

AGENDA ITEM 2-a

MINUTES OF REGULAR MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, OCTOBER 16, 2006, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

Chairman Para requested Pastor Walter Allen to lead in an invocation and then Commissioner Spangler in the Pledge of Allegiance.

Final Public Hearing RE: Revision of the Electric Pole Line Extension or Addition Policy:

Chairman Para then asked for roll call to be taken and a majority of the Commissioners were present as follows:

Commissioner Jeanne K. Diesen
Commissioner William E. Hall (ABSENT – OUT OF TOWN)
Chairman Kevin J. Para
Commissioner Richard L. Spangler
Commissioner Walter Allen III

Others in attendance were as follows: R. Rodi, General Manager/ CEO; L. Klinkenberg, Acting Director of Finance; R. Mitchum, Director of Electric Operations; T. Beyrle, Director of System Ops. & Generation; J. White, Director of Engineering; D. Hoover, Director of Water/Wastewater; B. Mudge, Director of Human Resources; C. Montgomery, Acting Director of I.T.; E. Mahle, Public Relations Manager; R. Wetherington, Materials Manager; D. Simmons, Executive Asst./Recording Secretary; and additional U.C. personnel; Bill Preston, Interim U.C. Legal Counsel; Joel Addington, Reporter for THE OBSERVER; Brad Blais, with Quentin Hampton & Associates; Richard Barnett, with FRCAC, Sally Mackay, Bill Rogers, Ken Taylor, Bob Tolley, and a few other unidentified men and women, all members of the public.

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

Mr. Preston stated for the record this final public hearing was authorized by the Utilities Commission during their August 21, 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 any comments, for or opposed to the Revision of the Electric Pole Line Extension or Addition Policy. There being no comments, Chairman Para closed this final public hearing at 6:03 p.m.

REGULAR UC MEETING:

Chairman Para opened the Regular U.C. Meeting with another roll call and the same attendees as shown above in the final public hearing were present.

Presentations of FDEP Licenses/Certificates To: Mike Frazier – Class C Wastewater Treatment Plant Operator’s License; Larry Harris – Class C Water Treatment Plant Operator’s License; Dave Pogany – Class B Wastewater Plant Operator’s License; and Joe Sciara – Class C Wastewater Plant Operator’s License – By Dave Hoover:

Chairman Para requested Mr. Hoover to lead on the presentations.

Mr. Hoover addressed the Commission and stated we have the opportunity tonight, and I’m glad the Commission has taken the time to pause and celebrate with us. The four employees listed above came forward and Mr. Hoover stated these employees have achieved something that is definitely noteworthy. The certification program for plant operators, the Water Treatment Plant and the Wastewater Treatment Plant, these achievements have become increasingly difficult. Currently, the State tells us that only about 30% of the people pass these exams. These exams are one of the criteria to become certified and licensed by the State to operate the plants. There’s a certain amount of time of actual experience these men had to have in plant operation and they had to satisfy a certain amount of constructive experience which is a State-Certified class and then passing the exam for the State Licensing Board for either of these treatment plant operations. These tests have quite a bit of chemistry, micro-biology, learning the rules and regulations, safety aspects in dealing with all the types of processes they’re working with. He pointed out on the left hand side they have a certificate that says they satisfied the criteria. On the right side, the smaller items, are the actual State licenses that say these men are now qualified to run these treatment plants. One of the first things they learned in the regulation section is that they’re also criminally liable, not only can their licenses be revoked if they’re negligent but they can also go to jail. These are serious jobs and these men have applied themselves very well.

Mr. Hoover stated the three employees to the left, my right, are around 15 year employees with the Utilities Commission. The other employee, Joe Sciara, has been here for a couple of years and passed his C license in wastewater. Mike Frazier passed his C license in wastewater also and Larry Harris passed his C license in water. Dave Pogany passed his B license in wastewater, which is a higher license, and ultimately you can obtain an A license if they put the time in and pass that criteria. These things are real accolades to their profession and I hope that you will give them a big hand right now. Those in attendance applauded these four men for their achievements.

Chairman Para thanked Mr. Hoover and then thanked all four gentlemen for applying themselves. He stated its wonderful and we do appreciate that, and added we’re honored you choose to serve here in New Smyrna Beach.

(1) Agenda Changes, Additions and Deletions:

Mr. Rodi stated he had no agenda changes, additions or deletions at this time.

(2) Approval of Consent Items:

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

Commissioner Allen made a motion to approve the consent items, item 2-a. Minutes of Preliminary Public Hearing and Reorganizational (Regular) U.C. Meeting Held 9-18-06, approve as submitted; item 2-b. Bid No. 34-06 – One Set of Two 100 HP, 480 Volt Variable Frequency Drives, approve and award purchase order no. PON000378, in the amount of \$27,939.00 to ICON Technologies, the low and responsive bidder; item 2-c. Bid No. 35-06 – Cable for Central Stores, approve and award purchase order no. PON0003747 in the amount of \$33,521.00 to Gresco/Capstone Utility Supply, the low and responsive bidder; item 2-d. Sole Source Purchase to Grout 6” Force Main on 10th Street, approve and award purchase order no. PON0003732 in the amount of 426,400.00 to Built-Rite Construction; item 2-e. City of New Smyrna Beach Joint Auction – USA Auctioneering, Inc., approve the Utilities Commission to join with the City of New Smyrna Beach Multi-City Public Auction for selected surplus items deemed in the best interest of the Utilities Commission to place in the Public Auction; 2-f. Developer’s Agreement and Addendum – New Smyrna Beach Police and Fire Station, approve the Developer’s Agreement and Addendum for the New Smyrna Beach Police and Fire Station and authorize the General Manager/CEO to execute these documents; item 2-g. Interlocal Agreement for Water and Wastewater Services Pertaining to Mission Oaks Mobile Home Park, approve the Interlocal Agreement for Water and Wastewater Services (for Mission Oaks Mobile Home Park) by and between the City of Edgewater and the Utilities Commission as submitted and authorize the General Manager/CEO to execute on behalf of the Utilities Commission; item 2-h. Power Supply Contract – Rainbow Energy Marketing Corporation, ratify the execution of the Power Supply Contract with Rainbow Energy Marketing Corporation by the General Manager/CEO on behalf of the Utilities Commission; and item 2-i. Insurance Renewal – Public Risk Insurance Agency (PRIA), approve insurance renewal from Starr Technical Risks Agency, Inc., for the period of October 1, 2006 to September 30, 2007, in the amount of \$715,771.

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

(3) Public Participation:

Chairman Para opened public participation with item 3-a., Mr. Barnett.

(3-a) NSB and Water – Richard Barnett (FRCAC):

Mr. Richard Barnett addressed the Commission and stated it was a pleasure being here. He stated as President of Florida Rural Cities and Communities, we’re looking at almost one day off the anniversary date from last year when we made a presentation to the Utilities Commission. It’s possible somewhere along the line, maybe we didn’t explain it in detail enough or give a better basis as to what we were looking at. New Smyrna Beach, which I’m very familiar with its past history, but understanding the demands for water and the evolution of the Water Authority of Volusia and how things were going, we were looking at New Smyrna Beach as a regional supplier not only for the City of New Smyrna Beach and its citizens but also the citizens of Port Orange and the people of Edgewater. The location was ideal for a desalinization plant that

(3-a) NSB and Water – Richard Barnett (FRCAC) (cont.):

would create enough water for those particular needs if we were in the position of approaching these cities for their future needs. Also for the future requirement, not only the future requirement, but the power requirement as it stands now and in the future of the generation from the utility plant itself, the co-generation side, and the power side. The actual power generated, if we were looking at 10 million gallons a day would be in the neighborhood of approximately 160 MW's of power. I think it was explained that the price range would be compatible and comparable to what you were paying Florida Power Corporation at the time, not counting when you were getting into that ratchet mode due to your higher demands, when you're really paying approximately 110 MWh for power.

Mr. Barnett stated the waste remediation side from the sewage sludge, right now I think New Smyrna's set up like Port Orange is and other cities throughout Florida, where you take a Class A product, have a contractor come in and pick it up, get it down to a Class C product and spread it on land and acreage available for sewage sludge. We were looking at the plasma arc side where we could actually take the sewage sludge directly from the plant and vaporize it with zero emissions and utilize the hydrogen gas production to go back into the boiler side utilizing the exhaust from the turbines to generate the power and the steam for the production of water. There's a very tight, I would say, a mutual or symbiotic plant, one that develops power, develops water, in waste remediation. All emissions would be Federal guidelines in reference to the exhaust from the turbines, zero emissions from the plasma side, and the water could either be produced potable directly from the plant or we could take the raw water as your well water is, and process that through your water plant giving the taste and meeting the standards for production there, at a reduced cost.

Mr. Barnett stated I understand now as time has progressed, the fact that's amazed me coming into New Smyrna, even with a four month lapse from the last time I was in the City, of how much S.R. 44 has changed. If New Smyrna is in the position, all I'm doing is trying to keep a line of communication open. If you're going to be a self supplied city, concentrating only on New Smyrna Beach itself, then if you get into a position where you're looking at the ability to produce potable water, we're in a position to still put in a very small cogeneration facility for let's say probably 2.5 mgd production, and still offer the waste remediation system. We are looking at the other cities up and down the coast, in fact this week I have one day left open and I'm waiting for an answer from Deseret on that. He stated that's going to be my approach now for the next two months, is to go ahead and really seriously approach all the other cities up and down the coast. If we at Florida Rural Cities and Communities can be of any assistance to you, it's not a problem, you have my cards and Larry Bearden, our Vice President, and he lives in Deland. The people I have on the board now are people I've worked with and for on many projects, they are power orientated and they've been on cogeneration facilities throughout the world. Mr. Bearden did the original work in Rasfahema in Saudi Arabia, a plant where I went to and got my indoctrination into. It was an Aquachem 10 mgd production, and is where I really started thinking about New Smyrna Beach and water in the State of Florida.

Mr. Barnett stated if you ever get into the position where you're curious and need further information, I see now where you have a 230 KV line coming in, you have power agreements

(3-a) NSB and Water – Richard Barnett (FRCAC) (cont.):

coming in, so your power demand now is probably going down to minimal, keeping you out of that buffer zone. I don't know the conditions of the contract or the term, or anything else like that, but if you would care to talk at each time, just feel free to let us know. He then thanked the Commission for their time.

(3) Public Participation (cont.) - Legal Counsel Discussion:

Chairman Para then asked if there was any further public participation.

Mr. Bill Rogers, New Smyrna Beach, addressed the Commission and stated approximately two months ago, and I may be out of line bringing this up now because you may want to talk about it later, you directed staff to file a Federal criminal complaint to deal with what's been going on with the utilities. I was curious to see where we are in that process, whether it's been filed, if it has been filed, how far along are we, or if its not been filed when is the plan to have it filed.

Chairman Para asked Mr. Preston if we were going to get into that in Counsel's Report, or would you like to address that now.

Mr. Preston stated I can do it at anytime, as you wish.

Chairman Para stated let's do it.

Mr. Rogers stated he would sit down for now and if he has a question, he'll get back up.

Chairman Para stated there might be someone else who wants to speak on it too.

Mr. Preston stated it was last month at the meeting where you had directed staff to take action both civilly and criminally by seeking an investigation with Federal authorities and also pursuing the investigation for a civil claim. We began the process in both and currently I have been working with an attorney in Orlando, Mike Roper, in regards to pursuing the civil claim. By taking the records that we have, all of our records, including those generated by FDLE and our independent investigators, to determine the viability of a civil claim. That is ongoing, we have no opinion yet. The recommendation to me by you was to seek an opinion from such counsel to determine do we have a viable civil claim. At the same time looking at what is the potential for recovery on the claim, if in fact we do have a claim.

Mr. Preston stated in doing that, Mr. Roper and I looked at the impact of conducting both a Federal investigation and a civil investigation simultaneously, one upon the other. We both agreed that if in fact a Federal investigation was ongoing, or a State criminal investigation, any criminal investigation was ongoing, that would impact any civil pursuit inasmuch the source of evidence that we would need to prove any civil claim would be protected by the ongoing criminal investigation. What I have done personally is I have interviewed and also reviewed records to begin to draft, and am actually drafting, I'm in the process of drafting a letter to the Federal authorities outlining and bulleting the items that I think will direct them and point them

(3) Public Participation (cont.) - Legal Counsel Discussion:

to an appropriate review of all of the materials that we have so that they will be pointed. We have voluminous materials as you know and there are particular issues that I would direct them in terms of their focus but have not submitted anything to the Federal authorities because of the potential conflict with the civil claim.

Commissioner Diesen asked if she could ask a question. In your opinion do you think that we are best served in this manner or would we be better off knowing that there might not be any recovery in a civil suit, or are we better off going directly with the Federal and sort of just letting the civil go by the way side at the moment.

Mr. Preston stated what we've done is engage Mike Roper to give us his opinion in regards to the viability of the civil claim, so I can't render an opinion yet. He's looking at that relative to the burden of proof as to whether or not the claim itself would be viable. I have not done any background search or property assets search on any of the potential defendants to recommend to you as to whether or not those claims would be collectible, if that's your question.

Commissioner Diesen answered, sort of, kind of, but I guess the bigger question in my mind is the Federal is ongoing at the same time correct, I mean we're not stopping working on that.

Mr. Preston stated the Federal is not ongoing currently in terms of any Federal agency, it is ongoing internally in regards to my office in preparation.

Commissioner Diesen stated in getting ready to file.

Mr. Preston stated that is correct.

Commissioner Diesen stated okay, so the civil is not negatively impacting the moving forward of the Federal completely.

Mr. Preston stated I would say that it is very close to negatively impacting because we're at a point where we could submit to the Federal authorities a request for an investigation. So that if the determination is to pursue a civil claim, if Mike Roper makes that recommendation that it is viable, and you as a Commission determine to pursue the civil claim, my opinion and suggestion would be it would be with the caveat that we do not file a Federal investigative claim until the civil claim has been concluded. So if you do not wish to pursue a civil claim that would then not delay the Federal investigation.

Commissioner Diesen states so you're thinking, let me see if I'm getting where you are, you're thinking that we need to get a reply from Mike Roper first before we just jump ahead and go forward with the Federal.

Mr. Preston stated I absolutely do if you want to pursue the civil claim. If you don't want to pursue the civil claim, that's up to you, but if you do I would wait until we get his opinion.

(3) Public Participation (cont.) - Legal Counsel Discussion:

Commissioner Diesen stated when do you expect that?

Mr. Preston stated I expect it relatively soon. He's had the materials, we reviewed the materials a week ago Monday. The timing, he has not given a date certain, I had hoped to have some status report by tonight but he'll render an opinion directly to you as well. To tell you when he's going to do that I expect fairly soon, it should be relatively soon, but I don't know when.

Chairman Para asked if there were further questions.

Commissioner Spangler stated yes, just so I get this clear in my mind. If Mr. Roper says yes, we would have a strong case, then we would have to determine what we would get out of the strong case as far as recovery. And we may have a strong case and we may or may not find that the recovery would be worthwhile, and we might then decide to pursue it at a Federal level instead.

Mr. Preston stated and that's your choice.

Commissioner Spangler stated so we're basically waiting for two things before we go to the Federal, number one is do we have a civil case that's worth pursuing, and number two, even if we want it, what would we win.

Mr. Preston stated and you have other options, you could pursue the Federal first, and then following that investigation and what may happen there, follow up with a civil pursuit. That's not unusual, as a matter of fact that's usual that you would proceed in that order. The question or concern is to how long is the Federal investigation going to take because we have a statute of limitations on any pursuit of a civil claim.

Commissioner Diesen asked what is that statute.

Mr. Preston stated well it depends on the claim but you're looking from four to seven years.

Commissioner Diesen stated and we're already two years down it.

Mr. Preston stated two and a half.

Commissioner Diesen stated when did that clock start?

Mr. Preston stated that clock began running at the Commission of the particular civil matter that we are pursuing.

Commissioner Diesen stated so that started last month, is that what you're saying?

Mr. Preston stated no, that started two and half years ago, or two years ago, in the January 2004 time period. He added the month I'm not sure of, but during the 2004 period. He stated if we file a claim for theft, the statute would begin running the date the offense occurred, the date the

(3) Public Participation (cont.) - Legal Counsel Discussion:

theft occurred, whatever that theft may be.

Commissioner Diesen stated what if you can't determine the exact date, I mean that's an issue obviously.

Mr. Preston stated I don't know that's an issue for us right now, but it is a question and if in fact that becomes a question, you argue that before the courts as to what is the tolling, what is the statute, when does it begin running; it's a question of fact.

Commissioner Spangler stated we'll have to get that from Mr. Roper, he'll give us some.

Mr. Preston stated yes he will, and that is one of the areas that he's researching and will provide an opinion on is the statute, how much time we have under the statute.

Commissioner Spangler stated based on whatever charges he may think are viable.

Mr. Preston stated correct.

Commissioner Spangler stated okay, can we wait a couple of weeks.

Commissioner Diesen stated my opinion is I would rather go forward with the Federal but then you know that's one person's opinion.

Mr. Rogers stated if you proceed with the civil complaint you have to prepare the case and you have to try it, which is going to cost for the attorneys and the time involved. If you pursue the Federal case first, you give them the information laid out in the proper fashion and they do the investigation and follow through so the expense of one against the other. To me, you'd be better off to go Federal first, because the likelihood of recovering anything is pretty slim.

Chairman Para thanked Mr. Rogers and recognized Mr. Tolley to speak next.

Mr. Bob Tolley, New Smyrna Beach, addressed the Commission and stated I wasn't going to bring this up tonight but now I have to. We are making a big leap in getting FDLE back on board with their investigation. They're not happy campers, they're not doing this willingly, but I think they are going to do it. Spoke to them Friday in Tallahassee, they weren't aware of a lot of evidence that came out after June. He stated Ms. Simmons has been kind enough to make me a copy of the interview, shall we say, with Mr. Vaden, which I'll probably make 20 copies of to get to everybody up in Tallahassee so that I can show them what a dog and pony show it truly was.

Mr. Tolley stated now the reason I would, I don't want to say debate or argue the point with Mr. Preston because he's the attorney and I'm not., but if we go civilly there's a lot of things we're not going to be able to get at. Things that have been transferred offshore, things that went to Canada, RSVP, etc. Mr. Roper and crew, they can spin their wheels all day trying to get at those

(3) Public Participation (cont.) - Legal Counsel Discussion:

materials, we just can't get at them. They can play with us, they're not going to play with the Feds, they're not going to play with the IRS. When the Feds tell you this is what we want and you don't show up, they'll go get it. We can't do that under a civil case as far as I know. How are we going to go out there and get it, we're going to have spend a ton of money and we may never find it. I don't have a problem with the civil suit, at all, I agree with the Commissioners on that, I agree with Mr. Preston on that, but I think we're best served by letting the Federal authorities use their expertise, their long arms, their agreements out of country, out of state, to get at materials I don't think we could ever find. While they're doing that we can keep pressing the FDLE to reopen their local investigation which I feel confident they're going to do now, based upon the new information that's come up and of course the availability of the tape.

Mr. Tolley stated so as just one ratepayer I would try to say can we please look at the Federal side while Mr. Roper decides to do whatever it is he's going to do with Mr. Preston. And look at the pros and cons, but I think the Federal way is the way to go. He then thanked the Commission for this time.

Chairman Para confirmed there was no further public participation at this time and started to move forward to the next item.

Commissioner Diesen then stated you're not going to let us discuss it any further, is what I'm hearing.

Chairman Para stated I'd be more than happy to continue the dialogue and reopen it again.

Commissioner Diesen thanked Chairman Para and stated I think we need to talk about that because it will be another month and the further down the road you get the less opportunity presents itself. I personally think we ought to move forward on the Federal side.

Commissioner Spangler stated if we move forward on the Federal side and the Federal government comes up with something and makes it stick, how does that impact a subsequent civil suit. Does that make us stronger even though there may not be anything we can recover except satisfaction.

Mr. Preston stated one really doesn't affect the other. If there's evidence gathered by one that can be used by the other, that's an advantage. The investigations are different, the burdens of proof are different, and the issues are different, so one really does not affect the other.

Commissioner Spangler stated so the most that we could get out of the Federal government being successful in pursuing this would be some information, and whether the information could be used in a civil suit we don't know. But there would be some enlightenment out of a Federal case if they prosecuted successfully. It would have to be for some reason with some evidence and we could have that evidence but you're saying it may not apply in a civil suit.

Mr. Preston stated but we could also gather some evidence that is used or obtained through the

(3) Public Participation (cont.) - Legal Counsel Discussion:

other investigations so there can be some benefits. One from the other for that matter, the criminal from the civil. If there's new evidence that's determined, either one may use that evidence, it's not precluded.

Commissioner Spangler stated well I don't know how long it would take to find out whether the Federal government would want to pursue this but obviously its more economical and the more penetrating way to do it, I would think, and that's just my opinion.

Mr. Preston stated the economics of the decision are a Federal investigation, criminal investigation, there's very little economical impact on us, the Commission. It's basically my work in getting it together for presentation. The economics in terms of cost of the civil claim are all on us in regards to pursuing the civil claim. Likewise at the end, a determination, conviction or otherwise by the Federal authorities doesn't render to the Utilities Commission much as well, satisfaction perhaps, but economically. Whereas a civil verdict and collection would, so that's what I mean is really what you're weighing is the economics.

Commissioner Spangler stated so what we're going to miss out on potentially if the Federal case goes too long, the statute of limitations would prevent us from getting anything other than satisfaction. But if the Federal government were successful, we would be satisfied that way too. I'm sort of leaning towards using the Federal government who would, as Mr. Tolley probably correctly said, would have access to things that we couldn't have access to in civil suit. So here's one we can get at really no expense relatively speaking, where we might not get anything other than satisfaction versus one that could be pretty expensive to us, and again we might get nothing other than satisfaction. So we're sort of gambling, we'll get satisfaction either way if we win, but as far as getting any financial recovery, the only way we can know that is to know what the assets are of the people we'd be going against. So it appears to me we might want to know that before we make the decision as to which way we go. Why spend money, you can't get money from someone that has no money even if you're right, so maybe the Federal way is the way to go. But I would say before we just dismiss the civil thing as far as recovery, how much could we potentially recover and what are our chances of recovering if we won. I think we should know that and we make our decision based on that; satisfaction is satisfaction.

Mr. Preston stated and I think there's some potential truth to that, I think that no matter where assets might be determined the Federal authorities would not be looking to the issue of fraud, fraudulent conveyance of any of those assets, so to obtain those assets really we're not in much better of a position. Learning where they are may be of help to us, so there is some truth to that.

Commissioner Diesen stated well I guess to move it along, I'll make a motion whether I get a second or not, it's out there. I'd like to see us move forward on the Federal side, at the same time getting an opinion from Mr. Roper. But that doesn't necessarily mean, whatever his opinion is isn't going to keep up from moving forward on the Federal side. We're going to get that opinion no matter what. So I'll put that in the form of a motion that we move forward on the Federal side.

(3) Public Participation (cont.) - Legal Counsel Discussion:

Chairman Para asked is there a second.

Commissioner Spangler stated well I'd have to second that to see where it goes.

Chairman Para stated okay, let's have some discussion then, would anyone like to speak to this any further.

Commissioner Spangler stated does anyone think that's a bad idea to go Federally first.

Commissioner Allen stated I don't think it's a bad idea but I'd like to see that opinion fairly soon, from Mike Roper, so we'd understand from that professional opinion whether we did have a good civil. That would be nice as we're preparing to get into that, as continuing to move that Federal forward, if that would come within the next week or two, it would be nice to have that.

Commissioner Diesen stated and I think we will, no matter, that was part of the motion that would go ahead, that would continue until we get that opinion, but let's move forward on the Federal side, that was the motion.

Mr. Preston stated can I get some clarity then since that would affect what it is that I do. When you say moving forward, do you mean actually making contact with the Federal authorities.

Commissioner Diesen stated are you at that point?

Mr. Preston stated I'm not far from it, maybe two weeks.

Commissioner Spangler stated can we find out something from Mr. Roper in less than two weeks, and then how will we tell you what to do in two weeks.

Chairman Para interjected we can call a Special Meeting.

Commissioner Diesen stated we can make the motion based on that.

Commissioner Spangler stated okay, would you like to.

Commissioner Diesen stated to amend the motion, it's been seconded or do you want to take the second back. How's the best way to do this counselor?

Mr. Preston stated you can remove the motion, remove your second, and then restate your motion.

Commissioner Spangler removed his second and Commissioner Diesen removed her motion.

Commissioner Diesen stated to Mr. Preston, okay now can you tell me the kind of motion to make too, that we move forward with getting the opinion.

(3) Public Participation (cont.) - Legal Counsel Discussion:

Mr. Preston stated I think that you could direct me to continue the preparation for a filing with the Federal authorities, to withhold the actual filing until we get the opinion, and then upon getting the opinion from Mike Roper regarding the civil claim, even if we have to call a Special Meeting, consider the opinion to make a determination as to whether or not to proceed with the civil matter, or Federal, or go with both, understanding the limitations of doing both at the same time.

Chairman Para stated I think the significance of the matter would prompt us to come back together and discuss that further at that point.

Commissioner Spangler stated I don't think the discussion in the Special Meeting would last much longer than the discussion here, so it would be ten, fifteen or a twenty minute special meeting. I think after all we've been through that would be a small price to pay.

Chairman Para interjected to make sure we get it right.

Commissioner Spangler stated so I like your motion and I'll second that if that motion holds.

Commissioner Diesen stated thank you and her motion, stated previously by Mr. Preston, was to continue the preparation for a filing with the Federal authorities, to withhold the actual filing until we get the opinion, and then upon getting the opinion from Mike Roper regarding the civil claim, even if we have to call a Special Meeting, consider the opinion to make a determination as to whether or not to proceed with the civil matter, or Federal, or go with both, understanding the limitations of doing both at the same time.

Chairman Para confirmed there were no further comments and asked for a vote to be taken on the motion. The motion passed unanimously on a roll call vote.

Chairman Para confirmed there was no further public participation and there being none, closed it again.

(4) General Manager's Report:

Mr. Rodi stated I'd just like to take a moment and do two brief introductions. To my right is Laurie Klinkenberg who is the Acting Finance Director. If you have not had the pleasure of meeting her, I wanted to introduce her before we got into any of the financial discussions. He stated and in the back, in the blue shirt, is Chris Montgomery who's the Acting I.T. Director, so when your information doesn't quite get there, Mr. Montgomery has been very helpful and very good at fixing that.

Chairman Para welcomed them on board on behalf of the Commission.

Mr. Rodi stated I'll turn this over to Ms. Klinkenberg, to just talk a little bit about the current status of the finances and let her make a few comments if she chooses to.

- (4-a) Monthly Summary Report for September, 2006
and
- (4-b) Budget Summary through August, 2006
and
- (4-c) Commercial Monthly Report for August, 2006:

Ms. Klinkenberg stated we are starting to turn the corner a little bit. It's not perfect yet but the expenses on the telecom side are dropping drastically. I did see a very large, I felt large, from \$3,000 up to \$20,000 in telecom from BellSouth. It's all in backbilling because they know we're out now, so they're getting us good, and all the disconnect charges came through. So that will be a big hit but other than that we're starting to do much better.

Ms. Klinkenberg stated about the accounting modification, I'd like to be up front about that, there was a discrepancy that I found and it affected four pages of the financial statements which were the forecast reports. The change in net assets was and are accurate, the change came because of unbilled revenue, it's a very manual process and it leaves room for a lot of human error which was mine. I did find it, have reconciled it and I wanted to be honest and show you what the difference was. It made a big difference in the forecast reports for budget versus actual. Other than that, we're moving ahead well, we're getting things in place and we're going forth with Mr. Rodi's direction.

Mr. Rodi stated what I've asked Ms. Klinkenberg to do is not assume things, go back over all of our revenue flows, our expense flows, and just dig through it and find out and take a fresh look at it. We begin our audit this coming Monday, so she's been moving along very, very quickly as far as closing the books going over all of this detail, and now we'll be stepping into the audit again. He stated this one should be a little easier than the last one.

Commissioner Diesen stated this is our 2006 closure right, and we are beginning our audit on the year 2006 on Monday.

Mr. Rodi confirmed Commissioner Diesen's statement.

Commissioner Spangler stated I would like to ask Ms. Klinkenberg a question. When you say unbilled revenue, are we talking about receivables.

Ms. Klinkenberg stated yes, to keep with the matching principle, your revenues versus your expenses, we estimate and we have a very complicated spreadsheet that calculates what we would bill from the last billing cycle until the 30th of the month.

Commissioner Spangler stated this has to do with the fact we bill at all different periods of time.

Ms. Klinkenberg stated yes.

Commissioner Spangler stated good, because I hope we don't go back into this other thing of keeping past due accounts as an asset. We're well past that aren't we, that's all been paid for. Good, so we're down to the real utilities accounting now.

(4-b) Budget Summary through August, 2006 (cont.):

Ms. Klinkenberg stated we have the telecom accounts, they're past due, they're out there and we're working on those, but on the utility side no.

Commissioner Spangler stated so what you're talking about is just good accounting principles and things.

Ms. Klinkenberg stated correct, to be perfectly honest it was a transposition of a plus or a minus, that's what it was.

After a couple more comments, Ms. Klinkenberg stated we are automating that whole system. The other Laurie and myself have been working to get everything completely automated so there won't be any room for human error. Once its in the GL it will all just spit out and we should be ready for the October financials.

Chairman Para commented there's always room for human error, that's the world we live in, and that's okay. He stated I like your approach, so thank you.

Mr. Rodi stated unless there are questions on the General Manager's Report or whatever, I'd like to turn the meeting over to Dave Hoover and Brad Blais. I think there's some supplemental information that I requested them to go over.

(4-d) Supplemental Information RE: Water/Wastewater/Reuse Systems Analyses – Brad Blais, Quentin L. Hampton & Assoc., Inc. – Dave Hoover:

Mr. Hoover introduced Brad Blais from Quentin Hampton. He will be presenting some excellent responses to some of the things that were mentioned in previous meetings about water supply and our system status. Mr. Hoover distributed a summary of recommendations handout prepared by Mr. Blais to the Commissioners.

Mr. Blais addressed the Commission and stated I've been here before a few times and discussed the three part studies that we did regarding the Water System Analysis, Part I and II studies. One, the first part was the distribution system, the second part was the treatment and pumping, and the third part was the wastewater and reclaimed water system. What I've done is put together a real quick summary of each of the analyses, the three parts that were performed, Parts I, II, and III. Identified the goals, major deficiencies, what options may have been evaluated that are pretty much high on the totem pole and then the recommended projects that came out of each of the reports. He stated I really don't want to get in any of this into any great detail but what I would like to do is point out items. I guess, there has been some discussion about some issues that maybe some people feel are inappropriately budgeted and I would like to address the distribution system directly.

Mr. Blais stated the Part I study looked at the distribution and pumping of your potable water distribution system. The goals were evaluate the distribution system, prepare recommendations to ensure adequate water volume and pressure to all customers throughout the area. Also to

(4-d) Supplemental Information RE: Water/Wastewater/Reuse Systems Analyses – Brad Blais, Quentin L. Hampton & Assoc., Inc. – Dave Hoover (cont.):

develop the system to maintain consistent pressure, minimize hydraulic energy losses, increase efficiency throughout the system, and demonstrate available flow and pressure under simulated fire flow conditions at all distribution points in the network. The deficiencies that are apparent in the hydraulic model that was prepared for this system, pretty much mimic the real world conditions. We went through an extensive calibration period where we actually ran the model in our normal type of average day conditions, compared distribution system pressures in the actual real world to the model conditions until we calibrated to a point that was within an acceptable percentage error. We found that you have excessive velocities in your transmission mains in the vicinity of Smith Street, Venetian Bay, and North Peninsula. Excessive pressure gradients from Glencoe Water Treatment Plant east to the Smith Street pump station and the beachside service areas. What that means is that you're operating approximately 90 PSI out at the Glencoe Plant and then decreasing across to the east to Smith Street to around, say, 70 pounds, and then you're getting into the 50's beachside under any kind of peak flow conditions in the morning or afternoon. Typical water distribution systems should optimally run about 65 pounds system wide without excessive variations throughout the course of the day. That's the purpose of having your pump stations and having remote pumping facilities to meet those peak demands so that your pressure chart looks straight and you don't have these huge oscillations. Other issues that you had were recirculation problems at Smith Street where you're essentially just pumping water in a circle and burning the horsepower and energy associated with that. Other issues were elevated pressures at Glencoe under high demand conditions, and low pressure conditions, under fire flow conditions, in the North Peninsula and Airport and Western Service Area/Venetian Bay areas.

Mr. Blais stated in order to identify what are the best mechanisms to correct the problems, we looked at two primary methods of constructing capital improvements to fix the problems. One was to go in and significantly reinforce or replace existing distribution system components to essentially decrease that gradient. So that if you're running say 60 or 70 pounds at Glencoe, you can still be running 60 or 70 pounds under normal conditions out beachside and that when the pump stations kicked on they would meet those differential demands. So the pipelines that were required were significant, the routes and corridors are fairly congested, and the cost to do that is fairly extensive. Compare that to an option B, which was a low pressure transmission main, which is essentially restoring a certain portion of the system to its original configuration, i.e., early 1990's, late 80's system configuration, and evaluated various criteria. Capital costs, operational flexibility, system reliability, maintenance of service and efficiency, and with staff determined that option B was the most cost effective and beneficial option to pursue. With that we moved forward in preparing a series of immediate, short term, and long term project recommendations, those all of which have been presented to you under a previous meeting.

Mr. Blais stated similar steps were done with the water treatment and pumping systems, and also done with the wastewater and reclaimed water systems. What I'd like to do is pretty much just open up to questions, if anybody has any specific things that they would like to ask regarding the report, I can try my best to answer them. If I can't do it, I'm sure Mr. Hoover can probably help me out.

(4-d) Supplemental Information RE: Water/Wastewater/Reuse Systems Analyses – Brad Blais, Quentin L. Hampton & Assoc., Inc. – Dave Hoover (cont.):

Chairman Para asked if there were any questions. There being none, he thanked Mr. Blais for his comprehensive report.

(3) Public Participation (cont.):

Mr. Ken Taylor addressed the Commission and stated I don't really want to comment on Mr. Blais' presentation because I think he did a good presentation but as I told Mr. Rodi the other night, I'd like to ask you guys a question, ask you to think about it, and give Mr. Rodi some support in thinking about it. He stated you may or may not realize that stormwater is a utility in the City of New Smyrna Beach. It is run by the City of New Smyrna Beach and it is run by the City manager, the City Manager is the Director of the stormwater utility. Now what we're talking about is water for the City of New Smyrna Beach and not withstanding all the great things that ECT has done, the water's going back into the estuary, it's not being saved, it's not being recovered, and it's a lot of water. What they're doing is pumping the water into dry wells in effect, or holding ponds, and watching it leach in or overflow and go out into the ocean.

Mr. Taylor stated it seems to me that the Utilities Commission should be in charge of all the water recovery and use in the City of New Smyrna Beach. I realize in the past the Utilities Commission has not done this and I know it's a burden, but there's a lot of water there. You had a presentation here about two weeks ago or so, last presentation, about ways to recover and hold this water in aquifers. One of the big problems, Mr. Blais pointed out, is that you've got all this water but if you can't grab it, it gets away from you so you can't use it. But based on a presentation that you had recently there are ways to store this water and use it in the future. Of course it costs money but in my opinion you guys should take on that challenge and ask Mr. Rodi to come back with a recommendation on how you could move in to taking over that stormwater problem because you're either going to pay for that water now or you're going to pay for it later.

Chairman Para thanked Mr. Taylor and asked if there were any other comments from the public.

Commissioner Diesen stated at some point and time I would like to, that's not the first time, I've talked to Mr. Taylor about that in the past too, because there is a lot of water being wasted. I know that's a real hot issue with trying to take something, it might be seen as trying to take something away from the City. On the other hand it might be something we could work together on to try to recover some of that water before it gets leached away.

Mr. Rodi stated if you're looking for a comment, parking the issues of the Charter, because either the Charter's pure in its form one way or the other, you can't argue both sides of it. But there is a lot of water and I think that is a very big potential source if we can clean it properly and be able to then transmit where we need to store it. There's no question that is an ideal source of water that currently is just, as Mr. Taylor described it, going to no where. It's not been lost on me, later on in the evening we're going to talk about priorities, and I think that's another one of these things to fit in.

(3) Public Participation (cont.):

Chairman Para stated yes, cleaning it is the problem and right now that's a liability we don't want to assume because along with the water comes all the pesticides and oils and all the rest of the stuff.

Commissioner Diesen stated and transportation of it too.

Mr. Rodi stated but there's some realism to thinking about how to use this in a way that we hadn't thought of before, that's the value.

Mr. Tolley then addressed the Commission and stated one quick thought on that as a follow up. Instead of cleaning, it we can always make it into steam and get some power out of it.

Commissioner Spangler stated I think all water, but it just depends on what it costs us to make it usable in the way that we want to.

(4-e) Project Status - Biofuel Truck – Timothy Beyrle:

Mr. Rodi stated I think at this point, I've asked Tim Beyrle to give us an update on the bio-fuel initiative, as to where we are right now.

Mr. Beyrle stated we have ordered the conversion kit for the truck and the truck is ready to convert. It takes about three weeks to get the conversion kit and the associated equipment to go with it. We're still working out, I've been working with Chairman Para on the details of how we're going to collect the fuel and where we're going to store it, that's really the biggest issue right now. But once we get the kit, we have two very eager mechanics who are ready to try it out and they'll probably have their own trucks running on this before too long if it works well. So we expect, probably in four to five weeks, to hopefully having a running veggie fuel truck.

Chairman Para commented I'll be grinning from ear to ear. He commented to Mr. Hoover that he needed to get in on this action too.

Commissioner Diesen stated to Mr. Beyrle, in case he was interested, the University of Florida is doing this as well. They're doing a lot of interesting things up there and one of the things is they're also trying to get their folks to use public transportation so they're charging each department now, \$3,000 a month additional for every car they have on campus for parking. So that has been a large incentive to give up their cars. After a couple of comments, she stated they have a lot of oil they are collecting, and that's a campus of 48,000 so there's a lot of grease being generated.

Chairman Para stated the one professor up there, Glen Sjoden, who's in the nuclear side, is a very gentlemanly sort of individual and he's coming down the street on an electric scooter. He stated it's funny but cool the way they're going about things.

(4-e) Project Status - Continued - Water RSQ – Dave Hoover:

Mr. Rodi then asked Mr. Hoover, on the RSQ, where do we stand with the water RSQ and Dr. Missimer and that whole thing, just some status comments.

Mr. Hoover stated we have an RSQ from Brevard County that's been used successfully there, for any services with Dr. Missimer. That is on the back of a requisition that was sent to our Purchasing Agent today. He then added we should be close to engaging.

(4-e) Project Status - Continued - Energy Wise Policy – Robert Rodi:

Mr. Rodi then asked if the Commission was ready for Energy Wise. He stated he picked up on some of the things that we have here, called fire wise and there's a whole series of them. I thought rather than talking specifically about the Kyoto accords, which is pretty comprehensive in and of itself, what I did was I sent a number of documents to the Commissioners. As you can see its pretty comprehensive (he held up one of the documents), from the U.S. Mayors, a Climate Protection Agreement. He stated it gets into a lot of other parts of the way we live as far as land use management, transportation planning, green power, energy efficiency, green buildings, water and wastewater management, recycling, waste reduction, education and outreach, and then there's a number of series of sections in this. What I thought was when we get to the priorities part of the discussion, I think there's a really fundamental question that we need to begin to address and this is why I called it energy wise. If we move to renewable sources of electrical energy, the other part of that equation is conservation. The conservation part not only goes to the electrical usage on the day to day things that we do, but I see it to be a step-wise approach. So what I would suggest is since part of what we have on the table right now is renewable energy, is the fundamental question, and I think the Chair has asked that question before in the last meeting, specifically that we focus on that and decide where we want to go. I also included some draft resolutions that some cities have adopted just to give some feel for this. That's all that I'm suggesting at this point, just to become more familiar.

Chairman Para thanked Mr. Rodi for the information, it was very insightful and very comprehensive as well. I think that as you're saying, and I'm in agreement, that based on the volume of materials and also the implications that's involved, I think it's more of a collective community decision, and certainly the City Commission needs to be a part of this decision.

Mr. Rodi stated absolutely.

Chairman Para continued by stating hands down, because this is wonderful place for us to be at, and in part of my discussion points at the end we'll talk about that too. But I'm very interested in what more you've got to say.

Mr. Rodi stated as somewhat as an adjunct I asked, and I think this is meant to be an

(4-e) Project Status - Continued - Energy Wise Policy – Robert Rodi (cont.):

informational point, but also to start to address some of the comments Mr. Tolley has made over a number of months, and also we heard again from the FRCAC folks again what their vision is. But I asked Mr. Beyrle to do a little bit of background on what's happened with our fuel and purchased power because I really think that's an important question at this stage.

Mr. Beyrle then proceeded to present a power point presentation he had prepared. He stated this was actually just a brief overview of where things stand with our fuel adjustment and with our over/under recovery. The first slide showed the formula utilized for determining the fuel and purchased power cost adjustment clause as needed during the fiscal year. We adjust it up or downward based on what our over recovery or under recovery is on a cumulative basis.

Mr. Beyrle went to the next slide and stated you've probably seen this chart before, this is last fiscal year. If you see what our monthly energy cost was on a dollar per megawatt basis and accumulative going through the year, starting out the year we were just as we had been for the last few years, staying pretty close under \$50 per MWh. We've been close to that for the last couple of years and were staying along pretty good, and then Hurricane Katrina hit. Fuel prices shot up, and through the end of the summer they were staying up. Then this fiscal year, they continued to stay up whereas last year in the shoulder months and spring, our energy costs were down quite a bit, but this year costs really never came down. Part of this is due to the increase in gas and oil prices, also a part of this is due to the transmission constraints and congestion we're seeing in the Florida market right now. We're seeing probably another year and a half to two years before some of that stuff is cleared up and we're able to go out on the market in the way like we used to.

Mr. Beyrle stated throughout the summer, even though we didn't have any hurricanes this year, no one knew what was going to happen and oil prices were up based on fears, and the cost of energy stayed up as well. So we ended this year or through August of this year, we were at \$63.30 per MWh, whereas last year we ended the year at \$49.15. So our costs have gone up considerably in the fuel and purchased power end.

Mr. Beyrle stated on the next slide, what I've done here is from September 2001 through the current time, the blue line represents our fuel adjustment, and this is what we charge the customers per 1,000 kWh. Right now its at \$31.20 per 1,000 kWh, that's our fuel adjustment. The red line here, this is tracking our cumulative over/under recovery. Generally we try and set our fuel adjustment so at the end of the year this number would be zero, that is our goal when we set a fuel adjustment rate. He stated as you see back here it was keeping along pretty good in the couple hundred thousand dollars, sometimes we'd have an over recovery, sometimes an under recovery, but it was always a manageable number. Then as the under recovery starts to grow, we have to increase our fuel adjustment. You can see we've done that at several stages along here. Back here, just before Katrina hit, we were at a \$17.18 fuel adjustment and our balance was dropping back towards zero. This is where Katrina hit and you can see this has been our under recovery since that time.

Mr. Beyrle stated the next slide is a tabular version of what you just saw, the numbers are a little

(4-e) Project Status - Continued - Energy Wise Policy – Robert Rodi (cont.):

harder to read, but it's on the last page there. You see we're currently at a \$4.3 million under recovery on fuel and purchased power costs.

Mr. Rodi stated I thought this was important for us to discuss because as we have watched this, obviously gasoline prices have gone down, but we haven't seen the corresponding drop in fuel prices that power electrical generators, there's no flow through yet on that. Sometimes there's quite a lag and part of what you deal with, and this is why I think it's important just to have the perspective. The Florida Reliability Council, and I've said this before, its stature is changing, and it is part of the change throughout the nation where these previous coordinating bodies now will become enforcement bodies. One of the things that's been done is that these constraints, the electrical system constraints where you can't flow any more power through the wires, have been used very craftily as competitive barriers. So for example, if we can find a very cost competitive source of generation, flowing it over the transmission system is a separate event and that's our responsibility in order to get it here. What's occurred is these channels, as they're called, are used for competitive reasons. One of the things that the FRCC will be doing is not only addressing the reliability of the transmission system to improve it but also to get rid of these constraints. One of the reasons its critical for us then to be able to have the 230 KV substation is that it helps us to eliminate many of the 115 KV constraints that are elsewhere in the system. And I think Commissioner Allen dealt with that for years and its at a heightened level to the point where this summer and next summer we're going to be facing it and I don't know how much more after that.

Mr. Rodi stated there's a second impact that will be coming with the transmission system that has to be accommodated in our thinking. Many of the merchant plants, the Mr. Tolley's of the world, who have been kept out of the competitive market here in Florida, with this strengthened transmission system, may come back. There's a lot of interest and a lot of activity about building merchant plants for the very reason that if they're able to have alternatives, then they can use the transmission system because it will have greater capacity. This becomes an important consideration about what we do with our own power source, and its several years out, but it's something to be thinking about now. Part of what I've tried to demonstrate in many of our meetings is thinking strategically, looking out many years, trying to have as many options open to us to take the steps that best fit New Smyrna Beach. This example here of what's happened with the market and our own events, really bring home an important point.

Mr. Rodi stated just an opinion if I may, the FRCAC was talking about a very important technology called plasma. I first started dealing with plasma technology in the steel industry and it had a particular use there in the production of steel. Plasma technology has generally been used in this country to get rid of hazardous waste, mustard gas, PCB's. That becomes an important consideration if you're going to use a technology of that type to burn a fuel of processed waste. So there's a lot more to these discussions than just talking about whether they'll produce power and how that's done and why its occurring, and they all enter into the equation about what we're going to do. So I wanted to use Mr. Beyrle's presentation as a vehicle to talk about here's where we are today with fuel and purchase power, here's some of the reasons for it, and here's where there may be some opportunity in the future, but I needed to get this

(4-e) Project Status - Continued - Energy Wise Policy – Robert Rodi (cont.):

update to you because it goes back to the original conversation we were having just a few minutes ago. About if we have energy sources, are they renewable sources, and how much of them. It's a very, very long range type question. He then asked if there were any questions of Mr. Beyrle on what he had presented.

Commissioner Spangler stated it looks to me like the long term trend is going to exceed what we're billing our customers, at some point we're going to have to tack a little bit more on.

Mr. Beyrle stated yes.

Commissioner Spangler stated and I don't think that's going to stop and I think that so far the ratepayers have been protected from what's going on in the energy market and I'm wondering how much longer they can be protected and to what degree.

Mr. Rodi stated that's one of the obvious conclusions, you can see the step functions there. For example, we're entering into the winter period, they've been pumping the natural gas into the ground for storage and building up reserves and of course that's going to still drive the price, the price hasn't dropped. For us, I think part of our long term discussion is, we have to recover these dollars but not only that, in the future if we're talking about renewable sources, and they're in the same price range. In other words we can take a step function up and I'll give you an example, on this plasma technology the energy cost alone is about five cents, that's just the energy cost. So depending upon the kind of fuel, if you get free fuel, and that plasma can deal with almost anything as a fuel, so some cities are looking at plasma as a way to get rid of their solid waste. So rather than a dump you process all of this and you run it through these plasma systems. Understand they're very clean, the plasma can be used on the front end as the source for coal and it burns very clean. I'm not phrasing it correctly because plasma really doesn't burn, it's just very hot. So when you start looking at the costs that are involved as opposed to a low pressure wood burner with environmental controls on it, that cost starts to get into the eight to twelve cents. So as we talk about all of these they will require a lot of detail but if we're displacing traditional fossil fuels then we're net zero on the carbon emissions, that's sort of what we're talking about here.

Mr. Rodi then commented are we ready for Mr. White?

Commissioner Allen then stated so it's been a half a million under recovery each month.

Mr. Rodi stated it's been running anywhere from a half a million to \$700,000, depending upon where we buy.

(5) Commission Counsel's Report:

Not discussed at this point, brought up after item 7-a.

(6) Committee Meeting Reports:

Not discussed at this point, brought up after item 7-a. and 5.

(7) Old Business

(7-a) Revising Electric Pole Line Extensions or Additions – Proposed Resolution No. 12-06:

Mr. White addressed the Commission and stated what we have here is the subject of the public hearing, a resolution revising a minor segment of a minor fee of our overall schedule of rates, charges and fees. As the material you've read indicates from this language describing our schedule of fees, we have proposed striking those 12 to 14 words which says it includes the allowance that the consideration of purchased power and fuel in the cost adjustment for this particular fee in our structure that pays for additional construction for line extensions for a new or existing customer. It's not something we do a lot of, like I said it's a minor item, we do a few of them a year. It can be significant for that particular connection or customer but again the split is a question of who pays when there is a significant construction cost to extend the line or modify a service. An example would be a business grows, the entrepreneur or manager, discovers and needs more space, area, machinery, staff, equipment and a larger facility. So he builds all that and then requires new service, instead of a 200 amp single phase he finds out he needs a 1200 amp three phase, and we don't have it close by or locally so somebody's got to pay to extend that for his business, for his service. This is a formula by which we calculate what that cost split is and the formula is two and half times projected revenue of that service. Until this change we proposed, that allowance included the purchased power cost which is clearly an error. If the customer has that credit to construction, number one that purchased power is power he's going to use, he's going to consume it and then have it too, or be credited with it, so he has his cake and eats it both. Meanwhile the rest of the customers, the rest of the ratepayers pay for his construction, and this is a small edit that corrects that. He then asked if there were any questions.

There were no questions. Chairman Para then commented we got out of order, got into Old Business here. He stated no harm done and then asked if there was a motion to approve the attached resolution.

Commissioner Spangler made a motion to approve the resolution attached to this agenda item, revising electric pole line extensions or additions policy, as submitted. This resolution will be numbered 12-06 and become effective November 1, 2006. Commissioner Allen seconded the motion and it passed unanimously on a roll call vote.

(5) Commission Counsel's Report:

Chairman Para then confirmed with Mr. Preston he had nothing further to report.

Mr. Preston stated he would be glad to answer any questions and added he would like to offer a commentary. He stated it's a pleasure serving you all. It's a real privilege to work with a man of competence and integrity that Mr. Rodi has and his personality. It has been a pleasure to work here because of that and also because of Ms. Simmons and the work that she does and everyone

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

here; I have appreciated that. He concluded by stating other than that I'm glad to take questions on any legal issues.

Commissioner Diesen commented that had scared her, at first she thought it was an exit statement.

Mr. Preston stated actually this is somewhat of an anniversary for me in terms of the length of time that I've been here.

Commissioner Spangler commented and it sounds like you are appreciated.

Chairman Para added well stated comments and obviously you've got their attention.

(6) Committee Meeting Reports:

Chairman Para stated to Commissioner Diesen you were going to bring us a committee report regarding the review of Mr. Rodi.

Commissioner Diesen stated we've had slight discussion and that is going to be delayed.

(8) New Business:

There were no new business items to discuss or consider.

(9) Possible Other Business – Time for Commissioners:

(9-a) Priorities – Robert Rodi:

Mr. Rodi commented my apologies for stepping ahead there, I had just quickly looked. He then stated I had sent to you a project list and we're still adding to it. For those who aren't familiar, what this project list is, we are compiling all of the projects from our unbuilt R&R, all of our projects that have come from these studies, and there are also a few other projects that are initiated by the individual Division. What I asked Mr. White was to put all these together, and you saw the format of it. It's intending to separate existing infrastructure from new growth infrastructure, looking at timing as far as is it an immediate need, is it a short range need, or is it long range. With the latest revision this Friday, what we intend to do is have an internal priority system that we want to overlay on these projects. The priority system basically says if you're operating the system, that should have a greater priority than if you're just going to construct something new to the system that will enhance it at some point in the future. Reliability is an aspect of this. Our intent when we're finished is to structure these projects so that we understand their priority, how quickly they're due, how much money's invested in them, and separating out costs for growth, because that's covered under our addendum versus our existing infrastructure. From that, then Ms. Klinkenberg will be working with Mr. White to start to refine again our bond budget. We're being advised by our bond agent that its better to go with a one-

(9-a) Priorities – Robert Rodi (cont.):

time larger amount and cover projects over multiple years. On other side of this, we're not wanting to spend any more money than we have to spend in order to secure the system and pace the changes. Because, as you have seen, many of these projects are multiple year projects, they're very complex. What Mr. White and I were talking about earlier today is when you look at the engineering design that will be required for the Smith Street Station, Glencoe Pumping, Low Pressure Water Line, the new wellfields, and the Central Wellfields that are out on the property by the Wastewater Treatment Plant, there are many complex issues to work through. Not only to design it properly but then to develop the right build schedule.

Mr. Rodi stated so what this does for us, is it will start to quantify what we really need to do, in what order, and then to be able to get our arms around how much in a bonding amount we need to go for. Fundamental to that question is what do we do with generation. We obviously don't have money to build generators and it essentially means, just as Mr. Tolley has several times said, okay is it time to know, is it now, is it now, and he's been gracious but persistent. We heard another piece in here today, but to treat all players equitably we really need to go out for a request for proposals. Some of these proposals, I'm sure, will be very unique and others might be pretty traditional, but we don't have a strong enough anchor yet with regard to what kind of proposals. Are we talking about like a western city that has said we're only going to have renewables, is that the direction we would like to go in?

Mr. Rodi stated what I wanted to do tonight with this agenda item is obviously there are enough projects there to keep us very busy for a long time. I don't want to wear staff down any more than they are and I'd like to sequence this, but it's also appropriate that there be some conversation. Part of what we touched on is I don't know where the City Commission is on some of these items like renewables. I think its an important determination because they're a partner in this particular regard. A lot of these things we don't do in a vacuum and so I just thought it appropriate to throw that on the table and ask for some discussion on that. The whole issue of the priorities and the directions we're taking, because the way I've approached it is existing infrastructure fix it, prepare for the future, make sure our water supply source is there, its modular, scaleable so that we can add to it when we need it, and then we have to take care of what growth as it funds or has funding for itself, and then the last part is generation; that's the sequence I'm talking about. Mr. Rodi then asked if there was any comments.

Commissioner Allen stated not only when we think about renewables, and the City needs to be involved in that, but also our community, to really understand and grasp when you think about costs. When you start developing that and look at renewables, and even regular types of generation or other types of resources, many times there's a balance that the actual community itself will buy into. There's a lot to work through right there and I believe as we look at and see water needs and we think about reuse, generation may come into play with all that so there may be a good mix with everything. Being able to use, talking about stormwater, and start evaluating how do you turn it around from going to the river and get it going back west where you may be using it at a plant site and be able to process it. There's a lot to look at dollar wise and time wise, how long it takes us to get that into place.

(9-a) Priorities – Robert Rodi (cont.):

Commissioner Spangler stated when I look at generation, we understand what we have to do to catch up, but when you get to generation in the long run I think that's the most important thing that we're talking about here. Of course I'm thinking distributed generation to get off the grid, but also generation, the cost of that and how we do that, there's two parts. One is the existing which we're going to replace hopefully with something better, and the other, we don't have any idea on, is the build out rate. So I think the question on generation is one of size for what we need now, if we don't have any future growth at all we still want to get off the grid, and if we do have the growth that we predict, then we're going to need twice the energy that we need now and then some because its apparently still going on. So to me generation is sort of iffy and I'm no expert on it but I think that because that's two parts, to replace the existing and then to try to go for the new, I think that's going to be a big thing we're going to have to decide as far as are we going to do one plant, two plants. He then stated that's all I have to say about that.

Commissioner Diesen stated I think water is right there with generation and hopefully that would be kind of a package thing, that we'll get the best of all worlds. She stated to Chairman Para, but I think you requested last month that we would be having a workshop, I think that's really important that we talk with the City and have a clear understanding. But what Commissioner Allen said was so poignant to me because so often it happens, and I know even going back to, as Commissioner Hall would say, in my former life on P&Z, so many things that happen, happen to the people instead of happening with them, and this is something that is so changing. I mean it's a watershed moment, no pun intended, that I think we really need to do the charrette thing and have some real input from the community.

Chairman Para commented you did very good, its all very intuitive, and I'd just like to echo that. I passed out a copy of a request to the Mayor pursuant to our brief conversation before the City Commission meeting the other night which I've asked that we convene and discuss and begin this process. He stated to Mr. Rodi, you've done a superb job in bringing a level of competence and expertise to the day to day management of this agency. It just leaves me feeling very comfortable and I often tell Ms. Simmons I don't hear anything. Sometimes that's good and sometimes it's not good, but I can depend on it being good. He stated I apologize for any lack of leadership on my part in coming together with members of the community. I mentioned briefly in my public comment the other day that there are really five sides to this. There is the people, of course, the owners, they're the most important members, and they're the de facto members that own this agency. There's the people representatives, the elected officials, certainly us as an appointed body, and then you have the two representative staff groups. So it makes a pentagon of sorts and we've got to work with that, and we've got to begin this process.

Chairman Para stated I think a lot of maybe the angst that exists on the City's side in the past, and I'm just looking at this next year as being a wonderful year of unity, and we come together as a community, that there be an opportunity for us to have meaningful, open discussions. I think there was a turning point in our last workshop and I commented to somebody about it the other day, it was a wonderful thing. It seemed like at some point in time, halfway through, we went away from being City Commission, Utilities Commission, and we went into a group of people who are neighbors sitting down having a conversation. I think that's a wonderful place to

(9-a) Priorities – Robert Rodi (cont.):

be and I personally am a big fan of teamwork and strategic planning, of buy-in. He stated to Mr. Rodi, I read through all of your stuff again today, and it's wonderful, you have the staff very well organized, but we need to do that on a City level too. So I'm calling on the Mayor for a level of leadership to bring to this issue and I will do my part in whatever that is to bring us together in a way that we can unify and discuss these issues because renewables is an important issue, it literally is. He stated, and Mr. Rodi for the benefit of those who are not privy to our conversation the other day, I certainly am a believer in the KISS method and very small incremental. I think that this agency has proved itself problematic in the past when it launched itself headlong into a venture without proper planning. I think, whether we talk about generation or water, if we do it incrementally, it's a wonderful way.

Chairman Para stated Mr. Beyrle has been a wonderful project manager on this project that you've assigned to him, been very supportive, and we've been gathering raw information which we'll be bringing back. But this is a wonderful privilege that we have because we've got the assets already, we don't have to go out and buy stuff, we literally can go green on a very small incremental basis and begin to test the water and to learn and develop that; so that's part of that conversation too. Priorities are essential but we need to do that as an entire community and we need to give you all direction so there is no angst or ambiguity on the staff, your part, City, or the City leaders. I don't want somebody calling me up saying what are you guys doing and did you get permission to do that. So I couched the letter in saying we need the wisdom, counsel, and permission from our City leaders to go forward with any of these things. He stated I'm looking forward to that, I expect response from the Mayor but I'd like for that to take place.

Commissioner Diesen stated we have to have community involvement, we need the rooms packed at every venue because that's the only way that the community's going to feel a part of this and that's real important for us, especially what we've gone through in the last couple of years. She said to Mr. Rodi, I'd like to echo what the Counselor said and what our Chairman has said about having you where you are and how fortunate we are in this City. I believe you also enjoy that same respect from the majority of the City Commission.

Mr. Rodi thanked Commissioner Diesen for those comments.

Chairman Para stated we really have a wonderful opportunity to move forward and I think having some professionals, key players, to help us organize, maybe some people coming in. I know, I gave you a book a while back, Team Building by Doctor Mark Morgan, Commissioner Diesen knows him, and he's wonderful, but that premise, and I've used it on a personal basis, and it has worked very well, so that's a good tool as well to use. So all that kind of conversation and buy in, and just mention this, I did put a call in to Buz Reynolds, he served this community notably here on the Commission, and he said that he would be glad to work in the capacity of a sub-committee and maybe we can get into that. But then he stated it's a little premature to get into all that stuff right now but there are people, Mr. Ross might be a very valuable asset, Mr. Bidgood, and some other names of people in the community that could begin to help us formulate these big picture, you might want to say, changes for our community.

(9-a) Priorities – Robert Rodi (cont.):

Commissioner Diesen stated that's why I think a charrette type of thing is so important because you do get, you have so many resources here of really knowledgeable people that simply don't engage, and that's one way to get them out and get them engaged. The more assets that we have like that at our disposal, then of course the better off we are. That's real important, we've talked about it in so many different areas but it never seems to come to fruition and I think we need to make that happen.

Chairman Para stated I'll just end with this, I noticed on your thing about ownership, people don't take ownership of those kinds of plans unless they participate in them, unless they've been a part of that process. Again, that's where you're going to bring genuine value back to the community in a sense that this Commission is really important to them when they feel like their voices are heard. We had a conversation with an individual on bio-diesel, he gave us some wonderful ideas and we'll be sharing those later. He concluded by stating that's my comments on all that.

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

Chairman Para then asked if there were any comments by the Commissioners.

Commissioner Allen stated he was just coming on board and trying to get back up to speed after being away for a while and the changes that have happened. He stated one of the big fallacies I think, as far as general public trying to understand energy costs and when you talk about generation. There's probably some type of mix because that cost changes hourly, and there's a difference in the loading in the middle of the night compared to the day. A lot of times you may say we need to build a plant, be self sufficient and then you look at what you have and try to utilize those resources, there's probably some type of mix as we look into those things that we'll see will be a better viable way. The sad thing over the years I believe is we looked more toward outside and bringing in. Which is, I believe, somewhat of a failure on our part to really look forward enough to know that it's nice to be somewhat self sufficient and if you have the right resources and the economics, you have the availability to be able to supply and uphold that grid as you have available generation. So its going to be interesting for us, its going to be a big challenge for us for the future.

Commissioner Spangler stated well I think Mr. Beyrle showed us why this is going to be important, he's probably more aware of that than a lot of people right now. I see this letter and I think its very important that the City Commission understands what the issues are with the City and their infrastructure and that they not misunderstand what's going on. I think that they need to at least have the fundamental knowledge that we do and I think that hopefully by now they've availed themselves of all of these reports and studies that we're going to be using as a basis. I think if they knew completely what we know, the cooperation would be a lot easier. I don't think that all of them yet really understand what we're doing and what the importance of these studies is, so I think a workshop like this, whether it starts as a green workshop or however it starts, would be a big step forward to clarity and cooperation.

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

Commissioner Diesen stated I agree with everything that's been said. On another note, we were given some information with problems, did we get all those resolved?

Chairman Para asked what problems?

Commissioner Diesen stated we received letters from folks, someone who had a real hardship on a bill and I was wondering if that was resolved.

Chairman Para stated you've got the rest of the story, right Mr. Rodi.

Mr. Rodi stated in my response for those of you who remember Paul Harvey and his radio show, for the rest of the story, it was a little different than how it was characterized and the person paid their bill this morning.

Commissioner Diesen stated good, then it was resolved, that was all I wanted to know, I don't need to know any details, just that it was resolved.

Commissioner Spangler stated I didn't want to mention the war, but I had two thoughts. Number one I could understand one party not particularly being surprised or not wanting to talk about what was going on in the billing, but I was a little concerned about the other party not being aware of what was going on in the billing. Counsel made the comment that they've been down that road before since 1916 and they should have been aware of what was going on and my thought was well we should have too because we've been down that road a long time. I was a little concerned about how that happened but I've been reassured about all kinds of things tonight. For those people who don't know what's going on, the Chairman if he chooses can elaborate some more, but anyway it all ended well, that's the important thing.

Commissioner Diesen stated the problem with the business agent, the new development person and the contractor, did that get resolved or is it in the process of being resolved?

Mr. Rodi stated I think that's another case of the rest of the story.

Chairman Para stated is that Mr. Titcomb?

Mr. Rodi stated yes, I think there are a couple of issues involved there and they're being intermixed.

Chairman Para stated can I just say he's not here and his counsel's not here so let just leave it if you don't mind.

Commissioner Diesen stated so it hasn't been resolved then.

Mr. Rodi stated I think Counselor Preston spoke with his counsel.

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

Mr. Preston stated I did, I have spoken with his counsel, and there are some issues that still need to be resolved.

Commissioner Diesen asked and Mr. Preston confirmed the issues were being worked on.

Commissioner Diesen stated that's all I wanted to know, because when I opened my emails, this was the third problem of the day.

Mr. Preston stated just for information a lot of that was a venting as well, so the issues have been reduced to the primary issues and we're working on those.

Commissioner Spangler stated and the issue that I was talking about was the bill for the contractor of the high school.

Chairman Para stated can we as far as understanding because one of the things that I've tried to do in working in the capacity of being your chairperson was to never overstep my permission, responsibilities in giving directives to our collective employee, which is Mr. Rodi. So what would you all like to do at this point so that we can begin to discuss with the Mayor and City staff about putting together one of these charrettes or some sort of organization. Would it be feasible to engage, for instance Dr. Morgan doesn't do that anymore but he knows people that do that kind of thing, would that be something that would be permissible for us to do.

Commissioner Diesen stated I think that might be a jump ahead, we need to have a workshop first. You're going to need the buy-in from the City before we get to that level and that's not going to be probably the easiest thing that's ever been proposed.

Chairman Para stated well this is how it works, we've got to talk about it because its like we've got pieces of our mind and we've got to talk through this because it can't be one person's idea, it's got to be all of us. So strategy wise we're going to present this to ...

Commissioner Diesen interjected and you're getting into the holidays.

Chairman Para stated I understand that but we still, it would be nice if...

Commissioner Diesen commented we asked for a workshop, let's see if we get it.

Chairman Para stated okay, so that's the first thing and then we can kind of walk through that as we get through it. I just need to know. Are there any other questions, so let's ask them now while we're all together.

Commissioner Diesen stated back to priorities for a minute, and added I didn't give up all my time yet, in talking about we'd like to do this or we'd like to do that, I think we all have to be kind of careful about overloading Mr. Rodi with thoughts and ideas and so forth. Just like the Kyoto protocols, that's really a heavy-duty thing and to say that yes we'll look at that. Well,

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

yes we looked at it but it probably rightfully needs to emanate from the City, that's what other cities have done and we can be a part of it. But those are the kinds of things I think we have to be kind of careful of just dumping on his lap, he has a full plate, and that's all I would say on that.

Chairman Para stated I would agree and just to carry that a bit further, I enjoy working through sub-committees as being a very positive functioning thing because they advise, bring back information, and I've got a call into a local individual who might be interested in doing that. He's one of the ones who brought it before us, and I don't want to mention his name because he hasn't given me permission yet, but if that's something that you all would allow for, I would be glad to work with them just to begin to digest the information and circulate it and let that become a part of the community discussion, would that be something ...

Commissioner Diesen interjected and asked Chairman Para why do you want to jump ahead of the workshop?

Chairman Para stated I'm just trying to process a little bit of information on the Kyoto protocol, nothing else.

Commissioner Diesen then stated just the Kyoto protocol, that's something else.

Chairman Para stated just to check that off and try to be pro-active.

Commissioner Diesen stated but I do think that needs to emanate from the City and I know at least one City Commissioner has given consideration to bringing it up at the City level. She commented every time I see Mr. Ross, he brings it up to me.

Chairman Para then asked if there were any further comments, and then recognized Mr. Tolley to speak again.

(3) Public Participation (cont.):

Mr. Tolley addressed the Commission and stated I know everybody wants to go home. He then stated to Chairman Para, I respect a lot of things that you have to say but its amazing what a different read we get on different sides of this podium and that dias up there. I've met with each one of you except this new gentleman here. You know I've met with the City Commissioners, Mr. Rogers, I mean Mr. Roberts, well Mr. Rogers will work. I'm not getting the same vibe where you're looking to go here. I've got to tell you something, next week we start negotiating with FPL on a standard offer contract. Mr. Rodi can verify this for you, best case scenario, if everything fell into place, we're looking at, as I've mentioned to you before, mid-2011, mid-2012. That's if everything falls into place, the engines are there, the equipment's there, and all the permits are there. We saw Mr. Beyrle's presentation tonight, I would bet you in a heartbeat that we're at a \$100 per barrel of oil before next summer. Let's say we are, one shot gets fired in the Strait, Korea, wherever. Where are we, we're still looking at 2011, 2012. My problem is I

(3) Public Participation (cont.):

don't see the same lack of enthusiasm from that side of the street as I do from this side of the street.

Chairman Para stated so you're saying we lack enthusiasm over here.

Mr. Tolley stated no, no, I didn't say over here,

Chairman Para commented that the recording secretary needs to rewind the tape.

Mr. Tolley stated no, we're okay on this side of the street, the other side of the street has been the one that's been procrastinating, not wanting to get together with you folks. So I came up with a thought, Commissioner Allen has worked here for a long time, and I know that Mr. Rodi is really swamped. If he was acceptable to the thought, can somebody reach out and speak to him, get his thoughts, get his ideas, bounce things off of him.

Chairman Para commented don't scare him away because we have a lot of plans for him, so you leave him alone.

Mr. Tolley stated I'm just trying to move things along because I agree with you other Commissioners, it's the holidays. I don't see this picking up much on this workshop until next year.

Commissioner Diesen stated no, I think it will happen before. By the way I just need to correct Mr. Tolley, I've never met with you.

Mr. Tolley stated that's true, that's true, I'll stand corrected, I didn't meet with you.

Chairman Para stated the Mayor assured me that November, there'd be some time that we would be able to get on the agenda for a workshop.

Mr. Tolley commented its got to be election time, something's got to be coming up.

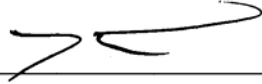
Chairman Para stated the Mayor said he would be all tied up between now and the election.

Mr. Tolley then stated thanks, but if Commissioner Allen ever wants to get together, I would love to sit with him.

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

After a couple of other comments, and there being no further business to come before the Commission, Chairman Para asked if there was a motion for adjournment. Commissioner Diesen made a motion to adjourn and Chairman Para closed the regular U.C. meeting at 7:49 p.m.

APPROVED:



CHAIRMAN

ATTEST:



SECRETARY-TREASURER

These minutes were formally approved by the Utilities Commission at their
November 20, 2006 meeting.