was never disclosed as to what the intent of the phone call was

(2) Approval of Consent Items (cont.):

but in rereading the minutes it was apparent that it was difficult to determine what the intent was. That may not always be the case, so I would just caution the Commissioners, if you get a phone call like that, if you can figure out what they want or if they tell you what they want, it would be good to disclose that at the meeting. He concluded by stating other than that, I have no other comments. He then asked Mr. Preston if he was close.

Mr. Preston stated you are close.

Commissioner Hall stated I thought we had decided at the last meeting any phone calls that came to us like that, we were to refer the person immediately to Mr. Preston and cut off the conversation.

Chairman Spangler stated I like that. There's a lot of writing that says that's what you're suppose to do, just discourage that phone call.

Commissioner Hall stated I thought we had agreed as a Commission to do that at the last meeting, or the last special called meeting.

Chairman Spangler stated did we, okay, good.

Commissioner Diesen then asked does everybody remember it that way?

Chairman Spangler then stated well okay, good, so much for that issue. If there are no other comments, consider the consent items for approval.

Commissioner Diesen made a motion to approve the consent items; item 2-a. Minutes of Special U.C. Meeting Held 11-13-07, item 2-b. Minutes of Regular U.C. Meeting Held 11-19-07, and item 2-c. Minutes of Special U.C. Meeting Held 12-3-07, approve all three items as submitted; item 2-d. Developer's Agreement and Addendum – NSB Airport Industrial Condominium, approve as submitted and authorize the General Manager/CEO to execute the document; item 2-e. Termination of Florida Electric Power Alliance (FEPA), approve termination as contained within the provisions of the Interlocal Agreement, specifically Article VI, Section 1 (any remaining revenues will then be proportionately returned to the Members); and agenda item 2-f. Bid No. 04-08 – Cable for Central Stores, approve award of purchase order PON0007626 in the amount of \$60,911.40 to Gresco/Capstone Utility Supply. Commissioner Hall seconded this motion and it passed unanimously on a roll call vote.

(3) Public Participation:

Chairman Spangler stated before we go into public participation, I have some more comments to make and it's Christmas, and I'm the Chairman. One thing that I would like to say is that I think it's probably a good idea if I step down as Chairman. I think it would also be a good idea if while we have all five Commissioners here, that we then try and elect a new Chairman so that we can go into the year with our full leadership because we may have some meetings prior to our next regular meeting. With that said, I would like to turn the meeting over to the Vice Chairman (Allen) and I would like to be able to make a motion right away that we elect a new Chair while we have all five of us here, or at least by 6:45 p.m.

(3) Public Participation (cont.):

Commissioner Diesen stated when you say that you're stepping down as Chair, are you leaving the Commission?

Chairman Spangler stated I haven't said that, I'm stepping down as Chairman, and I'm going to turn the meeting over to the Vice Chairman. Then I would like to make motion that we elect a new Chairman.

Commissioner Diesen stated after you step down.

Chairman Spangler stated after I step down, which may or may not move.

At this point, Chairman Spangler and Vice Chairman Allen switched seats and their associated name plates were moved.

Commissioner Spangler then stated with the Vice Chairman's permission, I'd like to make a motion that we elect a new Chair. Commissioner Hall seconded the motion and it passed unanimously on a roll call vote.

Commissioner Diesen stated I don't know if this is out of order, but I think we have a succession and I would suggest that we just follow the succession that we have in place. I think that's why we put them there originally, and then we'll just have to move another person into that last slot.

Commissioner Hall stated you're recommending that Walter Allen be the Chair, right?

Commissioner Diesen stated right.

Commissioner Hall stated I will second that.

Commissioner Diesen then moved for the nominations to be closed. Commissioner Hall seconded that motion as well.

Commissioner Diesen's prior two motions then passed unanimously on separate roll call votes. Vice Chairman Allen was appointed to the position of Chairman for the remainder of the ensuing year.

Chairman Allen then asked if there was any public participation. There was none and public participation was closed.

(4) General Manager's Report

(4-a) Financial Status October 2007:

Mr. Rodi stated in addition, I've asked Ms. Klinkenberg to do a couple of things. One is to give an overview of the financials as we have been doing in each of the meetings, and then give a special report in regard to how we intend to use the capital that we're gaining through the loan and our

(4-a) Financial Status October 2007 (cont.):

investment practices as we see them at the moment. So I thought that might be an appropriate topic just for you and the public to hear.

Ms. Klinkenberg stated for the financials for month ending October 2007, our change in net assets was \$735,975 for the combined system. Our forecast reports reflect a favorable balance of \$225,155 for the month. She stated I believe, and Mr. Kish can probably confirm this, we're planning on presenting September's financials in January's meeting. I think that is our target date, and then you'll see the final numbers on that one.

Mr. Rodi stated that's the audit report you're referring to.

Ms. Klinkenberg answered yes. She then stated in regards to what Mr. Rodi had mentioned, most of you know we did a pre-closing on a bank qualified loan this morning. The reason that it's a pre-closing is because it's all done off-site in separate locations. We should receive the \$10 million tomorrow by wire before 12 noon. As soon as I receive the funds I'm going to transfer it into one of our money market accounts, which is safe and at a much higher yield than we would get in a regular bank account. At the same time, I'm working with our financial advisor and bond counsel with another group called IMAGE. That stands for Investment Management Advisory Group. They specialize in going out for bid for investments and with the market the way it is today, and all that stuff around the SBA and all that, we felt we really needed to have the experts to guide us so that we don't get into any trouble. We should have the bids back by next week. This process all fits within our financing policy as well as our investment policy. And that's what our bond counsel is making sure of, that it fits in with all those guidelines. As soon as we get a bid that returns more money than we're paying in interest, which shouldn't be too difficult, then I'll be transferring the funds there. This will be with a draw down schedule that fits Mr. White's needs and the Water Plant's needs. There's no penalty for taking out any funds ahead of time. We could withdraw them all at one time if we want to or keep it on the schedule that we projected. Mr. White came up with the possible schedule for drawing it down. She then offered to answer any questions.

Commissioner Diesen stated in that regard, you know there's been some noise in the system about the fact that we're only paying principal for the first seven years. Anyone who's ever had a mortgage or any kind of a loan knows that there's very little that goes to the principal during the first few years. I think that's a point that's been missed all along when everybody's saying, you know you're only paying the interest, you're not paying the principal for the first seven years. At some point in time I'd just like to get a number on that but I know it's very low. And I just think that's a spurious argument and I'd like us to be able to stop it.

Ms. Klinkenberg stated so you'd like me to come up with something that shows you if we were to pay down principal, what it would have been.

Commissioner Diesen stated yes, just give us a little figure because it's low. I mean anyone who's ever had a home mortgage, and heaven knows the size of mortgages today, the amount that goes to principal is minimal.

Ms. Klinkenberg stated no problem.

(4-a) Financial Status October 2007 (cont.):

Commissioner Spangler stated I was there this morning and was signing all those documents, and it was an opportunity to ask a lot of questions about things I wasn't so knowledgeable about. The ramifications of what I was told tells me that the type of financing the Utilities Commission does bears no resemblance to a home mortgage. So I was very satisfied with what I heard. You know, like I said, I was going after a couple of things and I was educated. I'm very pleased with what happened and I think we got a great deal.

Commissioner Diesen stated I think we did too, I just think that we have people that don't understand, they use that. I had several phone calls from folks who questioned the idea.

Commissioner Spangler interjected they should have been there this morning.

Commissioner Diesen added and I said just think about it, that's the major chunk of change that you're paying out anyway. So I just wanted to reemphasize that.

Commissioner Hall stated if I may ask Mr. Rodi a question. I was there (pre-closing) signing as the Secretary-Treasurer, and I asked the two gentlemen, I can't remember their names (Mr. Peter Dame, UC Bond Counsel and Mr. Toby Wagner, UC's Financial Advisor). I remember they were by far, their bid was much lower than Bank of America and Wachovia's. I asked them if they were in the residential business of loaning on houses and the answer I got was, Ms. Simmons you were there, was a little strange. I thought when we asked them here they said no, they were strictly out of state commercial and dealt with utilities, etc. But this morning they said we don't know, we may be. Maybe my memory is faulty about our conversation the evening that they presented to us, but I don't think it is. He stated I didn't pursue it, because obviously they had the best bid by far.

Mr. Rodi stated I really don't quite understand the import of your question. If it's connected to all of the home loan issues that are out there, they (Mr. Dame and Mr. Wagner) certainly don't represent a bank. And the loan that we were able to secure is isolated from that market, and so that was one of our primary concerns. I think I also understood that they are basically a professional commercial enterprise. So I don't know what the question was and I don't know how they understood it, but those are just two immediate responses. The other comment I'd like to stress again is the differential between what the rates are currently going for in the bond market versus this rate, which is a private loan, they are substantially different. I think a number of the slides that we showed had percentage rates in the 4.25% to 4.35% range compared to this 3.93%, which is a material difference over time. There is another element of this, as we are using our money we're paying down much higher cost debt, and we're paying down debt at a very aggressive rate. So those are all distinguishing issues and I think what Commissioner Diesen is pointing out is just a common understanding that all of us have. When you go to buy anything, if you have cash, you're better off and you're not spending your money and giving it to someone else. But between cash and not paying ever any principal, you have two different worlds and it depends upon the financial circumstances of each entity. In this case, I think it is a good mix because it allows us, should we begin to acquire extra cash, we can pay this debt down at a much faster rate without a severe consequence.

Mr. Rodi stated speaking of signing, I believe Ms. Klinkenberg has some additional paperwork that still needs to be signed at the conclusion of this meeting.

(4-a) Financial Status October 2007 (cont.):

Ms. Klinkenberg added by each Commissioner. Commissioner Hall and Chairman Spangler have already signed this morning. It's just a certificate of public meetings, it has to do with the Sunshine Law.

Chairman Allen stated the other comment I wanted to make is with the way the loan was structured, it helps keep from having a drive rate increase. As you pay down debt and you start paying the principal, then it flows and kind of evens everything out for the future.

Commissioner Diesen stated to Mr. Rodi, didn't you, at some point in time, say we paid down \$12 million last year.

Mr. Rodi stated the gross amount, I think if I'm recalling the number, was something like \$16 million. But if you add in the increase in short term liability, I think it's a net down to \$8 million. He asked Ms. Klinkenberg if that was correct?

Ms. Klinkenberg answered yes, somewhere in there.

Mr. Rodi stated if you look at our total debt and the amount we paid down, that's a significant amount of money.

Ms. Klinkenberg stated our principal only pay down is right around \$5 million a year, it's pretty steady.

Mr. Rodi then asked if there were any other questions on the investment part of this. I thought it appropriate, and it was Ms. Klinkenberg's idea to say we really ought to present so that someone understands how we will be progressing, because I think there's a lot of curiosity about this.

(5) Commission Counsel's Report:

Chairman Allen stated the next item is Commission Counsel's Report.

Mr. Preston stated I don't have a formal report but I would like to make clarification. The motion made earlier in regards to the positions on the Commission included verbiage which indicated that there would be a succession moving one up to the next position, whatever that may be. And I didn't want there to be confusion as to whether that went beyond the Vice Chair moving to the Chair position. For example, Mr. Hall, serving as Secretary-Treasurer, did that affect his position, and I'm making clarification to that motion that it did or did not make a difference as far as Mr. Hall's position is concerned. And with that also, the fact that there is no Vice Chair currently because of this move, and whether you wanted to engage a Vice Chair is up to you.

Chairman Allen stated I think we need to.

Mr. Preston stated so with that you can open nominations for positions, whatever they may be. I would think that clarification however of whether there was succession with Mr. Hall moving into a Vice Chair position, and then electing a person to fill that vacancy or not, would be in order.

(5) Commission Counsel's Report (cont.):

Commissioner Spangler stated now that I can make a motion, I would make that motion. I would like to nominate Bill Hall for Vice Chair.

Commissioner Diesen stated I second the nomination and move the nominations closed.

Chairman Allen stated okay, we have a motion that Bill Hall fill the Vice Chair position, and there's no others, so call the roll.

Commissioner Spangler's motion then passed unanimously on a roll call vote. Secretary-Treasurer Hall was appointed to the position of Vice Chairman for the remainder of the ensuing year.

Commissioner Hall then stated I want to thank my fellow Commissioners for your confidence. He then added, I'm not so sure you needed to step down Commissioner Spangler, but that's okay, I understand why.

Commissioner Spangler stated yes, I'll talk about it later.

Chairman Allen stated okay, we need to follow through and elect a Secretary-Treasurer.

Commissioner Hall nominated Jeanne Diesen. Commissioner Zeller seconded that nomination and Commissioner Hall made a motion to close nominations.

Commissioner Hall's motion then passed with a majority of the Commissioners voting yes on a roll call vote; Commissioner Diesen voted no. Commissioner Diesen was appointed to the position of Secretary-Treasurer for the remainder of the ensuing year.

Chairman Allen then stated to Commissioner Diesen, we welcome you.

Commissioner Diesen commented I've been there, done that, don't like being in an office again.

Mr. Preston stated with that, I have nothing further.

(6) Committee Meeting Reports

Chairman Allen confirmed there were no committee meeting reports.

(7) Old Business

Chairman Allen confirmed there were no old business items to consider at this time.

(8) New Business

Chairman Allen then confirmed there were no new business items to consider at this time.

(9) Possible Other Business – Time for Commissioners:

Chairman Allen then stated the last item is possible other business, time for Commissioners.

Mr. Rodi stated I'd like to acknowledge Dave Hoover and the Water and Wastewater group. Often times, just like Ray Mitchum and Tim Beyrle, team so well in dealing with tornados and all that, He added we had a scare again here yesterday. I really would like, and I sent out an email and copied you on this, but as you know I think that was a superlative performance in acting so quickly to effect a change in something as important as that force main. But it also pointed out some things that were done well before this even happened. A year and a half ago, where they had gone through spare parts and having all the things they needed, who would do what, and it executed very well. The rest of the organization was also very supportive. I'm talking about Ellen Mahle in getting releases out, Engineering in helping to get some technical detail out and being on site and have back up, and H.R. in taking care of the employees with the special needs that they had there. So there were a lot of things that were done, including, I think, good communications with the community so they knew what was happening in a timely fashion, an estimate of return, and meeting that estimate. So I wanted to extend that forward because I think it's an important aspect of showing the dedication of the employees, as well as the planning and execution of that plan, He concluded by stating so I wanted to take that moment.

Commissioner Hall stated I want to just say that it was interesting. A lot of people at first, when they heard the message, didn't quite understand the message until they heard it the second time. You didn't say don't use, it was please limit the use of the toilet. I was eating at the Deli Touch and I was telling the waitress and she said we didn't hear that. She was running around telling everybody and then about two hours later we get the phone call stating that everything was okay, go about your business as usual. He stated to Mr. Hoover, I think you all did a great job and the pictures that came across on the computer were quite interesting.

Commissioner Spangler stated I'd like to talk to Mr. Hoover about that too. You know I was there, and in fact I saw you there, and my impression, having been a contractor and having seen things like that done before and having been in charge of similar things. You know they talk about the efficiency of private enterprise versus public, I would have been happy to have that whole crew working for me because they would have made me some money. Everything went so well, everybody knew what they were doing, there were some tricky things, and it was just first class. I would just like to say that.

Chairman Allen stated the other thing I wanted to say in aspect of that is the timing, the way everything worked out, and knowing and projecting an estimated time. You know when you step into something you really don't know, and when you get in there to be able to work that out in a real timely manner says a lot for the team that we have that works out there.

Mr. Hoover addressed the Commission and stated he couldn't pass the moment without saying something about the people you didn't see. The lift station personnel, who went out an hour before the actual time that we envisioned for the break in the line and trying to repair it. They were shutting down some 75 lift stations and trying to convert the gravity sewer system into a temporary storage tank. They did a miraculous job in some respects. They had practice on the 18" force main project a couple of times so they sort of knew what to do with the beachside, but they quickly expanded that into the mainland too. So there were about 10 people there that did a superb job. We

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

received Mr. Rodi's nice letter of appreciation, posted on some bulletin boards, and we're passing that around.

Chairman Allen then asked Commissioner Spangler if he had any comments?

Commissioner Spangler confirmed this was Commissioners' time and stated basically I just wanted to say that I have decided to resign from the Utilities Commission effective immediately. I'm doing this to avoid any public perceptions that would undermine the new Mayor's effectiveness. My understanding was she won every precinct, I think the people want her, and I just don't want to interfere with her effectiveness at all. So I'm going to step down this evening. I feel like I've accomplished the goals that I had three years ago. I'm confident in the direction the Utilities Commission is going. I want to thank my fellow Commissioners, our Director Mr. Rodi, staff, the employees, and I wish you all a Merry Christmas.

Commissioner Zeller stated I hate to see talent leave us, and stated to Commissioner Spangler, the short time that I've been here I think you've done a helluva good job.

Commissioner Diesen stated what can I say, I've enjoyed serving with you Commissioner Spangler. I'm sorry to see you go, but I'm not unhappy about the reason you're leaving. I hope everybody has a great Christmas and a Happy New Year because we won't see you before then, with any kind of luck.

Commissioner Hall stated I just want to say to Commissioner Spangler I've enjoyed working with you. I thought you were a very level headed and even handed Chairman, and I just hope your replacement is half as good as you are.

Chairman Allen stated to Commissioner Spangler, I'm going to miss you, I didn't get to work with you long enough. You've been as asset to the Commission before I came on, just reading and the way the Commission was going, what you added to the Commission. In the future we can continue to carry that forward and see this Commission be solid and be a vital part of this community. It caught me by surprise to sit me over here in the chair.

Chairman Allen stated I'd also like to wish everyone a Merry Christmas and a blessed New Year. I truly do thank the staff and the employees for the fine work and the dedication they give to our customers and to the City here. He stated I look forward to a better year for communicating across the two different Commissions and that we could work together and see our community really flourish in the future here as we move forward. To be able to communicate openly and be able to understand each other and just see things grow. We have probably the greatest City I know of in all the areas I've traveled, and I've traveled across four continents in my life time. I've seen a lot of cities, I've seen a lot of cities function, but we have, and I always tell folks as I run into them as they visit our community. We have the best kept secret but it's not being kept too quiet any more as more folks move into our community. I just want to see it just flourish, and being here for as long as I have, and many of us have been around and seen it grow, that it would grow in a proper manner.

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

There being no further business to come before the Commission, Chairman Allen stated we'll end the meeting and then adjourned. Chairman Allen closed the regular U.C. meeting at 6:34 p.m.

APPROVED:

ATTEST:



CHAIRMAN



SECRETARY-TREASURER

These minutes were formally approved by the Utilities Commission at their January 28,
2008 meeting.