

AGENDA ITEM 2-b

MINUTES OF FINAL PUBLIC HEARING, PRELIMINARY PUBLIC HEARINGS (TWO) AND REGULAR MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, APRIL 17, 2006, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

Chairman Para requested the public hearings to be opened with an invocation by Pastor Walter Allen and with the Pledge of Allegiance led by Commissioner Reynolds.

(1) Final Public Hearing Re: Revision of Water, Wastewater, and Reclaimed Water Main Extensions Policy:

Chairman Para stated the first matter of business before we start the regularly scheduled meeting is the public hearings on three items. He then opened the final public hearing regarding revision of water, wastewater, and reclaimed water main extensions, with all of the Commissioners present as follows

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Commissioner William H. Reynolds
Commissioner Richard L. Spangler
Commissioner Jeanne K. Diesen
Commissioner William E. Hall (Initially Absent, Came at 6:04 p.m.)
Chairman Kevin J. Para

Others in attendance were as follows: R. Rodi, General Manager/ CEO; R. Montalvo, Director of Finance; R. Mitchum, Director of Electric Operations; T. Beyrle, Director of System Ops. & Generation; D. Hoover, Director of Water/Wastewater; J. White, Director of Engineering; R. Skog, Interim Director of I.T.; B. Mudge, Director of Human Resources; E. Mahle, Public Relations Manager; K. Connor, Materials Manager; G. Johnson, Water Plant Operator A; J. Lutz, Call Center Technician, Level II; J. Santrock, Repair Supervisor; M. Roberts, Electric T&D Lineman; D. Simmons, Executive Asst./Recording Secretary; and additional U.C. personnel; Bill Preston, Interim U.C. Legal Counsel; Craig Dunlap, of Dunlap & Associates; Jeff McGarvey, of R.W. Beck; John Kessler, of Bank of America; Alex Kish. and Brad Douglas, of Brent Millikan & Company, P.A.; Melanie Stawicki-Azam, Reporter for the NEWS JOURNAL; Pete Slavin, Reporter for THE OBSERVER; Walter Allen, Pastor of Beachside Baptist Church; Security Guard from World Security; Bob Walker; Craig Crawford; Bill Rogers, Donna Para, Bob Tolley; Robert Hunter, Robert Rees, Ken Taylor, and a few unidentified men and women; all members of the public.

Chairman Para then requested Mr. Preston to read the notice of public hearing and proposed resolution by title only.

Mr. Preston stated for the record this final public hearing was authorized by the Utilities Commission during their February 27, 2006, Regular U.C. Meeting and notices appeared in THE OBSERVER at least ten days prior to this date. Notices were also 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. Mr. Preston then

(1) Final Public Hearing Re: Revision of Water, Wastewater, and Reclaimed Water Main Extensions Policy (cont.):

proceeded to read the proposed resolution by title only.

Chairman Para asked if there was anyone in the audience that would like to be recognized this evening either in favor or opposed to this revision.

Mr. Robert Rees addressed the Commission and asked if this was regarding the cost increasing in the rates to the customer?

Chairman Para stated the first one is on the extension policy.

Mr. Rees stated I'm asking if this also has anything to do with the cost of it.

Chairman Para interjected I think the next two are for rates.

Mr. Rodi stated this involves the cost of the extension of the pipes and how that cost will be distributed among those persons that will receive those services.

Mr. Rees stated so the ratepayers are not paying for these extensions.

Mr. Rodi answered the proposal is saying 100% of the funding now will come from those benefiting parties.

Mr. Rees stated so just the benefited parties, the existing ratepayers will not be paying for this then.

Mr. Rodi asked Mr. White to confirm that he was correct in that, they will not, which Mr. White confirmed.

Mr. Rees stated that was what he wanted to know. He commented I think new growth ought to pay for it, not existing ratepayers. He then identified himself for public record, and restated his name as Robert Rees and that he resides at 391 Granada Street.

Chairman Para then asked for a motion for approval. Commissioner Diesen made a motion to approve the Revision of Water, Wastewater, and Reclaimed Water Main Extensions Policy and Commissioner Spangler seconded the motion.

Mr. Preston stated there is no approval needed at this time, the resolution is on the regular meeting agenda for approval.

There being no further comments, Chairman Para closed this final public hearing at 6:05 p.m.

(2) Preliminary Public Hearing Re: Adjustments to Various Electric, Water, and Wastewater Rates:

Chairman Para then requested Mr. Preston to read the notice of public hearing and proposed resolutions (eight total) by title only. He asked for roll call to be taken, Commissioner Hall was

(2) Preliminary Public Hearing Re: Adjustments to Various Electric, Water, and Wastewater Rates (cont.):

now in attendance, and the remaining same attendees were present as shown in the final public hearing.

Mr. Preston stated for the record this preliminary public hearing was authorized by the Utilities Commission during their March 20, 2006, Regular U.C. Meeting and notices appeared in THE OBSERVER at least ten days prior to this date. Notices were also 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. Mr. Preston then proceeded to read the proposed resolution by title only.

Chairman Para thanked Mr. Preston and then asked Mr. Rodi if he had any comments.

Mr. Rodi stated yes, I would like to provide some overview comments about the process that was used here. For those of you who attended the joint meeting on the five-year capital program, presented in there was a comprehensive rate study. This is on our website along with a lot of other things. He said but what I wanted to comment on was this document did not just sort of grow out of isolation. One of the things we did early on was to develop our goals and objectives and a lot of our strategies as to how we're going to go forward with the business. When I say this business I'm talking about the Utilities Commission. In examining the infrastructure one of the things we had to do was establish baselines, what's right with it, what's wrong with it. There are a whole series of studies that have been coming forward. One of them is our water piping study, another is our pumping study, then we have a wastewater study, and we have an electrical study; that's going to tell us the condition of each of these systems. If you look up on the wall behind me is one example of the water piping system and if you look at that it shows our geographic area, and I'm talking about the map just left of the titled page Generation Strategy. You'll see on there items that need to be done immediately and those items that occur from one to five years out and those that occur from five to ten years out. That's how we're structuring each of these studies so we have a worse case scenario and we have a best case scenario. If you look at the detail, you'll see some items that have to be addressed right now to deal with the infrastructure, such as the 20" supply that goes from Glencoe to Smith Street. In the water pumping study you'll see that Smith Street essentially needs to be rebuilt, both the electrical side of it, and the pumping side of it, in order to be more effective in what we're doing and to have adequate water supplies.

Mr. Rodi said we also took the approach of what do we do with all of the growth and we've separated new growth elements that are represented in the chart that shows the new developments. We're working on a concept called equivalent residential units as a way of distributing those costs equitably amongst developers. As you listen to other parts of the program tonight, you'll hear some of our funding mechanisms. For those of you who are interested please go to our website, these are posted, these aren't opinions, these are studies that are done by professionals to help us get through this. Mr. Rodi concluded by saying with that backdrop, I just want to turn it back to you Chairman.

Commissioner Reynolds asked Mr. Rodi to give a little background on the rate study, please briefly describe why that was done, when the last one was done prior to this one, and when was the last time the rates were changed in the city.

(2) Preliminary Public Hearing Re: Adjustments to Various Electric, Water, and Wastewater Rates (cont.):

Mr. Rodi stated as I understand the last time we had any kind of official rate study was around 1990 for the electric part of the business, and a cost of service study in 1995 or 1996, and confirmed this was correct Mr. Montalvo? He stated in trying to address what components go into this, you look at the ongoing costs that you're going to incur and with that you're also looking at the reinvestment in infrastructure. For example, we have some parts of our electrical system where the cables are now reaching their useful life and they're failing. So those items are plugged into the study and as a result, I think it was 2001 was the last increase for our electric system, and I believe 2004 for the water system. So what's happened in the past, and this is pretty traditional, you periodically do intensive studies and then you check as the plan unfolds to see if you're following the information that you've derived from those plans. We're in the mode now, because of our expected growth, to be able to isolate what's new development and what's existing. The only way we can do that is to specify it and put it into some graphic form, and that's what these studies have done.

Commissioner Hall asked Mr. Rodi, in his opinion, how often should a Utilities Commission or utilities franchise, whatever you want to call them, do a rate study on electricity, water, and wastewater. He asked should it be done every ten years, every five years, or as conditions arise, or all three?

Mr. Rodi stated I think the answer is it depends. If you're in a fast growth mode you have to stay on top of it year by year. If you have very stable growth where you're expecting not to see anything on the horizon, every three to five years is generally when that's done.

Commissioner Hall said he had one final question on this, how do we ensure that future Commissions and CEO's know and follow some sort of plan to do that.

Mr. Rodi stated I think what's happened with the strategic initiatives is that it's much like a project management approach, built into the system are periodic reviews. For example, after we finish with the dialogue with regard to this rate study, we will continue to monitor the performance. With the housing market appearing to move into a softer mode than it was moving in, we're watching and you get reports every month, as to how many homes actually are new and are being built. We monitor that and it starts to tell us whether or not we need to increase our activity in regards to the reports or decrease it. Our expectation is when we put this plan together it was a worse case scenario. Everyone was saying that we're going to have a build out of 16,000 homes, and understand once someone moves in they're no longer new, after they pay their fees they're just like everyone else, they're entitled to the same services as someone who has been here for 30 years. In planning what all the effects are, we are going to monitor those outcomes. Frankly we don't think the pace of development will be as it was reported just a year ago. He then asked Commissioner Hall if that answered his question.

Commissioner Hall stated to a degree, but again how do we ensure that the five people who are going to replace us, and then replace those five people, and the CEO's of the future understand that there is a plan in place to do this.

Mr. Rodi answered the only thing I can do is point to that wall again and it has very detailed report

(2) Preliminary Public Hearing Re: Adjustments to Various Electric, Water, and Wastewater Rates (cont.):

outs that will cause the interaction with the Commission and the public.

Commissioner Hall stated so what's on that wall becomes basically our bible.

Mr. Rodi stated it's a living document and is a driving force for us.

Chairman Para stated he would like to interject, would be remiss for him not to say thank you to Mr. Rodi for his leadership in coming here and developing that, this is the first time we've seen that kind of leadership and that's what this Commission has needed. He stated with that reflection future Commissions and CEO's, whenever that takes place, they can reflect on it. Chairman Para then asked if there were any more comments either from the Commissioners or the public.

Mr. Bill Rogers, who resides at 1102 Horton Street, addressed the Commission. He stated the monies that are having to be spent on infrastructure, is that because the infrastructure is just due to normal maintenance there or has there been a neglect of the system.

Chairman Para stated he would take a crack at this one, it's sort of like a 15 year old car and we've ridden it for quite some time. I mentioned during the last meeting, when I was up in Gainesville at that workshop, that's one of the things they said, it's a systemic in all utility commissions all over the United States. There's a generational component to this and we're coming to the end of a lot of those infrastructural life spans and that's where we're at.

Mr. Rogers stated are you saying then that regular maintenance, replenishing of equipment and vehicles has happened or has not happened.

Commissioner Spangler stated we're not talking about new trucks because we've gotten a few new trucks to replace the 15 year old ones, but we're talking about, for instance, the water infrastructure in town. It has been maintained, it has been patched, it has been band aided, but sooner or later we won't be able to just patch it. It's more like a 35 year old taxi cab, that's where we're at, it has basically been maintained but it is near the end of its useful life and no one seemed to be aware of that until recently. So now we're in a situation where I think we were talking about over the long haul \$160 million for water infrastructure and a lot of people think that's because of the growth west of town. The growth west of town is probably 25% of that and they are generously paying for that. The other 75% has been neglected for a long time and now we're going to have to pay for it so all the ratepayers who thought they were paying an ordinary rate, they were getting a subsidized rate, and now somebody's going to have to kick it up.

Mr. Rogers thanked the Commission for those comments.

Commissioner Diesen stated I would like to have Dave Hoover respond to that in some respect.

Mr. Hoover stated that's a multi-faceted question, and let me give an example of the beachside. Right now we have a 16" water main going across the South Causeway and on the North Causeway there's a 12" water main, and there's a fairly well developed grid on the beachside itself for those

(2) Preliminary Public Hearing Re: Adjustments to Various Electric, Water, and Wastewater Rates (cont.):

customers. That 16" water main was put in 1985 and it was a fairly big project. Mr. Pete Korelich was our Chief Engineer at that time and he had stated to me that by the time I retired that line would still be adequate. Mr. Hoover stated I don't think Mr. Korelich envisioned quite as much redevelopment as we're seeing, homes being torn down and four or five homes becoming a vertical development, into a condominium with 500 connections instead of four homes. This puts a real burden on those two transmission mains to take the water across the Causeway. One of the components of this water master plan is to take a couple larger lines across there, rebuild the Third Avenue booster pumping station which was a steel tank which wasn't the best thing to put on the beachside, put in some new control equipment, variable frequency drives and things that will allow us to pump more effectively and not be putting so much money into just fuel and power. That's just one instance, most of our transmission mains are 12" or smaller, and now that the City has gone from a small to what I call a small medium sized community, that's what a lot of this work is to do. To bring out larger transmission mains to feed the grid more effectively, put in another booster pumping station and storage to the west of town where all this growth is going to come, put in some new wells, and upgrade the water plant to increase its flow. Just many components that as the Chairman said, we put in a level of improvements and then you drive as far as you can on those. So for a lot of reasons there's now a new wave of improvements that needs to be performed. He stated I've been present during many of the major improvements that we've had, upgrading the water plant, putting in two new wellfields, now we have three but soon to have four, and another booster pumping station, I've been present during the building of one of those. It's just part of those issues of becoming a bigger community and then effectively managing what we have to do.

Commissioner Spangler stated to Mr. Hoover that he didn't want to imply that the decline in the infrastructure has anything to do with you, and commented you've been the magic man.

Mr. Hoover stated he appreciated that and in defense of what's been done up to now, we're still operating fairly effectively but to go further we just need to supercharge this "old V.W." and bring it where it needs to be to meet the needs of the future.

Commissioner Reynolds stated he had a question for Mr. Hoover. He stated I know on the north end and south end of the peninsula, when all of our friends from Orlando and surrounding areas come over to their summer home like on a weekend, and they all turn on the valves, I think we've had complaints that water just barely dribbles out at the end of the stream. Is that correct or is that just the rumor?

Mr. Hoover stated I don't think so, not to that extreme. We have had some comments back from the Fire Department for several years now that although there's adequate pressure the supply volume isn't there when you open up hydrants. It's getting to where it's at the very minimum of the regulatory needs for adequate fire supply.

Commissioner Reynolds stated and I think that is what, 1,000 gallons per minute or something like that.

Mr. Hoover answered its a little less than that, I think a 1,000 is where we have really good flow, it

(2) Preliminary Public Hearing Re: Adjustments to Various Electric, Water, and Wastewater Rates (cont.):

goes down to around 600 where you see the orange caps.

Commissioner Reynolds stated the standard is suppose to be around 1,000.

Mr. Hoover stated that's ideal, correct, we should have around 1,000 to maybe 1,200 GPM and many of the areas close to the transmission mains have this. In 1984 we built the south beachside pumping station for the needs of the growing condos in that area and with the rebuilding of the Third Avenue pumping station we'll be able to have adequate fire supply even with all the development on the north end. We went from one condo at the inlet to now maybe twelve. That's how you address, when you don't have large enough, or the capability for large enough, transmission mains, you have booster pumping stations and reservoirs so when the immediate need comes you can crank them up.

Chairman Para thanked Mr. Hoover for his comments.

Mr. Rogers then asked another question, if for some reason you did not increase the rates, what is the potential situation in the future to the City, to the infrastructure. Are we at a point where there would be a breakdown or are we at a point where we could continue operating for several years and possibly nothing happen. What would be the situation if we don't get the funds that we need to do the increases in the infrastructure.

Chairman Para stated personally I think we would be letting the citizens down by not taking this viewpoint of being proactive and bringing these things on line. He then asked Mr. Rodi for his comments.

Mr. Rodi stated it's one of those questions that's extremely difficult to answer. For example, if we lose Smith Street, we have very old electrical switchgear there, if the switchgear burns out that whole station is down and that's the heart of our system. We're at the point where the capacity of that switchgear is at its limit. So one of the obvious things is well, how much do you gamble with that. Another example of that is we have the pressures pretty high on a lot of these piping systems and we're at the point that we really can't increase the pressure anymore because we start to reach the mechanical strengths of the piping systems. I don't know how you answer that other than you say, well do you keep gambling with it, because what's happened is as we've tried to do what could be called "work arounds" by increasing pressure, and then your costs go up. So you're paying more for pumping costs, in some cases like at Smith Street, we spend a lot of money just recirculating the water between the pipe and the tanks because the pumps weren't designed right.

Chairman Para commented and that's not energy efficient.

Mr. Rodi confirmed that statement and added it's full of those kinds of issues and whether or not, for example on beachside, if there's a multiple set of fires that occur simultaneously, Mr. Hoover made a very important point, the volume isn't there. Very quickly you would lose the pressure out of the lines and then you can't get enough water on to the burning buildings; that's a critical factor.

(2) Preliminary Public Hearing Re: Adjustments to Various Electric, Water, and Wastewater Rates (cont.):

Commissioner Reynolds stated I think this Commission would be very remiss if we were to have some disaster like that and then have done nothing about it. It's much better to bring it up in a public forum about what we're going to do and the specific plans than it is to see headlines in the News Journals about some huge failure and catastrophic failure at that. This is why we're here and we love public input and it's interesting to find out if there's some recommendations from our citizens. I've talked to several today and asked them to solicit their own comments from friends and all. Mr. Rodi here has a road map that they can come down and take a look at, it's pretty important, all of us citizens should do that.

Mr. Hoover stated he would like to add one more thing for Mr. Rogers, his question is very good, the capital improvements are for improving the facilities and the infrastructure. The funding comes from a whole different avenue than this rate increase. The rate increase is to adequately recover the costs of operations. I've shared with the Commissioners over the last couple of years, and with Mr. Rodi our annual operating report, which shows a trend that's disconcerting to say the least. Over the last 25 years, each year we've increased in our operational costs, a cost per 1,000, which we gauge for producing potable drinking water and for treating sewage. It usually goes up about one to two cents per year so right now for water we're roughly about a \$1.00 to \$1.15 per 1,000 gallons to recover the costs for treatment, for salaries, the chemicals, the fuel and power to operate the wells, the treatment plant itself and a couple of booster pumping stations. This last year, fiscal year 2005, we saw a trend that really went exponentially. We increased twenty cents for water and about twenty-five cents for wastewater. In all the years I've been doing this report with my staff we've seen fuel and power be the secondary component, salary for the staff that runs these facilities has been the major component, and then chemicals comes third and second comes fuel and power. This last year fuel and power became the number one component of the costs for operating both the water and wastewater systems. We all know driving our cars what's behind that, just the fuel part of the equation itself. This is why the capital improvements are needed to contain operation costs and this is why rates need to go up so we can continue to operate the facility and not go into the hole. We just want to break even, we're not trying to make a profit, we're just trying to cover our costs.

Commissioner Spangler then stated we're getting our financial statements really fast, this is for March 2006. He stated what we pay for our fuel, in addition to what we generate but most of our power we buy, but it still has to be generated with use of fuel. What we paid for our power between, comparing March of 2006 to March of 2005, was a 59% increase; somebody is going to have to pay that.

Mr. Hoover stated that's true and it's totally beyond our control, other than redesigning the system, getting bigger pumps, bigger pipes, to reduce friction losses, and better control equipment, and making sure our operations personnel are on top of it with the best instrumentation that we can have. The Finance Director and I have been working for four or five years at trying to balance our budget at the end of every year and putting together our new budgets and it's just become an impossible equation. The last thing anybody wants to do is raise rates but there's a point in time where it must be done.

(2) Preliminary Public Hearing Re: Adjustments to Various Electric, Water, and Wastewater Rates (cont.):

Mr. Rodi stated he would mention one other thing that Mr. Montalvo had leaned over and mentioned to him. We have an obligation to our bondholders to maintain the system in operable, effective condition and so Mr. Montalvo wanted me to make that comment.

Mr. Montalvo stated that is correct.

Mr. Robert Rees, who resides at 391 Granada Street, addressed the Commission again and stated he wanted to start off first, wants to know, do we have a utility's impact fee in the City of New Smyrna Beach, on new construction. Does the Utilities Commission receive money as an impact from developers and home builders.

Mr. Rodi stated the answer to that is yes, we have connection fees, and I don't remember them exactly, \$500 for water meters, \$1,250 each for sewer and water.

Mr. Rees stated okay that's the connection fee.

Mr. Rodi stated that's for the capacity of the water plant and the sewer plant.

Mr. Rees stated mainly what I'm going towards on this thing is for your infrastructure on it, does the connection fee pay for this wastewater line going down a new road in a development, does it pay for the return line and supply line going into these developments into these buildings.

Mr. Rodi stated there are two parts of your question as I'm understanding it. Within the development the developers pay for that infrastructure, for water and wastewater. On the electrical side they install a conduit and we install the cable. External to the subdivisions that issue has never been addressed and we specifically are using a concept that we're developing now called the equivalent residential units that are used by the City Planning Group to apportion costs of all of this new infrastructure that will be needed for these developments. Part of what you'll hear tonight are some of the funding mechanisms that we may be able to use to pay for that infrastructure. That's why it's such a significant item. If you just take a moment and look on the map behind me, you'll see for new development the overlay for that infrastructure. We intend as part of the developer agreements to have them also pay for infrastructure outside of the subdivision that's needed to supply them.

Mr. Rees stated I'm not against the rate increase nor the ratepayer paying for the new switch at Smith Street and the maintenance and repairs of existing lines but I feel new growth, which are condominiums on the beachside, should have put money in and the utilities should have had, in prudent reserve, to increase that 16" main to a 20" main, and not the ratepayers paying for it. This money should have been somewhere to help offset that so the inflation wouldn't be on the ratepayers. I want to know is that mechanism in place.

Mr. Rodi stated the mechanism is not in place. For example, all of the previous subdivisions that have signed developer agreements, this won't apply to them. All new subdivisions coming on line, like PUD's and what have you, we intend to apply this. What we're dealing with as well is being

(2) Preliminary Public Hearing Re: Adjustments to Various Electric, Water, and Wastewater Rates (cont.):

equitable between ourselves as existing ratepayers and also the developers themselves because each of them contribute to it. That's why we're developing this concept to take the overall costs, we have three zones that we're working with – the west zone, the middle zone and if you will, the east zone. So that the development in those areas, we're monitoring and apportioning those costs. It's still not a done deal and Counselor Preston and I were working with it even today.

Mr. Rees stated I hope you do because the taxpayers got short changed with their taxes on building a new fire station on the west side of 95 when impact fees should have paid it. I want to see the Utilities Commission making development growth pay for the improvements.

Chairman Para stated you've made some good questions tonight thank you for your participation. He then asked if anybody else would like to be recognized.

Ms. Rosie Karnes, who resides at 416 South Myrtle, addressed the Commission and stated she had a question she would like to refer about hurricanes because we're getting close to hurricane season. If something is not done soon, if we're already having problems, we were really fortunate two years ago and I'm so proud of this Utilities Commission. You had the power up and we were fortunate we didn't have to boil water like other cities. So if something's not done, are we going to have a problem with the hurricanes, getting into the season. If I'm asking the right question, if the pumps are old.

Mr. Rodi stated I think it's a very fair question and it's another one of those it depends. If we get a category 5 hurricane that comes through here it would depend. But with regard to the historical types of hurricanes for the last 100 years, the strongest category hurricane has been a category 3. I think that the existing infrastructure that we have, we've added more emergency generators, and we've had more portable generators that we could take around. Our expectation is from a water standpoint that we would be able to cope but it again becomes very difficult. One of the things that we have done is we've gone out for an RSQ for qualified contractors, not only to help us if the work load really takes off with all of the development, we have to keep pace with that, but additionally if we have hurricanes then they would bring in personnel to assist us. I'm talking about large numbers of personnel so that our line crews rather than doing the line work themselves, they are expert. Just like Mr. Hoover's folks are expert, and they will supervise other experts so that what happens is during hurricane conditions we have a stronger recovery mode. Also this year we have been training with the City, all of my staff have been trained in the emergency response because under those conditions the City has the first obligation in restoration priorities and we would dedicate our efforts to help sequence that from how the City and its citizens say they want things done.

Ms. Karnes stated that was my question. If the infrastructure and everything is deteriorating, if we have a hurricane, and we were lucky we didn't have to boil water, could that affect the future, and I think you answered my question, thank you.

Commissioner Reynolds stated Mr. Hoover alluded to the fact that you have two, three or four homes beachside which some builder buys those homes, puts in a planned development plan to the City, and turn three homes into let's just say 60 homes. Now as I understand it right now, in that

(2) Preliminary Public Hearing Re: Adjustments to Various Electric, Water, and Wastewater Rates (cont.):

situation, there is no fee, no impact fee for those folks, just when they sell a unit and hook up the electric, water meters, then they pay that fee. I would suggest that we may want to or should consider that those multi-developments beachside which can go from anywhere from 1 to 50 in a short period of time, be considered in how we approach these developments. I think anything larger than, I'm just throwing it out here, larger than six units or something like that, that we should consider.

Chairman Para commented I believe that's what Mr. Rodi said he would be working on.

Commissioner Diesen asked Mr. Rodi if that would include this.

Mr. Rodi stated it's only if we end up now with a developer agreement with that event, so that if they don't go through the planning process, they would not automatically come to us to have that developer agreement signed. What we are cognizant of is these kinds of situations that in the past weren't even on our radar screen. So they're there now, we're not quite sure what to do with it; that's the candid answer.

Chairman Para confirmed there was no one else in the audience that would like to be recognized this evening either in favor or opposed to the adjustments to various electric, water, and wastewater rates. There being no further comments, Chairman Para closed this preliminary public hearing at 6:45 p.m.

(3) Preliminary Public Hearing Re: Adjustments to Street Light Rates:

Chairman Para asked for roll call to be taken and the same attendees were present as listed above in the Final Public Hearing.

Chairman Para then requested Mr. Preston to read the notice of public hearing and proposed resolution by title only.

Mr. Preston stated for the record this preliminary public hearing was authorized by the Utilities Commission during their March 20, 2006, Regular U.C. Meeting and notices appeared in THE OBSERVER at least ten days prior to this date. Notices were also 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. Mr. Preston then proceeded to read the proposed resolution by title only.

Chairman Para asked if there was anyone in the audience that would like to be recognized this evening either in favor or opposed to the adjustments to street light rates. There being no comments, Chairman Para closed this preliminary public hearing at 6:48 p.m.

Regular U.C. Meeting:

Chairman Para opened the regular U.C. meeting with roll call and the same attendees were present as listed above in the Final Public Hearing.

Presentation of Certificate for Class A License for Water Plant Operator – Gregg Johnson:

Chairman Para stated the first item of business is Mr. Hoover has a distinguished gentleman in his employment that he would like to give a plaque to.

Mr. Hoover stated tonight we have a great opportunity to recognize one of our soldiers here that performed well during that hurricane and the kind of people we rely on for service during every day events and through these emergencies. He stated this is Gregg Johnson and he recently received notification from the State that he obtained his Class A Water Treatment Plant Operator's license. Back in the 1970's the State enacted a licensing program, not only to classify treatment plants, water and wastewater, by category C, B, or A, A being the highest complexity for treatment plants, but they did the same thing for the operation personnel. This was done because of the highly skilled venture it is and the profession they wanted to grow it into, these people are taking care of our drinking water, that's a health related issue it has got to be right on the money all the time. The wastewater treatment personnel, their end product being reclaimed water or being discharged into the Indian River, it's got to be safe, so it's an environmentally sensitive profession. For the plant operators the C license is the lowest license the State will allow you to operate, and you have to have one year actual operational experience, pass the State certified class, and then pass the exam. He stated I came right out of college with a lot of bacteriology, chemistry, and physics, and every time I took one of these tests, I wondered how I did it, and I wasn't sure I made it. He stated now these guys are taking these tests and the State tells us in the trade magazines that the passing rate is 30%. To get a B license you have to have two years actual experience and pass even a more complex course in bacteriology, chemistry, regulatory service, safety; all those things that evolve this profession. To get a class A you need a minimum of four years actual plant operation and by the time they're getting through the A license they're into what I call third and fourth year of college course curriculum. It's very difficult and Gregg passed this, we're real proud of him, and just wanted to take this time to congratulate him. Those in attendance applauded Mr. Johnson's accomplishment.

(1) Agenda Changes, Additions and Deletions:

Chairman Para stated now we have our consent agenda items and I've noticed there are three corrections. With item 2-g., the contract provided at meeting, deleted RFQ process which would reduce contract amount by \$5,000.00, and this was for the Waters Risk Management Agreement. Then there's invoices for CIBER, Inc., Interim I.T. Director, and number 3. Vision HR agreement for subsequent Interim I.T. Director; item 2-i. on the agenda. The last one is an invoice provided at the meeting from Brent Millikan's office which is item 2-j. Chairman Para stated with that being said, he asked if there were any other changes, additions and deletions.

(2) Approval of Consent Items:

Commissioner Diesen then made a motion to approve the consent items, items 2-a. Minutes of Joint Public Hearing of the U.C. and the City Held 3-13-06; Minutes of Special U.C. Meeting Held 3-13-06; and Minutes of Preliminary Public Hearing and Regular U.C. Meeting Held 3-20-06; approve all three sets of minutes as submitted; item 2-d. Brent Millikan & Company, P.A. – Invoice No. 13985 – Supplemental Services, approve payment of this invoice in the amount of \$24,902.50; item 2-e. 651 Glen Circle Water Line Extension, approved and authorized funding in

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

the amount of \$40,624.45 for the above referenced water line extension; item 2-f. Purchase of Radio Read Water Meters for Finance/Central Stores, approved award of Purchase Order No. PON0003444 in the amount of \$47,877.00 to Amco Water Metering Systems, piggybacking Collier County RFP No. 00-3129; item 2-g. Contract for Professional Services RE: RFQ for Medical Insurance Agent Qualifications and RFP for Medical Insurance Proposals – Water Risk Management, reported on contract for \$11,000, information only item and final contract provided at meeting which deleted RFQ Process which reduced contract amount by \$5,000, from \$16,000 to the \$11,000; item 2-h. Consulting Services Agreement for Billings and Collections of CAB's – Alternative Client Solutions, Inc., approved the Consulting Services Agreement with Alternative Client Solutions, Inc., as submitted (with one addition of a six-month review period, stated later in the meeting) and authorization for the General Manager/CEO to execute on behalf of the Utilities Commission; item 2-i. Invoices for Cyber Audit and Interim IT Director, approved payment of invoices from CIBER, Inc., for cyber audit total \$54,857.99 and for interim IT Director total \$17,635.85, copies of invoices and copy of contract provided prior to meeting, additionally a copy of the Vision H.R. contract which is being utilized for subsequent Interim IT Director; and add-on item 2-j. Brent Millikan & Company, P.A. – Invoice No. 14109 – Supplemental Services, approve payment of this invoice in the amount of \$64,100.00.

Commissioner Reynolds seconded this motion and it passed unanimously on a roll call vote.

(3) Public Participation:

(3-a) Craig Crawford – Per His Request on 4-06-06:

Mr. Craig Crawford, a resident at 126 Turnbull Villas Circle, addressed the Commission. He requested to and then distributed paper copies of his statements and attachments to the Commissioners. He thanked the Commission for giving him this time to address several areas and stated he would basically read what he had distributed so he can keep himself out of hot water. He stated the recording secretary had been provided a paper copy (attached to minutes) and a CD copy as well so she doesn't have to retype it.

Mr. Crawford then proceeded to read the comments as shown on the attachment. (Some statements were added by Mr. Crawford while he was speaking and these have been included and are shown highlighted. Items he didn't state were struck through.) After concluding the reading of the attached comments Mr. Crawford said he would like to take the last moment to just say thank you to everyone in the community. I spent two years in New Smyrna Beach, thoroughly enjoyed it, there's a part of my life out there in the sand that I won't forget it in a big hurry. I will watch from a long ways away and hope that you move forward and I wish everybody the best in your future endeavors. I won't wish you success because the fact is that the alternative simply isn't acceptable, and I think you know that and I think the people in this community are starting to understand they had a pretty free ride for a good long time and we're now going to have pay the piper. Thank you.

Commissioner Spangler asked Mr. Crawford if he could ask him a couple of questions, I don't know who else to ask. How long was it before you were aware there accounting and billing problems in telecom after you came here.

(3-a) Craig Crawford – Per His Request on 4-06-06 (cont.):

Mr. Crawford stated that's kind of a loaded question. I was aware of problems in your accounting before I ever came here. People forget that I actually was the person that set up the very first accounting system for the Utilities Commission back when I worked in Exceleron.

Commissioner Spangler stated so you knew in advance there were problems here. When you got here who did you tell?

Mr. Crawford stated I didn't have to tell anybody, in fact Mrs. Turano hired me partially, there was always a debate between Mrs. Turano and I, in fact if I can take a moment for a little aside. My six month evaluation, Mrs. Turano explained to me that she wanted me to self evaluate myself and when I came into the meeting with her I brought two evaluations. She asked what that was and I said one of them is an evaluation if you hired me as a Commworx reporting and maintenance expert and you just paid me as the I.T. Director to get me the extra money to get me to come, in which case I failed disastrously. I've been deflected from the attention that needed to be paid to it because I was busy running your I.T. Department. The other one was as Director of I.T. and if you hired me for that then I think I've done a bloody marvelous job because we had a tremendous amount of work when I walked in here. She threw the one out that was the Commworx reporting one and agreed it was always a bit of a conundrum.

Commissioner Spangler stated that part, that's not really where I want to go. Do you think anybody, and you're saying that other people in telecom were aware that there were accounting and billing problems when you got here and before you got here.

Mr. Crawford stated not just telecom, the entire agency including the CFO and the whole Finance Department knew that there were terrible problems.

Commissioner Spangler commented in your opinion. He then asked in your opinion how often did the telecom books balance at the end of the month, and if they didn't why do you think they did not.

Mr. Crawford stated that would depend on your definition of balance. The problem with the computer industry is I can make anything balance, I simply flip it over to the other side and times it times minus 1 and it balances like a charm. How often were they accurate, never. You never produced a single month that was actually accurate.

Commissioner Spangler stated and who all were actually aware of that.

Mr. Crawford answered everybody, it was a matter of record, and if you want to go back through my emails and I have many of them, I would say more than dozens, probably hundreds, but of course you can't go back that far in your email system, but it was a well recognized problem right from the word go. The Commworx database when you plugged it in was a brand new product, it had never been commercially deployed. They had built their reputation on pre-paid services and this was their first foray into post-paid services. Their foundation, their accounting engine was broken and their tax engine didn't exist.

Commissioner Spangler stated I've heard that, thank you Mr. Crawford and then I guess the other

(3-a) Craig Crawford – Per His Request on 4-06-06 (cont.):

question I would ask to the Commission here, how many of us were aware that the books were never balancing in telecom and when did we first find that out.

Chairman Para stated I'll start, I had a meeting with Mr. Crawford and Mr. Montalvo, I guess it was Mr. Hoover who called me. To quote my fellow Commissioner to the left, he said we were in deep yogurt, we had some bills floating around in desks and whatever else. That's I guess when I got the crash opener, and I think it was August of last year, wasn't it.

Commissioner Diesen commented Mr. Rodi came in July.

Chairman Para stated yes, you're right, so it was before, I guess in June.

Mr. Crawford interjected whenever Mr. Hoover was the interim CEO.

Chairman Para stated yes, part of the whole when Mrs. Turano went away. Anyway that's when I first had kind of a realization, a baptism of the disconnect between the CFO's relationship between Telcom and the Accounting, and it was very disconcerting to me. We shared that, we talked about mechanisms to take responsibility and to bring those two together. So that the CFO had clear responsibility and took ownership of all the financing and has been part of our discussion later on. We talked about that and Mr. Crawford mentioned some things that could be done, along with some other team members, bills that needed to be paid and things that needed to get done. One of the things I will say, apart from any intimate knowledge or relationships here is that as I said at the first meeting we had when Mrs. Turano left the next day, Mr. Preston was there, is that gossip is a very damaging thing to any agency. I'm not saying anything about this case, but I will say to staff and to members of the community, get your facts and get them straight because gossip is a very destructive element in any agency or organization. Anyway I hope that answers your question.

Commissioner Spangler stated well I guess where I'm going with this is I've never been able to totally understand how we can have what apparently was financial chaos in one section of the Utilities Commission and not have this financial chaos then brought to our attention immediately by our auditors. Now maybe if we look at the time frames this was going on, you say you were here for two years, and everybody knew it when you came here, then I would have to go back and look at the management reports from our auditors and say were they letting us know that everybody knew that there was a problem. I don't recall that one way or the other because I haven't been here that long, but I think it's something we should think about.

Mr. Crawford stated and if you'll notice that one of the things I did pull from freedom of information is the management letter from all of the audit reports since 2000, and it's not until, I believe its 2003, that Brent Millikan makes note of the fact that things may be just aren't quite copasetic. I don't have access to the emails but you can find a fairly comprehensive back and forth between all parties involved that the Commworx database was in sad, sad shape. One of the things they didn't do when they plugged in, and I went through this argument on the other side of the fence for months, and in fact quit in protest because of it, because they were forwarding customer complaints to me and saying deal with these customers who's accounting was all mixed up. I was sitting there looking at them saying you won't fix it, what am I suppose to do about it. Commworx

(3-a) Craig Crawford – Per His Request on 4-06-06 (cont.):

never produced a reporting engine whatsoever, their standard answer in those days was to come back and say you dictate to us what reports you want and we'll go ahead and plug them in the system. My answer to them was things like a balance sheet, a profit and loss, a customer aged receivable; you don't need like to be a rocket scientist in those standard reports. In fairness to Mr. Montalvo I will say that his Finance Department, and I know for a fact because I was involved in some of the discussions, the Finance Department in this building was kept out of the loop. They were directed to ignore what was going on in Telecommunications and take the summary information. So when you ask me did the books balance, they sure did. They gave summary information that was dead wrong to the Accounting Department who carefully balanced it and your books looked just spiffy. The fact that they were out a million or two just didn't factor in.

Chairman Para stated if I could just jump in, I want to get away, I certainly don't want to put anyone on trial here, and we had a request to appear here tonight, a lot of things were discussed and mentioned and we'll take them at face value. I want us to get away from this putting Brent Millikan & Company on trial. Looking at the back side of a train moving down the tracks it's hard to grab a picture and I'm not defending anybody but in fairness to everyone I don't want to get into this, this evening, back and forth.

Mr. Crawford stated and with all due respect and I appreciate that and it's been part of my moral conundrum but I would point out that I was put on trial last week with no notice and no opportunity. In fact I was put on trial, accused, found guilty and hung, all without any, not one single word or phone call. I tried very hard tonight to bring some positive aspect to it, I hope that all concerned will appreciate it. I would say that the telecommunications, once it goes away, is going to leave you with a whole different set, can of snakes. You have an accounting upgrade project that I'm not real sure what the status is, and I cannot urge you enough, I'm not sure where that will be without me at the I.T. side of it. I cannot urge you enough that project must be completed, it is your only saving right now. In fairness to Mr. Montalvo he's never had a central method of control, never had someone sit in the CEO's chair who understood the mechanics of what needs to happen in this organization. It is a deeply intertwined organization particularly on the I.T. side and no one has ever looked at it that way. Mr. Rodi brings that level of expertise to the table and he will steward it through as long as all concerned realize that it's not going to be a lot of fun. It's going to be evil and painful and you've already lost a couple of people that took messages that people didn't want to hear into this organization. You can't keep doing that every time you hear a message, it's going to eat you alive by the time you're through, and you're running out of time to boot, there's a time frame on this stuff.

Chairman Para stated to Mr. Crawford thank you for your positive comments, and wished him good night, good luck to you.

(3-b) Bob Tolley – Per His Request on 4-11-06:

Chairman Para asked if Mr. Tolley would like to present anything this evening.

Mr. Tolley stated with your permission I would like to wait until after the WAV Interlocal.

(3) Public Participation (cont.):

Chairman Para commented fair enough and asked if there was any other public participation for this evening.

Mr. Robert Rees, 391 Granada, addressed the Commission again at this time and stated it's still my understanding, I don't know, I'm trying to get clear in my mind and a good understanding of where the Utilities Commission stands as far as getting their money and if they set the price of new development construction impacts. Or does the City of New Smyrna Beach Commission set the impact figure or does the Utilities Commission give that to the City, this is what we need as an impact.

Chairman Para stated as I understand it...

Commissioner Diesen interjected Mr. Rodi just told him about this.

Chairman Para stated I'm trying to do a quick summary here, I think the issue, Mr. Rees, is we're working through this whole process.

Mr. Rees stated okay so you're working through this.

Commissioner Diesen interjected it's not been done up until now.

Mr. Rees stated that's my understanding, okay, I didn't know, I want a clear understanding so I know.

Chairman Para stated it's a concept we've got.

Mr. Rees stated I'm sorry if I'm bugging you.

Chairman Para and Commissioner Diesen both stated you're not.

Mr. Rees stated now it's clearer.

Commissioner Diesen stated we never had it but how many people have been saying this for how many years, development's got to pay for itself, finally Mr. Rodi has taken charge of that and that's going to happen.

Mr. Rees stated one other thing, do we have anything left in the rate fund.

Commissioner Diesen interjected the Rate Stabilization Fund.

Mr. Rees stated yes, or did we lose all of that to telecom.

Chairman Para stated I think you're getting ahead of what will probably be a presentation by our CFO. He asked if Mr. Montalvo would like to summarize that answer then.

(3) Public Participation (cont.):

Mr. Montalvo stated well basically I can tell you that we have so little there, it's not negative right now in the Rate Stabilization Fund, but just a little due to the losses in telecommunications.

Chairman Para commented it pretty well evaporated all.

Mr. Rees commented it has been deleted, deluded then.

Mr. Kenneth Taylor (11A Country Club Drive) then addressed the Commission and stated he would try to be as quick as he could, and hopefully most of this will be positive in your behalf I believe. He stated as you know I have been opposed to New Smyrna's participation in WAV since its inception. The City Commission voted to participate and became a signatory to the WAV Interlocal Agreement, appointing the Mayor as their representative. The Utilities Commission's role on its own initiative became that of observer and technical advisor when called upon. The Utilities Commission's technical advisor has had no significant input to the WAV proceedings. To the best of my knowledge, even though the Utilities Commission is designated by the City Charter to provide all utilities for New Smyrna Beach, neither Utilities Commissioners nor the General Manager were invited to participate in the preparation of WAV's Master Facilities Plan, yet the City looks to the Utilities Commission to pay their participation fee, the City's participation fee. Within the last two weeks the Mayor voted to commit the City to support the WAV Master Facilities Plan obligating taxpayers to pay a share of almost \$300 million in projected expenditures as well as an annual operational cost of at least \$50,000. As a WAV Director the Mayor voted to support the WAV Board of Directors' request for the County Council to establish a special WAV taxing district, which they did. Furthermore if the Commission votes to obligate their taxpayers to join this special taxing district, the operational fee will not appear in the City's budget and most taxpayers will be none the wiser except for a higher tax bill. To my knowledge there has been no public discussion of these commitments nor has there been a vote by the City Commission or a referendum of voters authorizing the Mayor to vote for this plan and this expenditure of taxpayer funds. As I read the Charter, and in spite of Ordinance 19-05 of which you are all familiar, the City Commission cannot obligate the Utilities Commission to pay bills that the Utilities Commission did not incur in the course of providing utilities services to ratepayers. The Utilities Commission did not vote to participate in WAV. He added of course you can be blackmailed by them refusing to approve your budget and suggesting that they won't approve it until you do. Remember that the Charter amendment establishing the Utilities Commission states one reason for doing so was to remove it from the City's political influence. It's time for the Utilities Commission to do its duty and tell the City Commission that they must pay their own bills and refuse to spend ratepayer money for something over which they have no control. Tonight I ask you to pass a motion to so inform the City Commission. He concluded by thanking the Commission for this opportunity.

Chairman Para thanked Mr. Taylor for his comments and asked if there were any others who wanted to be recognized for public participation. There being none, he closed public participation.

(4) General Manager's Report:

Mr. Rodi stated at this point what I would prefer to do is open the floor to questions on that report. If there are none, then have Mr. Montalvo report on the financials.

(4) General Manager's Report (cont.):

Commissioner Spangler asked which report are we going to comment on here.

Chairman Para confirmed this was for the management report as presented.

Commissioner Reynolds stated regarding the statement of billing activities, I see the list here of billing cycles. He asked what is the beginning of A, is that a particular time frame?

Mr. Rodi stated I think what you're seeing is we are restructuring the routes for reading the meters. What that route does is drive a billing cycle so periodically with growth and as there are more developed areas, you have to realign the meter reading routes so they're more effective. I think how Mr. Montalvo is doing this is he's designating them into zones.

Mr. Montalvo stated that is correct, we have a huge map of the City and then we are taking it street by street and location by location, and then we're making an analysis. We want to give to the meter readers more or less the same amount of accounts that they need to read. We have been growing so much now that we need to go back and revisit this.

Commissioner Reynolds stated what concerns me, and the reason I asked that question, I wanted to see if a graph could solve the problem of why it appears that penalties of accounts billed, in other words late penalties or not payments, those are fairly high for electric and water. I'm wondering if we got from generally speaking the last few have been 26%, 22%, 12% and 8%. That seems pretty high and I'm wondering what do we do to follow up to collect that money. He stated that's a pretty impressive number, for example if you take a look at billing cycle M, 1,541 accounts billed of which 604 were late or charges; that's a percentage of 26%, a quarter of our customers were either late or didn't pay.

Mr. Rodi stated I think maybe you're dealing with two different things. One is during different times of the year, I think our collection rates vary. So that if there are people here just temporarily they may decide not to pay their bills and some of them may be concentrated in a particular zone. What I was initially referring to was over time as there are new homes and customers added, you just initially assign them to a route and after a while you find a route isn't very efficient so then you need to reparcel it. The payment aspect as far as collections are concerned have little to do with the payment cycle. Bills are sent out in a timely fashion, individuals have adequate response time, and if they aren't paying it isn't generally due to the read schedule. So that's another dynamic to this.

Commissioner Reynolds stated so this is sort of apples and oranges.

Mr. Rodi stated in a way yes.

Commissioner Reynolds stated well let me put it in another way. Assuming that these percentages are such that if we were to look at routes we would be able to see where most of them are not being paid I assume. It could be beachside where people come in.

Mr. Montalvo stated that's correct, that's the way that it works.

(4) General Manager's Report (cont.):

Commissioner Reynolds asked if it would help for us to figure out what routes those are so we can put some focus on those folks.

Mr. Montalvo stated basically you are going to have customers that are never going to pay you on time, never, even though you send penalties, they always pay with penalties, they wait until the last minute to pay.

Commissioner Reynolds stated but they do pay with penalties, if you were to have a percent that finally eventually caught up would that be a 100%.

Mr. Montalvo stated last year we billed about \$60 million and we lost just only about \$50,000.

Commissioner Reynolds stated okay, that's order of magnitude, not a big problem.

Mr. Montalvo stated no it's not, on the contrary it's a very good percentage of collecting monies.

Commissioner Spangler stated a word of caution to the people who want to pay their bills late, it's just extra money for the U.C. as long as you pay before the lights go out.

Mr. Montalvo commented we try very hard to educate them.

(4-a) Monthly Summary Report for March, 2006:

and

(4-b) Budget Summary through February, 2006:

and

(4-c) Commercial Monthly Report for February, 2006:

Mr. Montalvo stated the Commissioners received their March, 2006 financial statement today and the Finance Department has been working very diligently to provide the information on time to you. The one we are going to review today is the February financial statement. In Communications we made some progress. Always we have this situation with the timing of the payment of the bills on the Communications side but we have seen that the loss has been going down. It probably will be positive sometimes and negative sometimes, but it's around \$100,000 right now. We have a few invoices that we are disputing right now and we are working with that. We are in the process of preparing the budget for 2007 and are working very heavily on that too. We want to present a new form so you can understand it better, it's a new requirement that you had last year, and we are working on that at this present time. The electric, water and wastewater, they are on target. We meet constantly with the Directors in each of the Departments to try to find out any particular accounts that are going over in expenditures; something that we do on a routine basis. He then offered to answer any questions.

Commissioner Reynolds stated to Mr. Montalvo, related to the statement made tonight that you were cut out of the loop on telecommunications, what year was that so we can kind of get a grasp of how long this went somewhat unsupervised from your ability to take a close look at it.

- (4-a) Monthly Summary Report for March, 2006:
and
(4-b) Budget Summary through February, 2006:
and
(4-c) Commercial Monthly Report for February, 2006 (cont.):

Mr. Montalvo stated what happened is when they created the Communications aspect, from the very beginning, they created their own billing department, their own software, they had everything set up on the third floor. Mrs. Genny Turano was the person in charge of everything there and at the end of the month the Finance Department received summary sheets which we used to enter onto the general ledger in order for us to produce financial statements. We knew from day one the information was not good, but it was the only information available to me and the Accounting Department in order for us to produce the financial statement. That was one of the biggest concerns we had. Through the years we have been trying to see if we could obtain better information. You need to see that the whole accounting area of the telecommunications is in a different place, in a different database; we don't have any control of that. It's not like us, we have probably about \$2 million everyday in account receivables and we balance that to the penny. The day that I'm off \$75.00, we are upset with that, we are very proud to balance that. That means that it is sad that sometimes they tend to mix both aspects but it is not true, on the electric, water and wastewater we have a solid, solid accounting system and are very proud of that.

Commissioner Reynolds stated so that was around 2001.

Mr. Montalvo stated yes, probably 2001. He stated that was when they started talking about that. In the beginning it was a basic relationship with Epicus and it was just only commissions. It was easy to determine the amount of the commission, but the reports were coming from Epicus and we needed to rely on the information that Epicus was giving to us. Even at that time it was information that was provided by a third party, it was not information that we could produce, approve, or balance in our area, in the Finance Department.

Commissioner Reynolds asked if Brent Millikan was aware at that time there was a separate accounting system in the telecommunications area.

Mr. Montalvo stated yes sir.

Commissioner Reynolds asked did they have a chance to go in there and determine whether the accounting practices were good or not?

Mr. Montalvo stated in the beginning of the communications, being only just commissions, we didn't bill the customers, we only billed the ones that were charged through a miscellaneous charge and were included on my billing. Those we were in control of and didn't have any problem with that. Then we went to be an ILEC and going out on our own on this is when they created this system in order for us to be able to bill customers. They were aware of the problems that we had.

Chairman Para stated I think we started to really kind of de-evolve shortly after we started being more independent in that whole telecom situation. In that way again our auditors were looking at the train already gone and you're trying to get some information and track it. Again I would like for

(4-a) Monthly Summary Report for March, 2006:

and

(4-b) Budget Summary through February, 2006:

and

(4-c) Commercial Monthly Report for February, 2006 (cont.):

us to get away from pointing fingers and just recognize this was an extremely complex industry we got ourselves into by players that came before us and headed us in that direction. I'm not one to spend a lot of time wasting, pointing fingers; we need to extract ourselves and get back to those fundamental principles that we were called here to do. And I think you're affirming that because that's something you can account right to the penny for and this other side, as we've heard tonight, testimony, however months and years on the job and it doesn't sound like we're any closer to where we've got billable, we've got a couple million worth of invoices we can get off the shelf. He commented I'll buy the stamps, let's get them on out the door, but I don't think it's that simple. I'm glad to see you've got full grasp, you've got a good direction and we're going to get through this thing.

Mr. Montalvo stated one thing I need to mention to you, Craig Crawford is right, at this present time in Communications we don't have a solid grasp of that, even in accounts receivable because the information we rely on is not there.

Chairman Para stated that is the same thing we sat down almost a year ago and had a meeting about, and we're not getting any closer; that's the problem. He stated that's why utilities companies, and I'm sorry for those folks at the state and federal level that say utilities companies ought to be in this business, but it's wrong. I don't believe public utility companies should be in this business, in telecom, nothing proves that to me.

Commissioner Spangler stated I'll say one more thing, I don't think Brent Millikan was very happy about us being in the telecom business either.

Chairman Para stated it made it complex for everybody. That's why I say other players got us to this point and we're trying to go forward from here.

(4-d) Discussion Status of Brent Millikan & Company Follow-Up:

Mr. Rodi stated this is just a very brief report back, as was the Commission's charge, we have contacted the F.B.I. We are following up, Counselor Preston and I, on our insurance policies. From a standpoint of the ethics review we would suggest that be an item we hold back on for awhile. He then stated we're just inundated with information requests, we have significant requests and significant numbers of them. He stated that's pretty much the report out at this point. He asked Counselor Preston if he had anything he wanted to add.

Mr. Preston stated no, he had nothing to add.

(5) Commission Counsel's Report:

Mr. Preston stated he had no report beyond what had been supplied.

(6) Committee Meeting Reports:

Chairman Para stated Commissioner Reynolds was the only one working on committees and asked him if he was okay with everything.

Commissioner Reynolds stated yes, and added there is something coming up for approval later on.

(7) Old Business

(7-a) Funding Growth Alternatives – Dunlap & Associates – Craig Dunlap and Roberto Montalvo:

Mr. Montalvo introduced Mr. Craig Dunlap, from the firm of Dunlap & Associates. He stated Mr. Dunlap has been working with the U.C. for many years and was going to give us the basic information about the different alternatives for funding on the projects we have ahead.

Mr. Rodi stated he would like to make some comments while Mr. Dunlap is getting ready. Part of our examination is to understand funding sources. We're experimenting with new types of funding sources, especially to deal with the new development. This lends itself to different approaches than what we've traditionally taken and that's one of the reasons why we've asked Mr. Dunlap to come here today and give a very high level overview of some of the opportunities we have.

Mr. Dunlap distributed packets of information to the Commissioners. He then addressed the Commission, restated his name, and stated he was President of Dunlap & Associates. He stated I've had the privilege of representing the Utilities Commission as your financial advisor for bond issues for many, many years. I was asked tonight to talk to you really about two subjects. Number one, given the preliminary results of 2005, what kind of bonding capacity does the Utilities Commission have to address some of your capital needs over the next three or four years. And secondly, I was at a meeting three or four weeks ago, when the subject of community development districts came up and as some of the speakers have mentioned tonight this certainly is an opportunity for development to pay the way for infrastructure without burdening the current ratepayer. I want to talk to you briefly about community development districts, how they're formed, what types of projects they can finance, and the security for those tax exempt bonds that are issued by a community development district.

Mr. Dunlap stated in the audience tonight I wanted to introduce Jeff McGarvey, who is with R.W. Beck. One of the potential funding sources which I will get into in a moment for some of your water and wastewater projects is the State Revolving Loan Fund administered through the Department of Environmental Protection at the State. The Utilities Commission has participated in this program in the past. It is a very inexpensive cost of money and right now loans are running 2 ¾ % to 3%. Our efforts here as you proceed with some of these projects will be to get as much money of that as possible, because clearly the current rates, if you issue your own debt, are probably around 4 ¾% to 5% today. He stated also John Kessler, is with Bank of America, their real estate division in Winter Park, and Mr. Kessler works with community development districts. Mr. Dunlap stated we've had one preliminary meeting with Mr. Rodi and Mr. Montalvo regarding CDD's. He then stated, so those are the two subjects I would like to talk about with you this evening.

Mr. Dunlap stated in the packet that you have, if we could deal first with the bonding capacity based

(7-a) Funding Growth Alternatives – Dunlap & Associates – Craig Dunlap and Roberto Montalvo (cont.):

upon preliminary 9-30-05 numbers. He said this information is found on the right hand side, entitled Utilities Commission – New Smyrna Beach, Analysis of Bonding Capacity. In the preliminary numbers that I got from Mr. Montalvo, the operating revenues for the year ending 2005 were \$58,967,000, interest earnings were \$690,000, and on average capital contributions, which some of the questions have come up this evening about capital contributions, were about \$1.5 million, for a total of \$61 million. He stated operating expenses of \$57,380,000, less depreciation, less the transfer to the City, is a net operating expense of about \$48.8 million. The way your bond documents read and the formula for issuing additional debt, is that your net revenues as indicated on that sheet are \$12.3 million. The bond covenants, which again Mr. Rodi and Mr. Montalvo have referred to earlier in the meeting, you have to maintain net revenues equal to 1.4 times your debt service. For example if your debt service is a million dollars a year you have to generate in net revenues \$1.4 million of net revenue to meet that covenant. If for some reason you don't meet that covenant, then you have a legal obligation to increase rates to get to that point. So if you take the \$12,307,000 and you divide it by 1.4, it indicates there that the maximum annual debt service based on 2005 numbers that you could have is around \$8.7 million. I know that you had some public hearings regarding rate increases, to the extent that this Commission passes those rate increases, you can go back and adjust these revenues as if that rate increase had been in effect for that whole year. He stated but I did not factor that in to any of these numbers.

Mr. Dunlap stated the next page of this analysis indicates that based upon these numbers the current bonding capacity is around \$37 million and that would provide about \$36.5 million into a project account. This is not sufficient to pay the capital improvement program that you presently have which I understand is somewhere in the neighborhood of \$60 million over the next three to four years. If you turn to page three of this analysis the amortization period on these bonds is 2021 through 2036. Obviously it's fairly far out on the yield curve and I'll get to the reason why in just a minute. He directed the Commissioners to page four of that analysis and stated the first column is the Series 2006 bond issue, the \$36 to \$37 million bond issue. But you have Series 1993 bonds outstanding, Series 2002, Series 2004A, and then you have three loans through the Florida Municipal Power Agency which are variable rate loans for the generators, the Sugar Mill acquisition and another piece of land the Utilities Commission acquired. So when you add all of that together from left to right you get to \$8.5 through approximately \$8.7, \$8.6 million through the year 2013, and then you drop off considerably from 2014 to 2036. The constraining factor here is the existing debt that you have and the fact that it has a fairly short amortization period through 2019. So the reason you have to force the maturities out long is because of that constraint of the 1.40 debt service coverage on net revenues. Because you can only afford a certain amount of interest in those early years.

Mr. Dunlap said I did run a scenario, which starting two pages back, starting again on page one, because the capital improvements plan that Mr. Montalvo sent to me indicated over the next three to four to five years or so you had a capital program of somewhere in the neighborhood of about \$60 million for electric, water, and sewer. I did run that analysis at what your debt service would be at current interest rates assuming a \$60 million program. If you turn to page four of that analysis, you'll see that the debt service that would provide \$60 million in your construction fund, that debt service would be about \$9.6 to \$9.8 million a year through 2013 and then drop to \$6.2 million, then

(7-a) Funding Growth Alternatives – Dunlap & Associates – Craig Dunlap and Roberto Montalvo (cont.):

\$5.4 million thereafter. So in order to afford that today, your net revenues would have to be somewhere in the neighborhood of \$13 to \$14 million with your 1.40 coverage factor. Again not knowing whether the rate increases will pass or the magnitude of those rate increases, it will determine how much debt you can afford to issue and more than likely the \$60 million, if you bond for all of that, may have to be phased in over time. He asked if there were any questions regarding that analysis.

Commissioner Reynolds stated you mentioned Sugar Mill, did you consider other land values that the Utilities Commission owns.

Mr. Dunlap stated no, I did not. He stated I believe when you took out these loans, the FMPA loans, the intent was to sell some land and pay them off. I don't know what the current thinking is but if that is not the current thinking of the Utilities Commission, one thing you might consider is fixing these loans because it's variable rate and when you took the loans out variable rates were very low, probably 1% to 1.5%. But what's happened over the last two years, because of the actions of the Federal Reserve Bank raising short term interest rate, the yield curve has gone from very steep to very flat, so quite honestly this is not the time to be in variable rate loans. So to the extent a decision is made that if you sell land proceeds to not pay off these FMPA loans, what you should consider doing is fixing the rate on that, re-amortizing that over a longer period of time and that would increase the bonding capacity by mitigating some of the constraints in the early years on your debt service.

Mr. Dunlap stated obviously, I mentioned early in my presentation, SRF. If you'll see, going back to page two of the first analysis, Bond Summary Statistics, the all end TIC, true interest cost, at current market rates your rate on this bond issue, based on the amortization period, is 4.71%. Now clearly we will be applying for these SRF loans and Jeff McGarvey, whom I work with, with R.W. Beck, we work in cooperation with one another to apply for these loans, and administer them, and monitor all the paperwork required through SRF. We will be working with your staff to apply for this 2 3/4% and 3% money through SRF for your water and wastewater projects; electric is not an eligible project through there. To the extent that we can get 3% money obviously that would again increase your bonding capacity accordingly.

Mr. Dunlap stated if there are not further questions regarding that, and again all these are based on preliminary 9-30-05 numbers, I would like to talk about community development districts. Community development districts, some of the speakers were very interested in current developers paying for infrastructure improvements, and that's exactly what community development districts do. Community development districts are created pursuant to Chapter 190, I'm on page one of this analysis, and it offers a cost effective way of providing financing and managing infrastructure improvements to support the development of new communities. Think of it as a city within a city or a city within a county. When Mr. Rodi first made me aware that he wanted to learn more about CDD's, he had indicated that out west of 95 there's quite a bit of development that's going on and could ultimately be in the neighborhood of 10,000 homes or something, 10,000 residents or more. So the thought here was to create a CDD for those areas. This is not something that the Utilities Commission can create, it has to be done by the developer in cooperation with the City, but clearly

(7-a) Funding Growth Alternatives – Dunlap & Associates – Craig Dunlap and Roberto Montalvo (cont.):

with your permit powers and enforcement powers, you have tools that certainly could encourage that effort. The purpose of CDD's is they are eligible for tax exempt financing, initially they're non-rated, the interest rate on them, probably under today's environment, and John might can confirm this, probably 6 3/4%, 7% for those types of issues today.

Mr. Kessler stated for the long term 30 year bonds its closer to 5.48% because the credit spreads come in dramatically as kind of a short term industrial yield, you're probably in the right range for short term, but long term is around 5%.

Mr. Dunlap stated these are secured by special assessments typically levied on the tax bill of the residents of that particular development. Special assessments are determined by different methodologies whether it be infrastructure for a road, for a water, sewer system, for recreation, for common areas, street lighting, etc., etc. There are different allocation methodologies that are used and they're allowed to charge an assessment, I believe, at 1/8 of a percent above the tax exempt borrowing rate and they can levy those assessments over a 20 or 30 year period commensurate with the term of the debt. CDD's are usually a better tool than homeowner's association. Initially they are controlled by the landowners within the district, and control ultimately reverts to the homeowners after some period of time.

Mr. Dunlap stated page two indicates how CDD's are established. First a petition is filed with the city or county if the land is in the unincorporated county. Petitions included a legal description, consents of landowners, designations of an initial board, and again this all has to be done in cooperation with the development community. It's governed by a five member board of supervisors who are initially elected by landowners on a one acre, one vote basis and they have public meetings and board meetings just like any other public body. In the case of a default of these bonds the property has a lien upon it, normally these assessments are paid with a person's tax bill, just like they pay their ad valorem taxes. So if a person doesn't pay that, their lien is subject to foreclosure or their property is subject to foreclosure just as if they hadn't paid their ad valorem taxes. Local governments, this Utilities Commission nor the City, would be financially responsible for this debt and it does not impact the credit rating of the U.C. or the City.

Mr. Dunlap stated page four talks about their general powers, things they can and can not do. Page six talks about the different types of public improvements that are traditionally financed with tax exempt bonds issued by CDD's. As you'll see there, that list is fairly extensive. There's a possibility you could finance some others, this is a way to do it.

Commissioner Reynolds stated it seems to him since you're talking about a taxing district, in other words they would be under Volusia County taxing authority, that this would have to be something that the City Commission and Utilities Commission would have to jointly work in order to form it.

Mr. Dunlap stated that's correct.

Commissioner Reynolds stated so we, looking at this, could make a recommendation from a utility perspective to the City Commission.

(7-a) Funding Growth Alternatives – Dunlap & Associates – Craig Dunlap and Roberto Montalvo
(cont.):

Mr. Dunlap stated yes sir, it must be done in cooperation with them.

Commissioner Diesen asked how common are these in Florida?

Mr. Dunlap stated quite common and then asked Mr. Kessler how many CDD's are there in Florida.

Mr. Kessler stated probably close to 300. He added that was a guess, not exactly.

Commissioner Diesen asked if there were any in Volusia County?

Mr. Kessler came to the front of the room and addressed the Commission. He stated that he believed there might be one to two but he was not certain.

Mr. Dunlap interjected we can find that out.

Commissioner Diesen stated I'm just curious because it seems to me with everyone wanting development to pay for itself that this is a perfect vehicle. I suppose Orlando is a big area for this.

Mr. Kessler stated Orlando, Tampa, probably Hillsborough, Pasco, big areas, south Florida, Miami/Dade County, and then Jacksonville area; they're probably the biggest markets.

Commissioner Diesen asked how often are they turned down.

Mr. Kessler stated very infrequently, for those counties that approve them, they pretty much approve them across the board. There probably are certain cities or counties that have turned them down and do it across the board but if the policy is open towards it these are generally approved.

Chairman Para stated ultimately wouldn't this have to be approved by the County Council because it's their taxing vehicle.

Mr. Dunlap stated if it's in the unincorporated County yes, but if it's in the City limits I think it can be created by the City.

Commissioner Spangler stated so I get this more clearly, this is a source of funding for infrastructure where we don't have the ability to borrow enough, is that sort of what we're doing. This is a supplementary source of funding for our infrastructure.

Mr. Dunlap stated yes, for the infrastructure that would go within that district.

Commissioner Spangler stated and what would be the inducement to that district to approve this tax.

Commissioner Diesen interjected then they won't get service.

Mr. Dunlap stated it's a question of whether you want to burden your current ratepayer with those

(7-a) Funding Growth Alternatives – Dunlap & Associates – Craig Dunlap and Roberto Montalvo (cont.):

improvements. Those improvements have got to be put in with development.

Commissioner Spangler commented well we don't have the ability to borrow it.

Mr. Dunlap stated if you don't have the ability to borrow it then this is a very good mechanism.

Commissioner Spangler stated the inducement is if you want it, you're going to take the taxing district.

Mr. Dunlap stated that's right.

Commissioner Diesen stated yes, this is making development pay for itself which is what we've been talking about for how many years, I mean literally.

Mr. Kessler stated in addition to the improvements within its boundaries it can also pay for off-site improvements that are required pursuant to a development order, so off-site improvements as well.

Commissioner Diesen interjected that impacts them or improves there.

Mr. Kessler stated what's required according to their development agreement or development order.

Chairman Para stated so if the City went into a development agreement with an existing PUD or project within the existing service area, part of that developer's agreement could be negotiated in with a CDD, that they would pay for this impact fee or this infrastructure that they're having to put in.

Commissioner Diesen stated wouldn't this be a stand alone agreement in addition to the developer's agreement which is what we're looking at.

Chairman Para stated that gives the City a little more power to negotiate that too correct.

Mr. Dunlap stated yes.

Chairman Para stated it's a good vehicle all the way around, sounds like.

Mr. Rodi stated just a little point of clarification. The developer's agreement is between the entity like ourselves and the developer, and that generally means the out-of-pocket cost for the developer and their own funding mechanism. This particular approach really gives control to the developers as a collective group that they administer to and it also provides access for funding. So that for example, the City might want to, in the Pioneer Trail area and I-95, there's been talk about another interstate connection there, and that particular need might also be funded through this CDD. It's a separate, stand alone thing, it isn't, as I'm understanding it anyhow, that we would require it as part of the developer's agreement that we use now. Part of what Counselor Preston and I are working with is an addendum to that developer's agreement to pay for the infrastructure needs in the interim

(7-a) Funding Growth Alternatives – Dunlap & Associates – Craig Dunlap and Roberto Montalvo (cont.):

until we have some other vehicle right now. So it's a little more precise than maybe what the comment was.

Commissioner Diesen stated so are you envisioning that the CDD would encompass more than one development.

Mr. Rodi stated yes.

Commissioner Diesen then asked if that was common practice.

Mr. Kessler stated the land would need to be contiguous, and then yes, assuming that you had one landowner that owned a couple 1,000 acres and there was going to be multiple developments, then yes, you could have one CDD around all that land. But because the landowner has to petition to form that district, it wouldn't be common for multiple developers to get together and form one CDD. It's usually one developer would form a CDD for their own development only. There are other tools to fund other infrastructures such as schools, there's these educational facilities benefits districts whereby landowners that aren't contiguous can get together and form districts to pay for schools, but that's different than a CDD.

Commissioner Diesen stated what is the average size then of a development.

Mr. Kessler stated the average size is kind of difficult question, I would say more of a range, I'd say on the low side a 400 unit development to 10,000 to 15,000 units; that's kind of the range.

Chairman Para stated also this would be another vehicle that the developer could use, like you said I think Commissioner Spangler, to help them finance so that they're able to spread out their infrastructure costs so its not hitting them right up front, and letting the end user who ultimately is going to benefit from the infrastructure to participate in that investment.

Commissioner Spangler stated I think once you assume that they're going to pay for the infrastructure, then this is really a good deal for them.

Mr. Dunlap stated it is, it gives them access to tax exempt money, so that helps; it a win win for everybody then potentially.

Mr. Rodi stated this discussion was just meant to be introductory. I know trying to create reference points for the public to hear for example, well if you can't take out bond money then what else can you do, well you have to increase rates. If you really have to put the infrastructure in, then what's an alternative to increasing rates and what are the alternatives for developers as well for access to dollars and trying to look for ways that we can all win.

Commissioner Reynolds stated assuming that there's zero setups of this in Volusia County, I'm sure somewhere in other counties they've started from scratch also, what is the time from initiation of the idea perhaps from Mr. Rodi contacting the City Manager and from there going to the City

(7-a) Funding Growth Alternatives – Dunlap & Associates – Craig Dunlap and Roberto Montalvo (cont.):

Commission in getting these underway. Can you give us a time frame?

Mr. Dunlap answered four to six months, six months money in hand.

Commissioner Reynolds stated this sounds almost too good to be true, but assuming this is the case Mr. Rodi, is this something that we should take to you, the City Manager, to see if this is something they would want to be working with us jointly.

Mr. Rodi answered yes and I think there are a number of other aspects of it too and by having some public discussion about this. Mr. White has been working on our formula for our ERU allocations and frankly its meant to be an introduction to engage the development community as well as to partner with the City Commission. I think there are many needs that are pressing on all of us right now even though we may have some different interests. I think it's an appropriate introduction and then to take the next steps. I wanted to see how the U.C. Commission reacted to this.

Chairman Para then asked if there were further questions, and there being none, he thanked Mr. Dunlap for his presentation.

(7-b) Water Authority of Volusia - Invoice No. WAV06IC-NSB - Construction of Finished Water Interconnects:

Chairman Para stated the next item of business is WAV.

Mr. Rodi stated the Utilities Commission received an invoice that was addressed to City Manager Frank Roberts to pay for the automation and metering of an existing interconnect with Port Orange. I think that invoice is in your packet. In trying to research the history of the U.C.'s endorsement of WAV, I've not found anything that says this Commission has signed on, if you will, to WAV. Additionally, I think there are items within the Interlocal Agreement and also within the Master Plan that just really create a number of questions that I don't have answers to. As a result I recommended on this invoice to defer payment pending answers to a number of those questions.

Commissioner Diesen commented I think you ought to send it back to the City, it was billed to them. We aren't a part of WAV, we're separate and apart, I do not believe that there's any way any one member of the City Commission, or the entire City Commission, could in anyway obligate this Utilities Commission, given our Charter, could obligate us to be in WAV. We haven't been consulted, we have from day one, and I was with this thing from day one, hollering about this is just another bloated bureaucracy, it's not going to effectively do what you think it's going to. I went to all the meetings, listened to all the things, went to the vote last week, and there's no way given our Charter, and we have never been consulted from day one, we've been the odd man out. We're the only City in Volusia County that has their own Utilities Commission, and that was never taken into consideration, even though everybody knew that from the beginning. Now here we are down this path, this is not our bill, this is not our problem, we are not a part of WAV; that's how I feel.

Many of those in attendance applauded Commissioner Diesen's comments.

(7-b) Water Authority of Volusia - Invoice No. WAV06IC-NSB - Construction of Finished Water Interconnects (cont.):

Commissioner Spangler stated I saw that invoice and the invoice went to the City Manager, why is WAV billing the City Manager and the City Manager giving it to us. Is there something going on here that I don't understand.

Commissioner Diesen commented send it back.

Commissioner Spangler stated I would also like to say, we had a discussion a few months ago with WAV and Mr. Hoover got up and talked about all kinds of things that alarmed me like the transmission of treated water across great distances and the slime that would get in there and the bacteria that would grow. I would say that Mr. Hoover is a technical expert and I would like to know who the technical experts are so far that have been active in making WAV's decisions for one thing and another thing is I'd like to know how come nobody ever talked to us about it. Aren't we the Utilities Commission, how come we've never been invited to vote on this or been called over to make comments. I just think that we've been out of it and the only thing so far that we've gotten out of it is this bill that was really given to Mr. Roberts.

Commissioner Diesen stated and the previous bills for just the allocations that it costs to just keep them going. Now they're going to expand greatly and we've got to stop it now.

Commissioner Spangler stated I guess what I'm going to say is if this bill is to put some kind of a mechanical interconnect on something that we do manually right now, maybe this is just a test. Maybe they want to see if whether we want to start paying for infrastructure or not.

Commissioner Diesen stated I think you're right, absolutely, that's the gauntlet, the line in the sand.

Commissioner Spangler stated so I guess the answer we're going to give is let's defer.

Commissioner Diesen interjected let's accept the challenge.

Commissioner Reynolds stated I've never seen a bureaucracy added in that didn't cost taxpayers money, I don't care if its the Federal government, the local or whatever. If you take a look at it, hopefully we the Utilities Commission are trying to regulate, control and ensure that our customers have water and electricity, that's our job. Why in the world do we need another agency between us and the St. Johns River Water Management area, when right now Mr. Hoover can pick up the phone and talk to those folks, and we can negotiate with them and work things out. I just could not see where this is going to help each one of us that are paying water rates so I'm opposed to it, as Commissioner Diesen is, and as far as I'm concerned I would make a recommendation to the City Commission from us that we no longer participate with WAV.

Commissioner Diesen stated well unfortunately they voted the other day on the Master Plan and it takes almost an act of God to get out of it. But that was obligating the City of New Smyrna Beach, not the Utilities Commission of New Smyrna Beach, and given our Charter, I do not believe that there's any way that, even the AG, would say that we're obligated based on that vote by the City. So that's my stand is it doesn't affect us, it's not us. Now if the City of New Smyrna is going to

(7-b) Water Authority of Volusia - Invoice No. WAV06IC-NSB - Construction of Finished Water Interconnects (cont.):

buy their own wellfields, well that's something else, but that's not ours, it doesn't affect our water. That's my stand on it, I'm sorry, I think this is where we have to take a firm stand on it, and we're not a part of it, we were not asked to be a part of it, we were ignored.

Chairman Para asked if there were any further comments.

Commissioner Diesen commented I know we said to defer it but I would just like to say no, we're not going to pay it.

Chairman Para stated I think the tide has changed on WAV, and I attended also with Commissioner Diesen, and Mr. Hoover, a number of meetings and based on my observations it looks like about a 300% increase in the costs of water. We have good folks, the citizens, calling me all day because we're raising rates, it seems kind of counter-intuitive to turn around and turn over sovereignty of a chartered body to another agency that is going to on its face value increase your rates by 300%; I just don't follow the logic. And I would agree with my colleagues voiced here this evening, it has to do with the Charter issue, this body is formed for I believe an exclusive purpose and that is to provide water, wastewater, and electricity, and not in a political context. The good folks across the street or one or whatever feel necessary to involve or intertwine ourselves in that capacity, then that's their show, but this is our responsibility and I believe we're managing it well.

Commissioner Reynolds stated if we have a master plan, does the master plan cover any ultimate costs to members of WAV. In other words this is \$36,000 or \$38,000, what is the next bill, what is it going to be, do we have a master cost plan from the WAV folks?

Mr. Rodi stated all I see is what's been published from the website and I understand the Master Plan is going to be yet amended more. In looking at the descriptors of the Master Plan, for example the water piping system does not even go into this area, and if I'm incorrect I'm asking Mr. Hoover or others to correct me. So I think that at one point there was supposed to be some type of an alternate water plant in Southeast Volusia, I did not see it in the current plan. Perhaps the question is whether the provisions of the Interlocal Agreement, as well as the Master Plan, need to be explained, certainly I'm not the person to explain someone else's plan.

Commissioner Diesen stated but we can see in there that there is an intermediate funding source that they need and the clock starts May 2006 on that, and then by September 2006 they're to begin looking at bonding, and they say the "member governments" will use their collective bond rating because like a kid who has never had a credit card, they don't have any credit, so the parent signs. She stated we don't have to sign, we're not the parent, we're not the member government.

Chairman Para stated I think it comes down to just that, being forced or in any way manipulated into paying for something that we didn't enter into, we did not authorize it, we did not participate in the set up and the Master Plan. So I think if those folks want to play then they can play that hand out, but at this point I don't think we've got any action to take other than we're not going to participate financially.

(7-b) Water Authority of Volusia - Invoice No. WAV06IC-NSB - Construction of Finished Water Interconnects (cont.):

Commissioner Spangler interjected the motion was tactfully worded.

Chairman Para asked if the motion could be made again please.

Commissioner Hall commented I see some hands going up in the back, political opponents of some members of the current City Commission and I have concerns that this is getting very political. He stated forget all the great theory that's come out tonight, Mr. Rodi what is your recommendation again.

Mr. Rodi stated the recommendation was to defer the payment until there was clarification of the WAV Master Plan...

Commissioner Hall stated then that would be my vote to support your recommendation and with all due haste.

Chairman Para stated there's a motion, is there a second.

Commissioner Spangler stated he would second that.

Commissioner Reynolds stated I would like to think that we, rather than just send the bill back, that we could perhaps inform our City colleagues across the street, right here in fact they meet here, we should encourage them to find out what the costs are going to be pro-rated to this community. It's for their well being, for the taxpayers' well being, and it's for our well being in seeing how that can be done. So I would offer up an amendment to that, besides not paying it this time and waiting for the Master Plan, but to encourage the City to determine what the Master Plan costs are going to be so that they themselves can address that.

Commissioner Diesen stated do you think we ought to ask for a special meeting with the City Commission?

Commissioner Hall interjected yes.

Commissioner Reynolds stated I think that would be the best way to clear it rather than sending zingers back and forth.

Chairman Para concurred, let's all sit in a room and talk about it because we're not getting anywhere going back and forth.

Commissioner Diesen stated would you want Mr. Rodi to try to arrange a meeting, not a workshop, with the City Commission.

Chairman Para stated it's your pleasure.

Commissioner Diesen stated I would make a motion, but then added we already have a motion.

(7-b) Water Authority of Volusia - Invoice No. WAV06IC-NSB - Construction of Finished Water Interconnects (cont.):

Chairman Para stated we've got one on the floor, with a second, and have had some discussion.

Commissioner Reynolds stated he would withdraw his amendment based on that.

Chairman Para stated so we've got the motion now and a second to defer the payment of the invoice on WAV.

There being no further comments, Commissioner Hall's previous motion then passed with a majority of the Commissioners voting yes, Commissioner Diesen and Chairman Para voted no.

Commissioner Diesen then made a motion that we ask Mr. Rodi to try to affect a special meeting, not a workshop, with the City Commission ASAP, given that the clock begins on this. Commissioner Spangler seconded the motion.

Commissioner Hall asked for the difference between a meeting and a workshop.

Commissioner Diesen stated action can be taken in a meeting and not in a workshop.

There being no further comments, Commissioner Diesen's motion then passed unanimously on a roll call vote.

Mr. Preston apologized and stated before you move on to New Business, could I reopen one of the items in the consent agenda. Item 2-h. the consulting services agreement for billings and collections of CAB's, in my review of the packet I would like to make the recommendation where you authorize me to add a paragraph for review, a determinate period, such as a six month period, for a review by both parties to this agreement. So that there is some opportunity at least that if there is no performance we can review the lack of performance and void the contract.

Chairman Para stated that's Mr. Preston's recommendation, is there a Commissioner who would like to make that in the form of a motion.

Commissioner Reynolds stated I make a motion that we add that review process. Commissioner Diesen seconded the motion and it passed unanimously on a roll call vote.

Chairman Para then stated to Mr. Tolley, you stood down during our public participation, I will certainly allow you to visit that now.

Mr. Tolley addressed the Commission and stated I've been laying kind of low lately as everybody knows, trying to stay out of harms way, and let Mr. Rodi and the crew do the job. I promised myself I wasn't going to get involved too much and let the process work its way through but as you all know I lost a pretty darn good friend this week and I think the City, and I know this U.C., lost a very good friend when Mr. Finley died. I know he aggravated the heck out of you like I did a lot of times, but I have to tell you at the end of the day for a non-resident I have not met a guy who cared more for this City, where it was heading, it's future, and it's children and young people, than I did

(7-b) Water Authority of Volusia - Invoice No. WAV06IC-NSB - Construction of Finished Water Interconnects (cont.):

with Mr. Finley. So with that in mind sometimes, knowing that I don't want to feel this pain in my back or another part of my anatomy because it's him and I didn't get up and say anything, this WAV thing, you're heading down the right path. I can still see the confusion on the faces of a lot of you but let me just cut to the chase on it. You want to know what WAV's going to cost you, it's going to cost you 2 1/2 cents per gallon, want me to repeat that, 2 1/2 cents per gallon. Don't let them BS you, don't let them tell you any fluff. I've been following this thing with Don Feaster since 1989, I've heard every dog and pony show, cockamamie story you ever want to hear. What you've got to go look at is who's making money on WAV, we have a whole bunch of fat cats making a whole bunch of pocket change and it sure as heck isn't the ratepayers here. That's what's driving this going on, we could handle the water situation tomorrow, we're sitting on it, we have all the equipment, why would you want to give that to WAV. Of course there's a lot of people sitting there checking out where their next Lexus is coming from, Mercedes, whatever. I sent Mr. Taylor an expense list, I took all of their budgets from when they started, in 2002 Mr. Taylor? 2003? I added up all the years what they've been paid, what they've gotten, then I went and looked at all the budgets and expenditures, which they didn't want to give me, Mowrey and those guys were having an absolute fit. They didn't want me to come over and look at the records. I even got a call from a law firm asking me, gee why do you want to ruffle the cages, seems like I'm getting a lot of law firms calling me lately. He reiterated 2 1/2 cents a gallon is what this boondoggle's going to cost all of us at the end of the day. Ask for their numbers, ask for their files, if they'll let you have them, and then look and see where the money is going, what it's being spent on, who is spending it, and I think you'll get your answers who's driving this through.

Mr. Tolley stated one other thing if you don't mind, I think about Buie all the time, and I give you guys a lot of credit tonight, I really do. I know some of you have friends, have friendships across the street going back many, many years and it's hard for you guys to sit here and say to those folks across the street, hey look we don't want to do this. It embarrasses them and it embarrasses you, creates a problem, but I think your escape is your Charter. I passed this by a law firm over in Winter Park who I've retained on some other matters and I can tell you that their group has looked at our Charter, and their group has looked at our City's Charter. This issue will not stand a legal challenge, you have my word as I'm looking at you tonight, I will pay for the legal challenge out of my pocket; WAV's not going to fly. I'm not going to let this City let a whole bunch of people on the outside make money on the backs of our citizens and ratepayers; it will not sustain a legal challenge. So if you want to let it go that way and you can save face so that nobody has to fight with their friends across the street, let it go, but within 30 days of they're making the payment and committing us, I will do the legal challenge. Mr. Tolley then thanked the Commission for his time and asked them to keep Finley in their prayers.

Commissioner Diesen asked if she could just piggyback on what Mr. Tolley said about Finley Buie, I had planned to say this at the end of the meeting, but since Mr. Tolley brought it up. After our meeting last Monday night, and I talked with him frequently, and he called me and we talked to almost 11:00 p.m., and he was coming Tuesday night, and he did, he was going to be there for the WAV issue especially. If you didn't know Mr. Buie you're diminished by not knowing him, he was an unusual individual, always a consummate gentleman, but he had the best interests of this City at heart. It was hard on him because he told me, probably a year ago, he said I don't have a lot of

(7-b) Water Authority of Volusia - Invoice No. WAV06IC-NSB - Construction of Finished Water Interconnects (cont.):

time, and I said well in two years, and he said I don't have two years. He knew that but he still came to our meetings and he was always interested and did his research, and never ever did he get upset or angry with anyone, it was always presented. He was very smart, very bright and very articulate, and I think we just need to all remember him. She stated I did ask about a service today but they're not having one, only a private one, at his request.

Mr. Tolley and Chairman Para thanked Commissioner Diesen for her comments.

(8) New Business:

(8-a) Collective Bargaining Unit Agreement - 2006 Reopener - Barbara Mudge:

Mrs. Mudge addressed the Commission and stated they reached a ratification on April 4th, they being the Union, the collective bargaining unit and members. They ratified in a meeting with their members that they would like to have the 3.5% increase in G.W.I., general wage, if you would approve that for them. And in the future they want to leave it open that we can, after we've done the cycle that we have set up for the health care insurance, once we have selected a provider, they want to leave it open that we can go back and review what we are paying for each employee in that bargaining unit. She added but we will include the non-bargaining unit in that too.

Chairman Para stated I kind of like the fact that they're participating in that team involvement with the health care. They're the right people to be in there speaking directly to the actual providers of that service and participating in that discussion.

Commissioner Reynolds made a motion to ratify the modified Collective Bargaining Unit Agreement to reflect the above referenced change, a 3.5% GWI effective October 1, 2006. The U.C. also agreed to reopen negotiations concerning the amount the Commission will pay for employees 2006-07 healthcare after the new insurance provider is selected. Commissioner Diesen seconded the motion and it passed unanimously on a roll call vote.

(8-b) Resolution - Revisions of the Water, Wastewater, and Reclaimed Water Main Extensions Policy - Jim White:

Mr. White addressed the Commission and stated what we're dealing with this evening, dealt with last month also, and this is the process by which we handle and deal with requests for extension of service, to extend water, wastewater, reuse lines to properties within our service area, both inside and outside City limits. You may recall prior to this the policy was established that we would extend water lines, etc., on the request of 50% of the properties that would be served. If those 50% paid their pro-rata share of the extension, then the Commission would pay the other 50% and basically hold the bag until those other 50% would come along. Whether they were undeveloped lots or people using wells or septic systems, or whatever system, or no system, until they come in and request. Then we would open the books and collect that amount from them. We essentially became the piggy bank for the neighborhood and we've got a pretty good size portfolio of those things that go back quite a few years. This proposal would change that to require 100%

(8-b) Resolution - Revisions of the Water, Wastewater, and Reclaimed Water Main Extensions Policy - Jim White (cont.):

participation and payment.

Commissioner Hall made a motion to approve the resolution revising the water, wastewater, and reclaimed water main extensions policy. This resolution was numbered 1-06 and became effective immediately upon passage. Commissioner Spangler seconded the motion and it passed unanimously on a roll call vote.

(9) Possible Other Business – Time for Commissioners:

Mr. Rodi stated I have three items I would like to go over. The first is an item we've discussed previously that relates to the transmission easement. There's a 100 foot wide transmission easement that basically starts at Swoope and goes across to North Peninsula. We've been reviewing the loads of beachside electrical system and from the preliminary information that we've been going through it looks as if we would be able to serve in the future without that particular easement, however, I would like to retain whatever we can retain of it. I said that I wanted to review the R.W. Beck information and we just received from preliminary information on that and my expectation is that by upgrading existing systems and being able to cross again in the areas we already are located might be a better alternative than this. He stated so with that background given, that the support is there to still supply future growth through upgrades and what have you, I wanted to make you aware that I would be inclined to support the modification to that easement if that's possible. I say it that way because I don't know if you can modify an easement like that without just essentially abandoning it.

Commissioner Diesen stated it was granted by the State originally wasn't it, in 1967.

Mr. Rodi answered yes it was.

Commissioner Reynolds asked if there was any beach head on either side.

Mr. Rodi stated what there was is that the City property, prior to the existence of the U.C., had planned to put a substation on the North Peninsula side and run a 23,000 volt aerial line from Swoope to the island over there. I think that's what we've learned along the way here. Obviously we're not using the North Peninsula land itself for a substation so that our only alternative would be to have an underground cable and that leads into a number of other design issues with regard to having the cable go into the water and across to Swoope; so it becomes even more complicated than the original concept.

Commissioner Diesen stated so you're saying then we're going to try to retain a portion of it if that's possible with that and then they'll be able to move forward.

Mr. Rodi stated and I don't even know if that's a meaningful alternative, it just sort of seems like you don't want to turn loose of this but in reality I don't want to misstate that would be a preferred location either. At one time if you were stringing an overhead line it may have had more credibility but with underground, and we no longer have that definitive need for that property, so it just raises a

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

number of other questions. I thought they needed to be objectively stated as best as I know them anyhow.

Chairman Para stated this answers some of the questions as to what do we do, so that we're just not sitting here saying we're sitting on our hands, good enough. He asked Mr. Rodi if he needed any official action on the Commissioners' part or just bringing us up to speed.

Mr. Rodi stated that's all I'm doing with this, at this point I'll ask Mr. Gummey to prepare some language in regards to the issue he's working with but I wanted to again to publicly discuss it in that you had charged me into looking at the loadings and we have done that. Although they're not absolutely definitive we hope to achieve that over the next couple of days.

Commissioner Spangler stated so this is probably a pretty good time to cooperate there.

Mr. Rodi stated yes, I think so. He then stated he would like to talk about the telecom business at this point. After hearing the number of outstanding issues that we still have, and it's basically through the reseller agreements. A couple of weeks back we were negotiating with one company in particular, the offer wasn't particularly good and being in the public domain our negotiating leverage goes away pretty quickly. I became very concerned that should we try to sell our customer lines, that maintains an ongoing claim to the relationship of resellers or people who are acting as seller agents. It's my recommendation at this point, I had asked previously in a joint public meeting, that we just abandon the telephone business and that's what I'm asking for tonight is a resolution that you would now allow us to move in that direction. Counselor Preston, am I correct in assuming that we would mitigate some of our exposure regardless of some of the claims?

Mr. Preston stated that was correct. He stated I can expand on that if you want but through the contracts that we reviewed and the exit strategy that we talked about, there is a mitigation of some potential liability for any of the three larger contracts we have, so the answer's yes.

Chairman Para stated I don't think it requires any action on our part because the authority was given to you both by the City and the Utilities Commission, was it not at that meeting to allow you to do that?

Mr. Rodi stated as I'm recalling that meeting the authority to abandon was reserved to the Utilities Commission and it was should we reach that point I was to bring it back to the Utilities Commission then and ask for your approval then to abandon.

Mr. Preston stated I would say by all means you would need to have the approval of the Commission to move in that direction.

Chairman Para stated okay then this would be our approval and this is where it would end then.

Mr. Preston stated you would develop the strategy or decision to develop the strategy, be it an exit strategy or otherwise.

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

Chairman Para then asked if there was a motion to that effect and is this something we can take action on as a tail end thing, does this need to be advertised or is this appropriate to do at this point.

Mr. Preston stated in this particular case the issue of the exit strategy isn't an issue that needs to be raised on the agenda prior to the particular meeting and this issue has also been addressed at prior meetings as well, so it's a movement forward.

Chairman Para then asked if there was a motion.

Commissioner Reynolds stated I make a motion that we abandon the business providing we provide a sufficient time for our customers to make other determinations of phone service.

Chairman Para asked if there was a second.

Commissioner Diesen seconded the motion.

Chairman Para then asked if there was discussion.

Commissioner Spangler asked if we were in a position to do that, to provide for the customers, or what happens. He commented he was an Epicus customer.

Mr. Rodi stated we have as counsel a D.C. attorney who's a telecommunications attorney and we have the obligation to provide notice to existing customers, we must apply to the FCC for abandonment proceedings, we must go to each of the PSC's of the states in which we do business to do likewise; so administratively it's a pretty straight forward procedure. What I wanted to comment on is that the residual questions and evolution of this is going to go on for some time. For example, part of the question that Counselor Preston raised on the collection of CABS bills. I hold the understanding that we have over \$1 million potentially of CABS bills, what that means is potential CABS revenue to us. How much of that we'll collect I don't know, but that is a part of this exit so that by doing it this way we will still have to dedicate resources and efforts. We're still going to have other issues about returning deposits, bills that may have in some fashion or other not been correct over time. There are going to be a number of ongoing issues but we definitely need to make a decision at this point and move on.

Mr. Preston stated let me just emphasize that and this is not a decision that means that tomorrow we're no longer in the telecommunications business. We have contracts we need to deal with, we have all of the issues to work our way out of. It's more direction that you all are taking to move out of the telecommunications area.

Chairman Para asked if there was further discussion.

Commissioner Hall stated I still have a concern that we're not going to put this on the regular agenda. Maybe that's because of a different life I once lived where we were not allowed to do that.

Commissioner Diesen stated we discussed this at length, however that might be an option, we

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

discussed this when we had the joint meeting.

Chairman Para stated that was his question too is this something we can do and the answer is yes, because I had originally thought this was approval that you had to go completely through this, but I understand the check and balance here. He then asked if there were any further comments, questions, or statements.

Commissioner Hall requested the motion to be restated.

Commissioner Reynolds stated my motion is to authorize Mr. Rodi to abandon the telecommunications business provided that there's sufficient time to ensure that customers and contractors are properly notified and those agreements reached.

Chairman Para then asked for a roll call vote to be taken on Commissioner Reynolds motion which Commissioner Diesen had seconded and the motion passed unanimously on a roll call vote.

Mr. Rodi stated I have another one of these which is just as difficult. In the past we've had conversations about the cable business and there's information I provided to you that goes back to shortly after I came here, even with regard to a feasibility study for the cable entertainment business that essentially says like most of them, it's feasible except, you know account for these other things. We have left at Venetian Bay some, I think, thirteen paying customers now. We've provided a preliminary notice to those customers that we were intending not to stay in the entertainment business. I'm also suggesting that because some of these customers are also telephone customers, they're served over the fiber, that they will be affected by the telephone part of the business and I do think it's time for us also to exit the cable business.

Mr. Rodi stated the intent would be to retain the fiber. The fiber has tremendous capacity as a communication medium and to couple that with a fiber deployment with regard to the municipal network, essentially targeted for schools and municipal buildings, whether they're U.C. buildings or City buildings, to put a very strong backbone in. At this point we are in default of our franchise with the City and for this it's simply notification, as I understand it, to the FCC and also notification to the City with regard to the franchise. So that is an item I think we should move forward on as well.

Chairman Para stated and my first question is we discussed this at the public meeting so the same answer holds true to that.

Mr. Rodi stated yes and we've talked about this a couple of times.

Chairman Para stated yes, I recall in previous meetings we actually discussed openly the possibility of that. He then asked if there was a motion.

Commissioner Spangler stated so we're looking for a motion to abandon the cable business but to retain rights or ownership of the fiber optic cable.

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

Mr. Rodi stated the fiber optics, the head end, basically yes. We're looking to salvage, for the communications network, those items that are essentially reusable.

Commissioner Spangler stated so basically this is a motion to get out of the cable business period, the television business.

Chairman Para stated and that's an academic exercise, we're not going to sell the head end building, we're not going to sell any other fixed assets, all that will come back through this process. Well, you're saying keep it because we need that for the municipal fire up, correct?

Mr. Rodi stated yes, and those items that we don't, we'll declare as surplus and put them out.

Commissioner Spangler stated so is that clear enough for a motion then?

Commissioner Reynolds stated the motion is that we're exiting the entertainment business and maintaining the infrastructure.

Chairman Para stated okay then, is there a second, Commissioner Reynolds made the motion.

Commissioner Spangler stated I will second the motion. The motion then passed unanimously on a roll call vote.

Chairman Para stated as a footnote, I never was comfortable with a public utility being in the entertainment business because of all of that stuff; anyway it's a done deal.

Commissioner Reynolds stated he would like to say to Mrs. Mudge that the work she did and the guidance she got from Mr. Rodi has resulted in I think an excellent plan for selecting a carrier. I think it takes out a lot of the emotional aspects because it will be a building block process so that everyone's on board. We're hiring an expert to review the various plans and I think along with some hospital participation that the system is well in hand I believe at this time.

Chairman Para then thanked Mrs. Mudge for all that hard work.

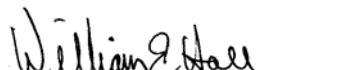
There being no further business to come before the Commission, Commissioner Diesen made a motion to adjourn. Chairman Para closed the regular U.C. meeting at 8:49 p.m.

APPROVED:



CHAIRMAN

ATTEST:



SECRETARY-TREASURER

These minutes were formally approved by the Utilities Commission at their
May 15, 2006 meeting.