

## **AGENDA ITEM 2-a**

MINUTES OF FINAL PUBLIC HEARINGS (TWO) AND REGULAR MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, MAY 15, 2006, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

Chairman Para opened the first of the final public hearings with an invocation by Pastor Calvin Davis from the Temple of Praise and with the Pledge of Allegiance led by Commissioner Hall.

(1) Final Public Hearing Re: Adjustments to Various Electric, Water, and Wastewater Rates:

Chairman Para then opened the final public hearing regarding the adjustments to various electric, water and wastewater rates, with all of the Commissioners present as follows:

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Commissioner Richard L. Spangler  
Commissioner Jeanne K. Diesen  
Commissioner William E. Hall  
Chairman Kevin J. Para  
Commissioner William H. Reynolds

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; J. Lutz, Call Center Technician, Level II; S. Gunter, Training Officer; D. Simmons, Executive Asst./Recording Secretary; and additional U.C. personnel; Bill Preston, Interim U.C. Legal Counsel; Keith Mullen, Trishia Lee, and Steven Stein, from the firm of R.W. Beck; Melanie Stawicki-Azam, Reporter for the NEWS JOURNAL; Pete Slavin, Reporter for THE OBSERVER; Calvin Davis, Pastor from Temple of Praise; Walter Allen, Bill Rogers, Donna Para, Bob Tolley; Robert Hunter, Sally Mackay, Donna Para, Teresa and David Webb, Kent Titcomb, Roberto Bullard, 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 resolutions (eight total) by title only.

Mr. Preston stated for the record this final 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 resolutions by title only.

Chairman Para thanked Mr. Preston and then confirmed there was no one 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.

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

Mr. Rodi stated I was asked to provide a clarification as to exactly what the numbers are, and stated we use a 1,100 kWh basis just as a comparison point. Our existing electric rates are \$118.87 a month, and the proposed would be \$124.07, which is a \$5.20 increase or 4.37%. He stated for the water and wastewater our current combined bill (based on 5,000 gallons) is \$48.47 a month, going to \$52.00, a \$3.53 increase or 7.29%.

Chairman Para stated that's good, put it into perspective. There being no further comments, Chairman Para closed this final public hearing at 6:07 p.m.

(2) Final Public Hearing Re: Adjustments to Street Light Rates:

Chairman Para opened the second final public hearing and asked for roll call to be taken and the same attendees were present as listed above in the first 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 final 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 final public hearing at 6:09 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 Hearings.

(1) Agenda Changes, Additions and Deletions:

Mr. Rodi stated I have a correction and an item to add, actually two corrections under the General Manager's Report. The Budget Summary and the Commercial Monthly Report were for March, 2006 and not April. The other item I'd like to talk about is under Possible Other Business, it's the emergency generator that we have here, just an update of information.

(2) Approval of Consent Items:

Commissioner Spangler stated he had two things. Number one, just a comment because we addressed where we were with developer agreements and at what point they would take effect. I heard there's been more talk at the City Commission about a moratorium and I suspect they're going to be looking to us for reasons to have one from our point of view, so I presume that we're

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

prepared to address that. The second thing is, and this was Chairman Para, in the minutes we were talking about clearing things up and the comment was so we'll wait and by the time we come back again lots of this stuff will be cleared up, correct? Mr. Preston said you bet and we were talking about Brent Millikan's report and things like that, so what I want to know is what stuff has been cleared up. Did we clear anything up of that whole jumble that we don't already know.

Mr. Preston stated I'm not quite sure of the context but I believe at that point what we were discussing was the next action or next step that we would take as a Commission following the report from the firm of Brent Millikan. We have taken in fact what you all recommended, the step to provide notification to the FBI in this regard, so that's been accomplished.

Commissioner Spangler then asked if we have given any further thought to pursuing our insurance company?

Mr. Preston stated we have researched the insurance provisions and I don't know if Mr. Lloyd or Mr. Rodi have actually pursued any claims at this point, but we have recognized what we are afforded if a claim should prove to be a valid claim.

Commissioner Spangler stated so do we think we might have a valid claim?

Mr. Preston stated in my opinion do we have a valid claim?

Commissioner Spangler stated yes sir.

Mr. Preston stated in my opinion we should file a claim.

Commissioner Spangler thanked Mr. Preston.

Chairman Para stated and in conjunction with that there was the topic of filing an ethics complaint, the consensus of this group last time was that we would file the ethics complaint.

Mr. Preston stated nothing has been done at this time in regards to the filing of an ethics complaint.

Chairman Para asked do we want to take care of that at the end of the meeting and make some official comment regarding that?

Mr. Rodi stated I would like to make a suggestion for your consideration. There are ongoing investigatory items that are still taking staff time. There's a two year statute with that if I'm correct Counselor, and it's very time consuming, so from a standpoint of timing I would ask for your indulgence.

Chairman Para stated alright and then commented that's one person not the rest.

Commissioner Diesen then stated the addendum for the Developer's Agreement, I know it's on here just as an information item but I know there's some interest in that and we are going to hear about that later on I'm assuming, that will come up. She confirmed this would be discussed later.

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

Chairman Para then asked for a motion on the consent agenda items.

Commissioner Diesen made a motion to approve the consent items, items 2-a. Minutes of Special U.C. Meeting Held 4-10-06, and 2-b. Minutes of Final Public Hearing, Preliminary Public Hearings (2) and Regular U.C. Meeting Held 4-17-06, approve both as submitted; items 2-c. Agreement for Engineering Services – Black & Veatch; and 2-d. Agreement for Engineering Services – R.W. Beck, Inc., approve both as submitted and authorize the General Manager/CEO to execute the Agreement as submitted; item 2-e. Consumptive Use Permit Compliance Tasks, authorize Universal Engineering Services, Inc. to proceed with the Consumptive Use Permit compliance tasks as outlined in the document attached to the agenda item for an amount not-to-exceed \$57,825 and authorize the General Manager/CEO to execute any and all documents associated with same; item 2-f. Design of First Production Well at Central Well Field, authorize Universal Engineering Services, Inc. to proceed with the design of the first production well at the central well field as outlined in the document attached to the agenda item for an amount not-to-exceed \$37,770 and authorize the General Manager/CEO to execute any and all documents associated with same; item 2-g. 2 MG WWTP Substandard Reuse Tank, authorize Dyer, Riddle, Mills & Precourt, Inc., to proceed with the design, bid, award and construction phase of this project as outlined in the agenda item and in the Scope of Services attached to the item, for an amount not-to-exceed \$54,050, and authorize the General Manager/CEO to execute any and all documents associated with same; item 2-h. Addendum for Developer's Agreement, submitted for information only and review; item 2-j. Electric Distribution Line Easement – Board of Trustees of Internal Improvement Trust Fund of the State of Florida, approved the easement and attachments as submitted; item 2-j. Bid Nos. 18-06 and 19-06 – Contracts to Supply Qualified Backup/Emergency Crews and Equipment for Electric and Water/Wastewater, approval of the awards for bid nos. 18-06 and 19-06 as supplied prior to this meeting, approved blanket purchase order no. PON0003499 to Mastec North America, Inc. the overall low bidder, and blanket purchase order no. PON0003498 to Cloud 9 Services, Inc., the only bidder; item 2-k. Bid No. 21-06 – Emergency Clearing of Cassadaga 115 kV Transmission Lines (Fire Hazard), ratified and approved the emergency award of purchase order no. PON0003486 to Weaver Construction, Inc., in the amount of \$50,000.00, the low bidder, for work started immediately due to the fire danger to our Cassadaga 115 kV transmission lines; and item 2-l. Developer's Agreement – Gold Rock Park (contingent upon execution of addendum), approved the Developer's Agreement for Gold Rock Park with a correction, and the developer's concurrence, to the inspection fees and authorized the General Manager/CEO to execute the agreement contingent upon this developer executing the addendum agreement currently being prepared by U.C. legal counsel. Commissioner Reynolds seconded this motion and it passed unanimously on a roll call vote.

(3) Public Participation:(3-a) Bob Tolley – Status of Investigation, WAV, and Other Matters:

Mr. Bob Tolley, a resident at 803 Fairway Drive, addressed the Commission. He stated a couple of things, first on the investigation status, with the help of Mr. Preston. I did a little track down because I knew that when the Brent Millikan report went in it was going to go in a certain way and I did want to do a follow up on that. So I did talk with the agent at the bureau itself who was handling the case, speaking to the horse's mouth so to speak. Let me tell you where

(3-a) Bob Tolley – Status of Investigation, WAV, and Other Matters (cont.):

they're at, they don't have the manpower, they just don't. They're very, very busy with terrorism activity, protecting the country as a whole which is very understandable. The case has gone back to the State Attorney's office.

Mr. Tolley stated once I heard that, it took me about four to five days of work, I finally contacted the principle at the State Attorney's office, Mr. Robert Wheeler, and I got to speak to him directly. They do have several folks working on the case, they are putting in a lot of time and effort, the documents are a huge pile. I won't quote them but it's a heck of a lot of documents they're trying to go through. He stated one thing I did pass along is the request that the additional information that they were not given by Brent Millikan as part of the file that was dropped off at the FBI would now be allowed to be added to the investigation; they agreed to do that. You are going to receive some of it tonight from Mr. Hunter and there are other materials that will be added to the Brent Millikan file that, just by chance shall we say, didn't make the file the first time it went around, but it will make the next file, and then we'll stay on it from there.

Mr. Tolley stated as for WAV, let me give you a little update with that, I know you're going to meet with the City this week but I had the pleasure of going to a "Meet the Mayor" meeting recently and it was quite interesting. And after the meeting, over there in the Brannon Center, I was able to hang out a little bit and actually able to get a hold of Jack Hayman and the Mayor. We started discussing some WAV issues, just one on one. I'm not going to say....

Chairman Para stated please don't, don't quote anybody.

Mr. Tolley stated I'm not going to bring the Mayor into the conversation but I will tell you what I found. From what I understand, and you can correct me Mr. Rodi, Jack Hayman is now the Chairman of WAV. Mr. Tolley commented well, let me tell you something, if Jack Hayman was the Chairman and he worked for me I would fire him.

Chairman Para interjected again and said let's back away from all of that.

Mr. Tolley stated I asked him several questions, the cost that it's going to be, he had no clue. I asked him about the cost per gallon, which I talked to you right here I think at the last meeting, he didn't have a clue. I asked him about the half of billion dollars in cost that's going to hit the ratepayers, well he didn't have a clue. I asked him how they were going to handle the U.C. situation, were they going to give us a check for all the utilities that we own here, didn't have a clue. I spent 35 minutes over there in this meeting and I've got to tell you, they didn't have a clue. I shouldn't say they, I really wasn't directing most of these questions towards the Mayor, they were to Jack as the Chairman. I guess my comment is, and I apologize for before, you folks are being asked to be part of this thing and when the Chairman doesn't even have the answers, the question becomes who has them.

Chairman Para stated in fairness to Mr. Hayman, he's not here so possibly he could be invited to Wednesday night's meeting and he could shed some light.

Commissioner Diesen stated no.

(3-a) Bob Tolley – Status of Investigation, WAV, and Other Matters (cont.):

Chairman Para then stated no, I can't ask anybody to do that.

Mr. Tolley stated I understand that, I'm just bringing you folks up to speed. It's a shame when we're being asked, actually forced, until you folks decide what you're going to do on Wednesday, to participate in something that the group doesn't even have the answers to where we're going with this. I think they're also looking to do some internal changes, possibly terminate some people that have worked very diligently to bring WAV along and now that its here, maybe they're not going to be there any more, which I found very interesting. I will stress it again in my comments, they were at Mr. Hayman, not so much the Mayor, the Mayor was there but I wanted to talk to him about WAV. Anything that I would discuss with the Mayor I would gladly do openly in front of you, as well as with Jack.

Chairman Para stated good.

Mr. Tolley stated with that said, thank you for the time.

(3-b) Teresa and David Webb – Request for Policy Exception RE: Secondary Meters:

Chairman Para mistakenly stated Mr. Hunter was next but then corrected this to Teresa and David Webb.

Mrs. Webb commented on her way to the podium that at first she was afraid to come and thanked the Commission for including them on the agenda.

Chairman Para commented she was among friends and neighbors.

Mrs. Webb then distributed some maps to the Commissioners, she stated these may be helpful and provide a visual. She stated in the yellow where it says 110', that's the area where we're trying to get resolved here with some electrical service. My husband's going to finish but I'm Terry, I work at Indian River Glass, my husband Dave works for the City of Edgewater. My husband is a retired builder of 20 years and we bought this piece of property, he'll be designing and building our own home himself with the exclusion of sub-contractors if we can help as he's very talented. For this reason we really need to start our projects kind of putting the cart before the horse. That's the way we found the property and the next set of pictures are what we've done to it, there's more added there. She stated Dave's an ex-builder, we're going to do the work ourselves, we need to build a detached garage/shed to keep our tools and equipment in so we can build the house. We built by hand a beautiful fence around a two acre parcel, that's done. This is sort of why we don't have a permit for the house yet, we have to get some other projects done so we can build the house. The other odd circumstance where we're concerned is that my husband feels it best to have permanent underground detached service. We have a pump house, it's two compartments one for the pump, one for the electric. We got a permit from the County we were approved for our electrical service and our pump; which by the way they gave us a residential permit knowing that we don't have a house built yet, and this electric will never be attached to the house. In light of the bigger, badder hurricanes to come we'd like a sturdy pole and our situation is since its going to be our permanent service someday anyway, I know that your rule book divides it into an either or situation and I spoke to Jim (sic John) Hagood, was nice enough to give me some time in his office, and he said

(3-b) Teresa and David Webb – Request for Policy Exception RE: Secondary Meters (cont.):

maybe they'll work with you if you can prove your good intentions by writing a promissory note saying that if you have a building permit, say within the next year and half, you'll prove your good intentions. I'm willing to put money in escrow for a pole and the cost of the wire and I already paid for, and he'll explain that, for labor to prove to you that our intentions are good. It's obvious that we're going to build a house. She stated I have to apologize for that letter you have in your hand because I had half a day to write that.

Chairman Para commented you did a good job.

Mrs. Webb stated so we've had a very, very, and I know that your rules say its either or, either you have a permit or a house, a permit to build a house or you don't, and you're commercial. My first encounter with Randy was commercial, commercial, commercial. We had a problem with that due to our odd circumstances of being owner, builder and the detached electric service. He sent Mike Mines out to mediate the problem and then she indicated her husband could continue.

Mr. Webb stated my name is Dave and through Randy we were to meet Mike at the property and resolve what we couldn't resolve in the office. Mike told us, told me actually, that this service met all the criteria that he wanted, the sweeps and the underground service and the whole thing. We discussed the pole that was on there in the yard and he said we're not going to use that pole, we're upgrading to all new stuff. We're not going to use something old like that.

Mrs. Webb interjected he's going to provide the line.

Mr. Webb reiterated he's going to provide the line, the pole and line, and which I as a builder of over 800 homes, never had to put wire to the meter. The meter, I have to ask you a question, as far as a wire going from the utility easement to the box itself, who takes responsibility for that wire?

Chairman Para stated what I would like to do at this point is ask Mr. Rodi, because we have a lot of this in the actual lead up information, if you wouldn't mind giving us a little bit, and that way we can go back and forth and see if we can't get some resolution here.

Mr. Rodi directed this to Mr. White (Director of Engineering).

Mr. White addressed the Commission and stated that's a lot of information, the question really before you today is quite a bit simpler than that when you boil it down. Our rules and standards divide all services into two categories, its either a commercial or it's a residential service, it's one or the other, everything is one or the other. If its not connected to a house it's a commercial service. He stated this service will not connect to a house when its installed therefore by our definition it's a commercial service. Those are the rules we live and die with. The plaintiffs here would like to request that you reinterpret that definition that this is a residential service because it is their intent to build a house and they're kind of doing it backwards since there's not a house there when they started out, but there's a well and a pump. As I understand it they have no intent of ever building a commercial operation and that's really the gist of their request. The rules by which they operate are a little bit different, a little more forgiving, a little less costly I believe at the residential service than with the commercial service.

(3-b) Teresa and David Webb – Request for Policy Exception RE: Secondary Meters (cont.):

Chairman Para stated thanks and then asked if anyone had a question or comment.

Commissioner Reynolds stated if I were to do an extensive renovation in my home which required me to disconnect the power from the house and put it on a meter on a pole so that the contractor could use that, does that revert from individual ownership or to commercial.

Mr. White stated I don't think it would change anything, its still a home you haven't turned it into a car wash, a factory, a government installation; it's still a house.

Commissioner Reynolds stated if we were to consider this exception how many exceptions would we run into from your experience over time.

Mr. White stated it would be a little difficult to say if you have some exceptions you're bound to have some more if you entertain them, just a reasonable thing to assume. In the year and a half approximately I've been here this is the first so I don't think it would be a huge deal but the issue to me is we have a rule for identifying which is which. This board or their predecessors made, passed, voted on that rule and I'm not going to take the authority away from you to do that by undertaking that on myself.

Commissioner Spangler stated but you're going to let us vote on something aren't you.

Mr. White stated I'm not going to stand in your way of voting on anything.

Commissioner Spangler stated well being a contractor...

Mrs. Webb stated can I interject something.

Commissioner Spangler answered yes.

Mrs. Webb stated we're in a low lying area, we've invested \$20,000 worth of fill, we have a pad for the house, its staked out with a transit, the back slope we've put bahia grass there in order for that, it's the steepest slope, to prevent the erosion of the \$20,000 worth of dirt and I'd like to water it.

Commissioner Spangler stated that answers my question. What's really involved here is you started to build a house in Volusia County and they've given you a permit to build a pump house I presume but they haven't given you a permit to build a house. Have they given you a permit to clear the lot yet?

Mr. Webb stated yes.

Commissioner Spangler stated so do they know you have a pad there already?

Mr. Webb stated yes.

Commissioner Spangler stated really?

(3-b) Teresa and David Webb – Request for Policy Exception RE: Secondary Meters (cont.):

Mrs. Webb stated we're transitional agriculture in the County.

Commissioner Spangler stated residentially you wouldn't be able to start any of that unless you had your building permit, so this is not a case of you're trying to build a house before you have the permit.

Mrs. Webb stated no.

Commissioner Spangler stated this is a situation where everything that's gone on the County's aware of and the only problem you have is you don't have a building permit to build the house so that would solve your problem immediately if you had that permit, no one could dispute that you were going to do a house and you would comply with everything. So that would be the obvious answer, why aren't you going to get a building permit to do the house when you've done all this.

Mrs. Webb stated I'll tell you why. We have a certain amount of money left to work with, we have to get that garage built to house our tools and equipment. The house will involve a mortgage, will involve a few thousand dollars I'm sure and having somebody stamp our plans.

Commissioner Spangler commented I thought you were going to have a garden and you all just wanted to play out there.

Mrs. Webb stated no, but added he is a good gardener.

Commissioner Spangler stated okay, I get the picture now.

Mrs. Webb stated that is what he'd like to do, this is where we're going to retire, my mom's 86, the other bedroom's for her and she can't wait, she pushes me every week.

Commissioner Spangler stated well what do we think about this.

Mrs. Webb interjected I'll put money in escrow and if I don't have a permit in a year and a half I'll pay it.

Chairman Para stated thanks, I think we ought to try to find some relief, how about the rest of you.

Commissioner Diesen stated the zoning is transitional agriculture so I mean I suppose if you wanted to you could go out and put in a nursery or something right?

Mrs. Webb stated we could, we could after the house is built. She stated this takes up our everyday after work and every single weekend. We could in the future, everybody there, I'm H-4, has the right to have pigs, cows, chickens, everybody there has the right to do whatever they want for their own use. Transitional agriculture, which is a great area in that zone there, you are permitted to sell, if I wanted to plant trees or shrubs in, I don't have the time or the money to do that right now, some day. Right now our building costs are doubled, everything is going up, up, up, and its nice that it is transitional agriculture just so we might someday need to make extra money to be able to afford to continue to live in the house.

(3-b) Teresa and David Webb – Request for Policy Exception RE: Secondary Meters (cont.):

Commissioner Diesen commented that's coming home to a lot of us here in New Smyrna that already have houses built. She stated okay, that's what I wanted to find out, the zoning on it and what the big hangup was; so it's in our court then I would say.

Chairman Para stated during public participation we can't take action so we could save it for other business at the end and talk at that point.

Mrs. Webb stated we don't even really need an answer tonight if somebody, I would like somebody to please come down and see what we have going on there. There's nothing there but big sand and big dirt.

Chairman Para stated we believe you and what we'll do is we'll talk about it during other business at the end, we'll bring it up at that point. He commented you are welcome to hang around and thanked them for their participation.

(3) Public Participation (cont.):

Mr. Robert Hunter, a resident of 2521 Travelers Palm in Edgewater, distributed some information and then addressed the Commission. He stated as we go through this I would like you to follow along with me and I'll direct your attention as the report unfolds.

Chairman Para commented keep me healthy with Commissioner Hall, he's warned me about time limits. He then stated to Mr. Hunter, do your best.

Mr. Hunter said he stands before the Commission this evening to address a grave distortion of truth which you and the entire County now has been subjected to. The allegations made by Alex Kish of Brent Millikan, that Mr. Crawford and I were involved in some sort of criminal conspiracy are false, malicious, and an insult to the intelligence of any who reads them. I shall now prove this as a part of public record.

Mr. Hunter stated Mr. Kish had just prior to this point in his crusade, spent several pages and tens of thousands of your dollars describing how VStar had been credited, often randomly, with a great many customers that were not solicited from their efforts.

Please view with me Exhibit 1, and begin with the very title, VStar gets reduced by 1,331, positively speaking that sounds like a good thing given the prior commission. Mr. Crawford then documents his idea for a procedure that would reclaim VStar accounts back to NSB. I'm appalled that your auditors would present this to you as a criminal act. I was the recipient of an email with an idea by the I.T. Director to benefit the Commission by recovering accounts from VStar. But instead of taking this logic at face value or believing your eyes as you read the email with me, please turn to Exhibit 2, which an expert report produced by your attorney Mr. Roper in our outstanding litigation. See page 8 please, and I'll quote, Mr. Hunter "was aware of, if not participating in, the moving of those accounts back to UCNSB from VStar". Also see page 6 at the bottom, which indicates the same, this was "return random customers from the VStar generated customer list to the UCNSB generated customer list". Per your expert this is not a falsification of records, or a corruption of data, this was Mr. Crawford's documented proposal for a way to fix the

(3) Public Participation (cont.):

damages that had been done. It's outrageous that Mr. Kish would accuse him or me of criminal conspiracy for working hard to safeguard the U.C. and ratepayer assets.

Mr. Hunter stated back on page 3 of this expert's report, the expert indicates that Brent Millikan was involved in the research that led to his findings in this expert report. So it's highly probable that Mr. Kish knew of the expert's findings, and still cooked up this farcical attempt to paint diligent work as a criminal conspiracy...

Chairman Para stated I'm going to have to stop you at that point and have you to keep your declarations to your documents as opposed to character summarizations at this point, so if you want to continue, let's just do that.

Mr. Hunter stated alright. He stated I would like to make you aware that on page 26 of Exhibit 3, excerpt from Alex Kish's deposition, I'll read you a few quotes regarding VStar accounts in 2004 that they were examining. He stated, fifty of which we tried to obtain documentation to see what the source of the commission was from, did not indicate NCVStar or V-Star as being the source provider. A little bit further down it indicates approximately a half, anywhere from a third to half of them identified as not being valid commission based payments. Mr. Hunter stated this is approximately half of the entire VStar customer base that first month that they were aware of. Then on page 27, it states that no one, other than our firm, I believe Mr. Montalvo if he mentioned it, was aware of the fact that we actually had discovered payments that were made that could not line up with commissions.

Mr. Hunter stated so what action did Mr. Kish take, did he dig in deeper to determine how many customers VStar had ultimately been gifted in error, did he report this to the Commission in the 2004 audit letter, no. On page 27 again, it's highlighted, Mr. Kish asked the audit manager to waive off and move on. In fact if you go to page 40 and 41, Mr. Kish states I don't even recall if that issue made it into final print or not, is the quote. Mr. Hunter stated as a U.C. Commissioner I might be concerned as to why this was never brought to your attention. It's the responsibility of your auditors to diligently examine all facts that could lead to material misrepresentations of the financial statements and it's likely that when fifty percent of a monthly recurring payment is erroneous, this might be worth investigating further, at least notifying the client.

Mr. Hunter stated lastly, when questioned in that deposition, on pages 51 and 52 about my own performance as Director, Mr. Kish stated under oath the only thing I think I've indicated was when he delivered the financial statements in February or March, etc., he made a presentation that the entire system had turned around. Mr. Hunter stated that's the only indication Mr. Kish had made of anything on my part. Now, regarding that statement, please take a look at Exhibit 4, U.C.'s financial published monthly by the Finance Department. As of February 28, 2005, the Telecom Division showed a positive balance of approximately \$133,000. I gave my speech based upon the information available to me. As Mr. Montalvo indicated a few months ago, it was known the data was flawed from inception, but it's all they had to go by to generate financial reports.

Mr. Hunter stated it's a serious thing to falsely accuse someone of a criminal conspiracy, especially when the accusation is based upon such laughably flimsy evidence. Your expert report states quite clearly that this was an effort to return VStar coded accounts to UCNSB. I would like to conclude

(3) Public Participation (cont.):

by saying if anyone has concerns that relate to me, please have the professionalism to ask me about it first before you issue such libelous tripe and then have the paper blast your report verbatim throughout the county. Thank you.

Chairman Para thanked Mr. Hunter and stated next up is Mr. Robert Bullard.

Mr. Robert Bullard addressed the Commission and stated he was a consulting engineer in the area. He stated I guess the best way to start this out is to tell you that years ago I was honored by Big John by being called one of the leaders of the bugs and bunny crowd and that's what I'm here to talk about. Volusia County's finding itself in a fairly interesting ecological situation now. We have now our third significant fire season in the last 20 years and we have four eco-systems or ecology opportunities that avail itself. Unburned flatwoods woodland that are pristine, we have the '85 fire storms that destroyed about 70,000 acres in Volusia county, we have the '98 fire storms that destroyed about 20,000, and now we have the present fire storms that are taking place. The Utilities Commission owns 800 acres of which I think about 400 to 500 acres I believe burned, about half of it. I think this affords an excellent opportunity given the fact that we have an emergency declared, I think we're in a disaster according to the Governor, to approach our County Ag Agent and try to go to Aphis and see if there's an opportunity here to gain some kind of research into accelerating the rate at which fire burned areas recover. We can just let them sit there and they'll naturally recover but we have such fragmented eco-systems now in the County and throughout Florida, and the United States as a whole. We need to do something interventionally in some of these fire damaged areas to see if we can accelerate their return and I think there would be a lot of interest on the part of Aphis. I realize you're plate is full with a lot of things right now but if you don't mind spending a little staff time right now to inquire about the opportunities for some research on this I think it would be a good idea and I appreciate your consideration of this. He stated Chairman Para knows where to find me if you want to explore some of these issues, I'll be glad to chat with any of your staff about it.

Chairman Para thanked Mr. Bullard for his comments and added they were having lunch and Mr. Bullard suggested, and I asked him, if he would be kind to come this evening and articulate that. Chairman Para then stated to Mr. Rodi if you would like I would be glad to pick up some of the slack and help in whatever way I could to participate. He stated I think all of us recognize the significant environmental concerns that are on that piece of property and need to be weighed in to consideration before anything gets done.

Mr. Rodi stated I think that would be helpful. He stated at the current time we're investigating the harvesting of some of that timber out there before it becomes fuel again and of course then we had that area scheduled for water harvesting which is yet another aspect of this whole thing. So any counsel and help that we can get.

Mr. Bullard stated the harvesting is an integral part of the ecological study of this, that's a part of it.

Chairman Para commented I have known Mr. Bullard for 25 or 30 years and he's just a wealth of information. He then thanked Mr. Bullard for coming by tonight.

(3) Public Participation (cont.):

Mr. Kent Titcomb addressed the Commission and commented Mr. White had pointed out he was the “evil, greedy developer”. I wanted to speak first a little about my convictions or my beliefs and then as a pragmatist because I feel like impact fees and availability are a reality and we’re going to have to deal with it. When I started thinking about this whole picture I felt like public services are public services. We pay into the Federal highway system and even though I may not drive on the highway in Utah, I still pay for it, and I feel like it’s a little bit of a blinder thing going on if we say I live over on the beachside, all that new growth is over there west of 95, why do I have to pay for it. I feel like we’re drifting away from what public services really mean.

Mr. Titcomb said the other thing that I feel like is you, I, we are new growth. You’ve got a daughter, who’s got a granddaughter, they’re going to need a place to live. When you moved here who paid for the infrastructure when you moved here, the people that were here before you. So philosophically I feel like there’s a drift from the truth and what’s right. Be that as it may, I’ve broken ground, I’ve cleared, I’m digging my retention pond and I can’t get my permit yet because we have a new addendum to a developer’s agreement that I signed four months ago. My engineer came into the Utilities Commission with drawings in August of 2000. We were back in 2004, I met with Randy Walter six months ago, I signed the agreement I think in March and you pulled it from the agenda. I realize there’s a lot of problems running a public utility commission when you’ve got revenue that generates how you pay the bills. I’m very familiar with that, I closed on my loan already, I borrowed \$2 million. In fact I was going to laugh, I was on a machine working when you called me and said have your legal department check into this. I don’t have a legal department, I am the legal department, I’m the construction department, I’m the sanitary department... At any rate, I borrowed the money, I’ve got a contract to sell it. Last Wednesday I was in trying to get a temporary electric meter and Marie Given said Randy Walter will need to figure out what the fees are for my temporary electric meter. Mr. Walter came out after a few minutes and said I’ll have to calculate that, I’ll get back with you in a couple of days, by the way we’re making progress on the addendum. I said well tell me about the addendum, what is that? Mr. Walter asked me to step into his office and he showed me a spreadsheet and for my development which is 196 units, he said right now we think it’s going to be \$627,000 before you can get your permit.

Mr. Titcomb stated that was a little bit of a shock since I already closed the loan and I didn’t know about these fees. I can go back to the bank, I can go back to the customer, we’ll figure something out. When you were talking about a moratorium earlier, I thought oh my gosh, then I can’t perform. I feel like if this is going to be, it’s going to be, impact fees I’m used to them. I remember when the schools put impact fees in, when the road impact fees went in. All those impact fees are paid when you pull your permit, they’re not paid when the developer develops. I feel like that could be implemented immediately and you’d be getting this. Every time I pulled a permit on Saxon Avenue there could have been \$3,100 gone into the kitty. I called the building department, there were about 6,000 permits pulled last year. I don’t know how many were remodels or how many were new houses but there’s \$10 million in one year on impact fees if we do all permits, just implement it now.

Mr. Titcomb said I talked to Jerry Johnson and he said he felt like if we just charged the fees at the time of the plat he would be happy with that. I guess he only has to pay \$1,000 per lot, I have to pay \$3,100 per lot. He stated I’m ready to sign if I have to, you’ve got control of everything, so.

(3) Public Participation (cont.):

Chairman Para stated to Mr. Titcomb you and I spoke on the phone, we talked big picture type issues as far as impact and we've walked this over several meetings with the public. Essentially we might differ a little on the semantics of how we approach the concept of paying for an existing outdated system or a run down system and also provide for new growth, but essentially we're tackling that problem. We don't have a crystal ball, we've taken a lot of science and a lot of consultants' advice and everything to arrive at these figures. It wasn't something we scratched our heads and said we'll stick this on it.

Mr. Titcomb interjected no, I know that.

Chairman Para continued by saying we went through this very deliberately but in response to, the only tangible issue I can see that you might have with us, is the timing of your application that would be something again for legal counsel to interpret, not up to me, it would be for others. He stated with that, Mr. Rodi, do you want to make a comment.

Mr. Rodi stated just a couple of comments. We're using an equivalent residential unit concept and we've broken the geographic area into three components. One of them west of I-95, one in the middle zone from I-95 east to US 1, and the third zone is from US 1 covering through beachside. What we've done is taken each of the studies, and there'll be another study, I would appreciate your reviewing that tonight, to look at the infrastructure that is needed to supply that zone. We're not talking about the infrastructure within the development, we're talking about everything it's taking to supply to that area.

Mr. Titcomb stated Mr. White spent a good half hour with me and he is very down to earth, very common sense, and he won me over that this is pretty much what's going to happen. I did want to speak my mind just because that's a public right and this is a public commission. I feel like philosophically there's a drift but I realize its going to happen and I've got to live with it.

Mr. Rodi thanked Mr. Titcomb.

Commissioner Spangler stated I'm not a developer, but I am a contractor and have been for 30 or 40 years and what you're dealing with here is not the old days when 10 or 15 people a month or a year would come in and want to build a new house here, and we thought that was fine. What we're talking about is potentially the doubling of the size of the community and the community that's here is divided in how they feel about that. Most of the people came here because they liked a small town, developers have come here because they know that people like a small town, there's not many places you can go like this. So for the developer we represent a place where they can come and ply their trade but the people who live here don't necessarily want to see the town double. They're not particularly interested in what someone builds and they sure don't want to pay for it because they feel like they're helping you do your business. What we're involved with is not that the development is not going to happen, and not that you're not going to do your thing, and you have every right to, but because of the unprecedented size of the growth of this community, there's no way that the existing people are going to pay for what you need to do your building out there. You're going to have to pay from the pump to the faucet and just because there's no other way it could be done.

(3) Public Participation (cont.):

Mr. Titcomb stated I understand you're saying we're going to shift, but in my heart I don't believe in that.

Commissioner Spangler interjected I'm sure you don't.

Mr. Titcomb stated I understand I'm slanted because I'm on the developer's side, but if I take that hat off and think about it, it's not fair.

Commissioner Spangler stated yes it is, it isn't fair for you to come in here and make money off the people who already live here.

Mr. Titcomb stated if we all believe that we need to stop having children.

Chairman Para stated we can agree to disagree.

Commissioner Diesen stated we're not the only place that's doing this.

Mr. Titcomb stated I understand impact fees, I just said the school impact fees, road impact fees, Volusia County's been doing it for 10 years, I just feel like the implementation here is different and it would seem like it would be streamlined to just go ahead and do it like Volusia County does it or the City of Deland does it, do it when the permit is pulled. He stated my absorption is going to be forty per year and I talked to Mr. White about breaking my thing into phases and then I'd be exempt from all of this possibly, although I don't even agree with that. I don't mind paying the impact fee and I do think that growth is at such a rate you guys didn't anticipate it, we hadn't been charging for the last 20 years, depreciation in our accounting is suppose to be replacement, we haven't been costing enough for replacement. So now we're caught, we've got a 1.2 debt coverage ratio, we can't get a loan at the right rate so what else are we going to do to fund new growth, this is the only solution and I understand that but my point was I don't have to repeat, you guys heard it.

Chairman Para stated those are good points.

Commissioner Reynolds stated he would like to compliment Mr. Titcomb on his delivery, I thought it was very fair, I certainly feel that way, and I look out there with 15,000 to 16,000 new homes and we don't even have the capital or the infrastructure to even pay for it. We couldn't get the bonds to pay for it so it's a difficult situation and I guess because it sort of hits, wow, it's here real fast, I'm sure that's made an impact. He reiterated I appreciate your presentation.

Mr. Titcomb stated the CDD seems like a very, very good solution to the problem and I think we'd be at the leading edge to develop that here in Volusia County.

Chairman Para stated your comment about timing makes the most sense to me and I don't think it's the question of getting it up front for us, there's no importance for us to have it in the bank as long as its inevitably going to be paid for.

Mr. Titcomb commented I also told Mr. White that if I go broke doing this I would like to bid on some of these water lines and stuff that has to be put in.

(3) Public Participation (cont.):

There being no further comments from those in attendance, Chairman Para closed public participation.

(4) General Manager's Report:

Mr. Rodi stated at this point I'll just open it to questions before we have the presentation with R.W. Beck and the Distribution Planning Study.

Commissioner Reynolds stated you're going to cover the emergency generator on that.

Mr. Rodi stated I'll cover it at the end of the meeting, it's just information, background.

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

and

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

and

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

Commissioner Diesen stated on page ten, a couple of things caught my eye. The New Business Representative attended the following activities, met with Sheldon Rubin to discuss his proposal for the future alignment of Williamson Boulevard and possible land purchase from the Utilities Commission.

Mr. Rodi stated there's been a request made by Mr. Rubin that he purchase land or sell our land and neither of those are things we're inclined to do. The other thing is I've had no personal conversation so I'm relating something second hand, but I had a phone call from him. I've not spoken with him yet because he's even one, not understanding we're not a developer of that land, and secondly, we wouldn't be giving it away for a roadway so I'm not quite sure what to with it other than he has a request that he wants to do something in order to use his land more appropriately.

Commissioner Diesen stated okay and also on the electric fiber layout for the one subdivision, Jay Preston. She asked how far along are we on being able to, I'm assuming we're going to be able to read meters from the street.

Mr. Rodi stated we're reading meters because we've changed the ERT so we're using a radio frequency, we're not even...

Commissioner Diesen asked how many are we doing that with.

Mr. Rodi stated I don't know, I'm thinking a couple hundred at Venetian Bay, he asked Mr. Hoover and Mr. Mitchum.

Mr. Hoover stated about 400 of 500.

Commissioner Diesen asked if we were able to bring phase one into that.

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

Mr. Hoover answered yes we have.

Commissioner Diesen stated good and then down under electrical construction, submitted the electric work orders for the third quarter of 2005. Are we normally, are the work orders on a delayed basis?

Mr. Rodi stated I believe some of these are, as you may recall from our listing of projects, some of them are a few years old, others are current, so we still have a backlog of projects we have not built, in some cases its because they haven't been funded and in other cases its been timing as to when someone actually develops their subdivision.

(4-d.) Presentation of Electric System Transmission and Distribution Planning Study – R.W. Beck, Inc. – Jim White:

Mr. Rodi stated with that, he asked Mr. White to do the introductions and talk about the Electric System T&D Planning Study.

Mr. White stated early last summer, if you remember, we commissioned a water study to basically review our entire water system and do a complete facilities plan for the entire system and you've seen the results of that. We followed that a couple of months later by starting a similar facilities study for our electrical system, that we will see a presentation on tonight. The one we aren't seeing tonight that we will see in a month or so is a similar program for our wastewater and reuse water systems. So tonight some representatives from R.W. Beck have a presentation to make on our electrical system.

As the representatives from R.W. Beck were setting up for their presentation, Chairman Para stated we have Keith Mullen, Trishia Lee, and Steven Stein.

Mr. Mullen addressed the Commission and stated first of all thank you very much for allowing us time to present our planning study to you. It's an accumulation of a lot of work both with R.W. Beck and your staff here. I'd like to acknowledge their participation, they were very helpful and allowed us to do a really good job we think. He then stated we'll go to the first slide here.

Mr. Mullen stated the first slide basically summarizes the whole plan. We developed three alternatives that would address all system requirements and the three alternatives basically had the same infrastructure additions and upgrades to the substations and the distribution systems but we ended up with three options for a tie circuit between your Field Street Substation and the Airport Substation. The result of the three alternatives, our economic and costs analysis yielded that our first option was the transmission route along the railroad right-of-way, the second option along existing right-of-way, and the third route around the airport. He stated now I'll go through the supporting information which is the rest of the document. It's kind of like reading the end of the story before you even read the first page but these are the three options that we had for our transmission routing, to connect these two substations.

Mr. Mullen stated on our first alternative, alternative A which followed the railroad right-of-way and was selected as a preferred plan, that would be the line that is in blue. We had a second

(4-d.) Presentation of Electric System Transmission and Distribution Planning Study – R.W. Beck, Inc. – Jim White (cont.):

alternative which would follow your existing 115 kV transmission right-of-way serving both substations and that was alternative B. We had a third one which would go through the Industrial Park and end up on US 1 and travel down US 1 to get to the Field Street substation. So all three of those alternatives ended up being within 10% of each other so I would consider them all viable options for you in the future.

Mr. Mullen stated every system plan has these basic elements to it. The first three being what we would consider the foundation of the report. The first and foremost the load forecast, you talked about some developments here already this evening which were included in our forecast for the system. We also developed a distribution model for your system so that we could analyze the system at various loads and also evaluate its performance. When we evaluated the systems performance, we also had to set up the rules, what is the criteria for your system to determine where you had deficiencies, and we'll go through that.

Mr. Mullen stated we also evaluated your system based on what we call a one system approach which includes everything, your generation, your transmission, distribution and substations. Once these options were developed we would compare this, all the solutions economically, to see which one would be your preferred plan. Once that was selected we did a more in depth detail of the distribution and substation transmission projects that would be included and we also developed a map just as a reference so that you can see where those projects are.

Mr. Mullen stated this is suppose to be a chart of our load forecast. He stated on this chart we show some historical information based on your system summer and winter peaks. Last year the system peaked at around 90 MW's and we're showing based on population growth, income for the County, also weather information was incorporated into this, and our commercial and residential developments. All of that was included in our load forecast which we show here somewhere around 3.5% to 3.6% annually. Our system plan focused on the first ten years but the forecast went out to 2020. He stated the result is over a 40% increase in the first ten years.

Mr. Mullen stated I'll let Ms. Lee toggle over to a map that will show you all of the developments that were included in our load forecast. Each dot with a number inside of the box represents a development, either residential or commercial, that was included in the load forecast. We estimated, if it was residential, how long would it take for that development to build out, what type of load would we see, and we assigned it to your existing infrastructure to see how that load would affect your system.

Mr. Mullen stated the next step was to establish our criteria, we needed to determine where the system deficiencies are so you have to set up the rules to define what the problems would be. We made sure that we didn't exceed the top nameplate rating of your substation transformers. We also established a criteria for your conductor loading at 80% but we made special emphasis on your tie lines between your substations for reliability sake. We limited the loading on those lines to 50%. We also tried to maintain our voltage within a 5% margin.

Mr. Mullen stated when you look at your substations, and the existing configuration, you have four

(4-d.) Presentation of Electric System Transmission and Distribution Planning Study – R.W. Beck, Inc. – Jim White (cont.):

substations, two of which only have a single transformer on site. The Field Street and Schoolway have multiple transformers and just with this configuration we have no firm capacity at Airport and Smyrna substations. Firm capacity simply means that if we lost a transformer which is a main component of your system, we would not have any backup for that transformer. Now we've limited the loading on your distribution system such that we could try to pick it up with inter-ties between substations but for reliability we're saying that firm capacity if its available would be the preferred option.

Mr. Mullen stated at Field Street you do have two transformers but based on the existing loading if one transformer failed you would not be able to pick up the total load on the substation with that second transformer. We would have to use those distribution ties but as a note we will be adding a third transformer at Field Street Substation later on this year and that will address the issue.

Mr. Mullen stated as I mentioned we looked at the system on a one system approach which included everything from generation through the distribution. I'll just go through some overview slides to talk about each one of these components. Our generation assessment we looked at all your generation facilities. At Field Street its well maintained and has good availability, very reliable and we recommended, as long as the parts are available, that this location should be maintained. Now at Smith Street the units are fairly old, their performance is lacking mainly because spare parts are hard to come by, and you might want to consider formally retiring these units. At Clinch Street you have good performance here and they're a little more efficient than the Field Street Substation so in the dispatch order they would probably be considered first on your list. We just recommend that you continue to maintain that level of maintenance that you are currently doing. At the Swoope units, those units are not very old and they have good performance, the location is the issue. It's very susceptible to storm damage, less than a category one, and you might want to consider retiring this site.

Mr. Mullen stated we mentioned earlier the tie line that we're proposing in the plan and this is the main reason why we want to do this. Both Airport and the Field Street Substations are served by radial lines and we have no contingency. What this simply means is if we lost one of the tie lines going to the substation, that substation would be out. So we're recommending this tie line to join the Airport and the Field Street Substation which would allow us to lose one leg of the loop and serve it from the remaining transmission line.

Mr. Mullen stated on the substation level we mentioned we have for substations. By the end of our planning period both Field Street and Smyrna Substations would be overloaded based on their existing configuration. As I mentioned before Field Street is scheduled to have a third transformer on site within the year which would address most of the loading issues that we're showing. We will end up in the plan adding a second transformer at Airport to resolve all the substation load.

Mr. Mullen stated on the distribution system we had different criteria that we were looking at, and this is the summary of the existing and the projected deficiencies that we found based on our model that we developed for your system. We're showing some deficiencies in the existing system based on the 2005 peak and most of those problems just got worse as we put load on it and some of the newer problems showed up. We have a snapshot of the engineering model that we can show you

(4-d.) Presentation of Electric System Transmission and Distribution Planning Study – R.W. Beck, Inc. – Jim White (cont.):

that will help put this into perspective.

Mr. Mullen stated on the left hand side, its distribution system and the colors are bad. Red means low voltage, its outside of our margin that we elected to use, the 5% margin. Also we have some bright green areas here that show conductor loading above our 50% for our inter-ties. On the right hand side we have the same model, no changes except for putting the ten year projected load on it. Most of the problems just got worse and we got some new problems showing up on the west side of town. We've got this area here where we're having conductor loading and voltage problems as well. Outside of Smyrna Substation we're having conductor loading issues and so on. So this was the tool that we used to identify the problems and to try out options to make sure we could resolve the issues.

Mr. Mullen stated once the preferred plan was selected we divided up the projects into three categories; the short-term, medium and long range. We tied all these projects to load, we call them load levels here and load levels are simply milestone markers for us, all the projects are set to satisfy a load. If the load doesn't develop as quickly as we project then you don't build it. If it develops faster than we expect, it's not going to be a ten year plan, it might be an eight or a five year plan.

Mr. Mullen stated the cost breakdown on these projects, within the first five years we estimate over \$6 million worth of infrastructure upgrades and additions. Then the last five years it drops off significantly with a little over \$2 million, with a total price tag of over \$9 million.

Commissioner Reynolds asked Mr. Mullen if he factored in any inflation since these are pretty long year outs, is any inflation in here or just today's dollars?

Mr. Mullen stated when we evaluated all three options we put in an economic analysis which included inflation and all associated fixed costs with the capital improvements. This is just capital 2006 dollars so we have done the analysis including that. He commented good question and then stated Ms. Lee was going to swap over to our distribution improvement map.

Mr. Mullen stated we've laid out all the proposed projects for the system on a distribution map to help locate them. For our short term projects, those are projects that are suppose to be completed within the first two load levels. Our first project is at Smyrna Substation, we need to replace three of the existing regulators at that site to improve the performance at that location and also replace the existing protective relays, the microprocessor base relays, to agree with what we have at the other two substations.

Mr. Mullen stated then a major project between the Airport and Field Street Substations is our 115 KV tie-line. We're also proposing to utilize a circuit that doesn't have a whole lot of load on it, out at Field Street Substation, to add an additional circuit over to the island which would help to serve the load and the projected load over there, and we will have to do another crossing at the South Causeway. In addition, year one we have several pockets of 13 KV distribution that needs to be upgraded to 23 KV based on voltage and conductor loading criteria that we have established. Then at the Airport Substation we're going to add a distribution breaker in an existing bay to break up

(4-d.) Presentation of Electric System Transmission and Distribution Planning Study – R.W. Beck, Inc. – Jim White (cont.):

one of the circuits that comes out and heads north and west. We're going to break up that circuit to improve the reliability and also improve some of the loading issues that we found. Off on Pioneer Trail we're going to upgrade the existing line to improve some loading conditions there but also to provide an additional tie-line between the Smyrna and Field Street Substations.

Mr. Mullen stated our medium term projects includes the addition of the second transformer at Airport Substation, that transformer is required with a new tie-line that we're going to expand an existing circuit and go through the North Causeway and provide the second additional circuit over to the island. We're also going to be constructing a new tie-line in your 5 to serve the Venetian developments.

Mr. Mullen stated in our long term projects we're going to call for the retirement of the Schoolway Substation which would require the conversion of all the remaining 13 KV on that substation to 23 KV. We also have some load balancing that we will do between the five circuits that we have constructed over to the island which would require some of the upgrades being shown here. Also the two existing crossings on the South Causeway, which would be circuits 3 and 5, those two crossings, the conductor needs to be upgraded before the end of the planning period. We also have some reconductoring projects on S.R. 44 just outside of Smyrna Substation before the end of the planning period.

Mr. Mullen stated that's the end of our presentation and offered to answer any questions.

Commissioner Reynolds stated what negotiations are required for the railroad right-of-way.

Mr. Mullen stated you'll have to go through some permitting process with the railroad.

Commissioner Reynolds asked if those costs were included or do you have any idea what those costs would be for us to lease their space.

Mr. Mullen stated those costs are kind of arbitrary because it seems like everytime you go ask them you get a different answer.

Commissioner Reynolds commented they're a monopoly.

Mr. Mullen stated yes, if they know how valuable it is to you it might go up.

Commissioner Reynolds then asked what was your second alternative.

Mr. Mullen stated the second alternative would be alternative C which gets us to US 1.

Commissioner Diesen stated given the history that we've had in some areas with the railroad might it be reasonable and prudent to look at an alternative.

Mr. Rodi stated yes, there's no question about that and added this railroad is not a whole lot different than others. Once they sense that there's a lot more money to be made and you're looking

(4-d.) Presentation of Electric System Transmission and Distribution Planning Study – R.W. Beck, Inc. – Jim White (cont.):

the prices are pretty arbitrary.

Commissioner Diesen commented I see that everytime a crossing comes up, resurfacing of a crossing or something for the City, it just miraculously climbs by leaps and bounds, and there's never any indication ahead of time. So I was concerned when we looked at that, right away, as the first alternative.

Mr. Mullen stated as I mentioned before, all three alternatives are economically basically the same, so all three are viable.

Mr. Rodi stated and we'll go through the evaluation with that. One of the patterns I think you're starting to see is we're putting overlays on maps showing here's something we need to do within this period of time and then an intermediate. Likewise, just looking at some of that structure with that 13 kV down on the south end of the beach side there, obviously when you convert that, that load then backs up and it has to be carried all the way back to essentially Field Street. That's why when we were talking about that 100' transmission easement we're looking at the capability to go across either the North or South Causeway. The South Causeway, I understand, is a lot easier than the North Causeway, but all of those become part of the decision. Just like upgrading the conductor sizes on the existing crossings, so part of Mr. Mitchum and Mr. Beyrle have been doing is researching do we have any abandoned any things that we could use as an alternative to help bring down part of the cost. He stated you can see it's pretty significant.

Chairman Para thanked Mr. Mullen and representatives from his firm for their presentation this evening.

Mr. Rodi asked to add a few more reference comments that go into this. In the generation portion there was some discussion about the generation at Swoope and Smith Street. Oddly the most fuel efficient units that we have are at Swoope. We don't run them because the control schemes aren't very good and likewise at Smith Street we have issues with the control schemes that are there but there's another impact that we haven't discussed. It's another study and it's a spill prevention study. Here we are in highly sensitive water areas and we have a generating plant with transformers at Swoope. So in part of our evaluation if we were to comply with these evolving regulations, I think they're a year out, and we have a study going on about what it would cost us for example to make Swoope compliant and Smith Street and Field Street and what have you. There are underlying costs that are even associated with that, that we have to roll into the whole package. So I wanted to make that comment as we look at the electrical study there's yet another impact coming that we'll have to fold into this.

(5) Commission Counsel's Report:

Mr. Preston stated he did want to make a few comments, it's been a busy month. In particular in regards to the Developer's Agreement Addendum and in light of Mr. Titcomb's comments, I wanted to mention a few things. One, the impetus of the Developer Agreement Addendum is from the recent legislation, Senate Bill 360 of last year, 2005, dealing with methods of providing infrastructure growth in the communities that we're all experiencing around the state of Florida and

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

I believe that this Commission and the staff have done a good job in seeking to not just comply with statute but be fair in how it is that we look to future growth in putting together this agreement, this addendum. This addendum requires a public hearing, it actually requires two public hearings before adoption and my thoughts are we do have developers who have submitted agreements, proposals for developments who are waiting and who have been waiting for a significant period of time. I am sure this Commission, the purpose and intent, is not to delay where in fact development can occur. I was trying to be creative in coming up with some sort of solution inasmuch as not delaying development in the area but still seeking to comply with the intent to provide for the infrastructure growth and I will be glad for the research, but I see no reason why you all may not authorize during this period of potential approval through the public hearing process, where you may authorize some sort of third party escrow or trust account be established for these developers based on the current ERU calculations that may in fact permit them to move forward with development. And assuming that there is subsequent approval of this addendum, it would assure us as a Commission that there would be those monies available for the infrastructure growth. So I throw that out to you, if you will, as a thought. He concluded by stating that's all that he had.

Mr. Rodi stated he would like to add one comment to that too. With regard to the ERU's, and as we get these studies in, we will retune our costs. Obviously when we pushed in the CIP it was a five year and ten year, we presumed a much more aggressive growth rate than the 3 ½ %, we were in some cases looking at a 5% growth rate that would have a dramatic effect. So as we get more effective information then we will be addressing that from a standpoint of these calculations, so I've asked Mr. White to tune that electrical portion up since we now have this information.

Chairman Para commented and there might be also a chilling effect of when these are implemented that there might be a reduction as well which again will ultimately affect that process as well.

(6) Committee Meeting Reports:

Chairman Para confirmed there were no Committee Meeting Reports at this time.

(7) Old Business

(7-a) Resolutions – Adjustments to Various Electric, Water, and Wastewater Rates – Proposed Resolution Nos. 2-06 Thru 9-06 – Roberto Montalvo:

Mr. Rodi asked if Chairman Para was inquiring about the reading of the resolutions.

Mr. Preston stated for a point of order, the resolutions have been read at the prior meetings (public hearings) but added if you wish to have it reread.

Chairman Para stated no, I guess we just need a recommendation for approval then.

Commissioner Reynolds stated I make a motion that we approve the resolutions as written (the resolutions regarding adjustments to various electric, water, and wastewater rates). Commissioner Spangler seconded this motion.

(7-a) Resolutions – Adjustments to Various Electric, Water, and Wastewater Rates – Proposed Resolution Nos. 2-06 Thru 9-06 – Roberto Montalvo (cont.):

Commissioner Diesen confirmed with Commissioner Reynolds the approval was for all the resolutions.

Commissioner Hall stated I need someone to refresh my memory, aren't we planning to raise the rates again a few months down the road.

Mr. Rodi stated until we see the results of all of the studies and how we're proposing that, the resolution itself only affects this current rate.

Commissioner Hall stated and just for the public record would you one more time state as you did at the beginning of the meeting what the increases are going to be on this.

Mr. Rodi stated for a typical residential monthly bill of 1,100 kWh the existing rate is \$118.87 a month, the proposed rate is \$124.07, with a \$5.20 increase or 4.37%. For the water and wastewater using 5,000 gallons a month the existing combined rate is \$48.47, the proposed rate is \$52.00, or \$3.53 of an increase or 7.29%. The combined combination is \$8.73 month or 5.24%.

Commissioner Hall commented I think that's quite a bit less than the home insurance rates that are going up.

There being no further comments, Commissioner Reynolds motion to pass the resolutions, numbers 2-06, 3-06, 4-06, 5-06, 6-06, 7-06, 8-06, and 9-06, effective with the first billing cycle in June, 2006, then passed unanimously on a roll call vote.

(7-b) Resolution – Adjustments to Street Light Rates – Proposed Resolution No. 10-06 – Jim White:

Commissioner Spangler made a motion to approve the resolution regarding adjustments to street light rates, number 10-06, effective with the first billing cycle in June, 2006. Commissioner Hall seconded the motion and it passed unanimously on a roll call vote.

(8) New Business:

(8-a) Suspension of Charges for Economy Internet Dial-Up Service Only:

Mr. Rodi stated this is just simply in looking at where our current costs are for providing the internet service and the indirects were above that amount so it doesn't make sense to offer that service, and that's also in compliance with the telecom act that we can't actually sell the service for less than what we're paying for it, so at this time we're suspending it.

Commissioner Diesen stated so this amount then is the \$9.95 a month, there's nothing in between this.

Mr. Rodi stated no.

(8-a) Suspension of Charges for Economy Internet Dial-Up Service Only (cont.):

Commissioner Diesen stated but we are keeping internet service right?

Mr. Rodi stated that's correct.

Commissioner Diesen stated I just wanted that on the record one more time because if I had five people say to me last week, well the internet is going away; no that's not right.

Mr. Rodi stated I want to make a comment, as we unbundled part of the internet service that's tied with our telephone business in other states, those internet accounts will probably go away and they'll go to other providers. We're focusing upon local provisions, whatever local means in that business, which is hard to define.

Commissioner Reynolds asked Mr. Rodi how do you propose to notify people, just in their monthly bill?

Mr. Rodi stated it's just that we would not be accepting any more applications for the \$6.95, those that are currently on it, once they drop off, then we would have the new offering for them.

Chairman Para asked if there was a motion.

Commissioner Reynolds stated I make a motion to approve the suspension of the Economy Internet Dial-Up Service rate until further notice. Commissioner Diesen seconded this motion and it passed unanimously on a roll call vote.

(8-b) Scheduling of Special U.C. Meeting for FY2007 Budget:

Mr. Rodi stated as we continue to put our budget information together, I think if you'll recall at the joint meeting we had concerning the Capital Improvement Plan, we presented a comprehensive package at that point that included O&M dollars and it really was a much broader view than just the capital because I believe you have to look at the entire expenditure package. We have two dates and what we're trying to do is gain as much time as we can. If you look at this budgeting process it occurs very early on but we are compelled to at least have this accomplished by June 1<sup>st</sup> so that in order to use the most current information we have we're trying to gain as much time and still comply. So we wanted to get your preference as to which of these two dates and times you would prefer.

Commissioner Reynolds stated I would recommend the latest date but also is it possible as you complete certain sections, could they be made available to us to go over in an informal manner.

Mr. Rodi stated sure, we're trying to give you as much time to look at it obviously, yes.

Commissioner Spangler stated the 30<sup>th</sup> gives them two extra days and the 31<sup>st</sup> gives them one extra day and that's it, so obviously it seems to me that unless people have a problem with the 31<sup>st</sup> then that's what we should go for.

Chairman Para stated all right so we've got May 31<sup>st</sup>, Wednesday, 5:00 or 6:00 p.m.; which time?

(8-b) Scheduling of Special U.C. Meeting for FY2007 Budget (cont.):

Commissioner Hall answered 6:00 p.m.

Chairman Para stated okay 6:00 p.m. and then requested for a roll call vote to be taken on Commissioner Reynolds and Commissioner Spangler's earlier statements (and motion) of scheduling the Special U.C. Meeting for the FY2007 Budget for May 31, 2006 at 6:00 p.m. This motion then passed unanimously on a roll call vote.

(9) Possible Other Business – Time for Commissioners:

Mr. Rodi stated just some information, you had approved the purchase of an emergency generator for this building and it was sized not really to carry this whole building. Mr. Mitchum had picked up this particular project to get it completed, it had previously been with another department within the U.C. What we're talking about is providing through the use of this generator only certain aspects, like being able to conduct business on the first floor, run air conditioners that are necessary for our I.T. Department, and not cover everything because it should only cover short periods of time. If we're not able to use it appropriately because we did buy it, then we would reuse this generator, if we can't get this to work out, over for dispatch. I know that dispatch is in need of a generator and there is one in the budget for next year, so we would end up shifting from one location to another but what we wanted to convey was the original sizing wasn't done appropriately so now what we're doing is limiting the number of circuits assuming that this will be for shorter periods of time and if we can't make that work, then we'll reuse the generator appropriately in another location.

Chairman Para commented just one person's thoughts, I would think dispatch, it would be very important to have them up. If it was undersized or whatever we might just as well use it over there and get what we need for here, rather than running Mr. Mitchum through all this exercise.

Mr. Rodi stated I think its appropriate for us to see if we could use it because we have the pad, we're trying to finish the location. He added that was very gracious for you to offer that.

Chairman Para stated okay, our friends the Webbs, what would you like to do, I would like to get them some help. Provide a variance concept, what would you all like to do?

Commissioner Reynolds stated it would seem to me that this would be setting a precedent number one. So two, we would certainly need to have some kind of collateral put up as a promissory note in order to ensure once the home is completed that we could tear up that promissory note. However if it turned into a commercial operation then that would cover whatever the commercial costs had been from the time the service was initiated.

Chairman Para stated okay, so just a promissory note saying if they go the other route then they have to pay the other thing.

Commissioner Reynolds interjected whatever the difference.

Chairman Para stated so it's a legal instrument what you're talking about.

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

Commissioner Reynolds stated you might want to check with counsel down there to see if something like that would work.

Mr. Preston stated sure, it's simple, a promissory note could in fact be structured so that if the use was contrary to the spoken and applied for use, that there would be some monies due for the difference in the type of service required. A promissory note which would expire upon either issuance of permit or CO, an escrowing of the difference of funds may also work as well. I don't know the difference in rates and what impact they might have on individual land owners as to what you may want to consider, whether you escrow the monies or just issue a promissory note or request a promissory note.

Commissioner Spangler stated I think it's a big difference, a promissory note, you're talking about an unsecured note?

Mr. Preston stated if you seek to secure the promissory note, most likely you would secure it with the dirt, and then you're impacting any kind of lending on the dirt for any kind of construction so you could require that.

Commissioner Spangler stated we just don't want to put them in a position when they go to the bank to get their mortgage that it gets too complicated for them. We don't want to put them in the situation where the bank starts to say you need to clear this up before you get your loan, and they don't want to get their permit until they have their loan because they have to pay the impact fees out of it and the whole thing will get convoluted. It's convoluted now and it can get more so. I think if we want to do these people a favor and not set a precedent, then we should take an unsecured note for the difference between the residential fees and the commercial fees and let them have it at the residential rate now and if they end up with a greenhouse or something else instead of a house, then we'll call that note and we'll hope they'll be able to pay that out of their proceeds. He stated that's what I think we should do, an unsecured note for the difference between the residential and the commercial.

Chairman Para stated I like it.

Commissioner Reynolds stated it sound good to me, and asked if that was a motion?

Commissioner Spangler stated yes, that is a motion.

Commissioner Reynolds seconded the motion.

Mr. Preston stated I may recommend that what you might do in addition or with that motion is to authorize Mr. Rodi to negotiate that promissory note with these particular land owners, in particular, because I assume this is just for this matter.

Chairman Para asked Commissioner Spangler if he wanted to amend his motion.

Commissioner Spangler stated he would so amend and Commissioner Reynolds seconded that amendment.

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

Chairman Para requested a roll call vote to be taken on the amendment to Commissioner Spangler's motion (stated previously by Mr. Preston) first. This amendment then passed unanimously on a roll call vote.

Chairman Para then requested a roll call vote to be taken on Commissioner Spangler's previous motion and the motion passed unanimously on a roll call vote.

Commissioner Spangler stated we're going to be meeting Wednesday, and a lot of things are going to be coming up Wednesday, but we did have something come up while I was gone that disturbed me and the only reason that it really upset me was it seemed as though we don't know who the good guys and the bad guys are in our dealings with telecom, and I was not happy to hear that the reconstituted EPICUS, with probably the same people, was coming back wanting to, what I thought was sort of a thinly veiled attempt, to make a thinly veiled attempt to get our phone list so they could solicit them. I didn't like the way that it came before us and I think unanimously on this Commission now, none of us like the way it came before us. It seems to me that if such an offer had been tendered it should have been brought directly from Mr. Rodi from whomever got the offer and why the offer didn't come to the U.C. in the first place, I don't know, but I didn't like the sounds of any of that. I think it's a dead issue for good reasons.

Chairman Para stated fair enough.

Commissioner Reynolds stated I noticed in the returning of the umbrella system, 5K (sic 5G Wireless) where we had allocated or voted for \$500,000, I presume that we will show that as a reduction in the Capital Improvement Plan for this year.

Mr. Rodi stated sure, it's just simply a matter like others, we will not expend the rest of those funds for that project. This is another case where they said the 5G system would perform to a certain standard, they couldn't make it perform so we just shut it down.

Chairman Para stated if I remember correctly, we got them as a matter of record that night guaranteeing that. Are they seemingly forthright in their willingness to take that equipment back and give us our money back?

Mr. Rodi stated I don't know the answer to that yet, we've taken it down, we're in that process of returning it.

After a few comments regarding return of the equipment, Commissioner Diesen stated we didn't do anything, did we need to do anything further on the Developers Addendum. You gave the suggestion but we didn't seem to do anything with it, should we do that?

Mr. Preston stated I believe you should, I believe you should authorize Mr. Rodi to enter into a fiscal arrangement with Developers either by escrow, trust account arrangement if the Developers are willing to put forward those monies that would be calculated according to the ERU standards as to what they would pay so that they can proceed with their development with the agreement that they would execute the addendum if subsequently passed.

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

Commissioner Diesen stated I'll make that motion and Commissioner Reynolds seconded the motion. This motion then passed unanimously on a roll call vote.

Chairman Para thanked all those in attendance for coming and said we'll see you Wednesday evening at 5:00 p.m. (for Special Joint Meeting).

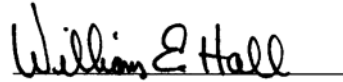
After a few comments regarding the time of the meeting, and there being no further business to come before the Commission, Chairman Para closed the regular U.C. meeting at 7:50 p.m.

APPROVED:



CHAIRMAN

ATTEST:



SECRETARY-TREASURER

These minutes were formally approved by the Utilities Commission at their  
June 19, 2006 meeting.