

[ANNOTATED VERSION*]

*[*NEAR VERBATIM VERSION POSTED ON UCNSB WEBSITE – UCNSB.ORG]*

MINUTES OF FINAL PUBLIC HEARINGS (2) AND A REGULAR MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, FEBRUARY 22, 2021, AT 3:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

(NOTE – THIS REGULAR U.C. MEETING WAS HELD ON-SITE (WITH MASKS AND SOCIAL DISTANCING) AND WITH LIMITED ON-SITE PUBLIC PARTICIPATION – VIA APPOINTMENTS)

Chairman Holcomb called the Regular Meeting of the Utilities Commission to order and led in the Pledge of Allegiance. Commissioner Conrad provided the invocation.

Safety Message: Wintertime Sun Safety – Julie Couillard

Roll Call: All of the U.C. Commissioners were in attendance as follows:

Commissioner Lillian Conrad
Commissioner James Davenport
Commissioner Richard Hawes
Chairman Jack Holcomb
Commissioner James Smith

Others in attendance were as follows: J. Bunch, General Manager/CEO; E. Chavez, Director, Finance/CFO; J. Couillard, Director, Engineering; B. Pitcher, Director, Central Services; T. Beyrle, Director, System Ops.; B. Keehn, Director, Information Technology; T. West, Director, Water Resources; M. Schings, Interim Director of Electric Ops.; J. Michel, Infrastructure Engineer; Laquavius Green; Help Desk Technician; M. Spellars, Sr. Help Desk Technician; D. Simmons, Exec. Services Mgr./Recording Secretary; General Counsel Thomas Cloud Esquire – Gray|Robinson Attorneys at Law; and John Moss, a member of the public (on-site via appointment).

Final Public Hearing No. 1 – Regarding Consideration of a Resolution Providing for the Reconciliation and Conclusion of the Addendum to Developer Agreements

There was no public nor Commissioner discussion/comments received during this final public hearing.

Final Public Hearing No. 2 – Regarding Proposed Revisions (Increases) for Water, Irrigation, Wastewater and Reclaimed Water Capital Connection Fees

There was no public nor Commissioner discussion/comments received during this final public hearing.

REGULAR U.C. MEETING:

(1) Agenda Changes, Additions and Deletions

There were no agenda changes, additions or deletions.

(2) Public Participation

There was no public participation at this time.

(3) Approval of Consent Items

Commissioner Davenport pulled consent item i. for discussion.

Chairman Holcomb pulled consent items d. and g. for discussion.

Commissioner Smith pulled consent item a. for discussion.

Commission Action:

Chairman Holcomb stated so I need a motion to approve the remaining consent items; other than a., i., d. and g.

Commissioner Hawes stated I would make that motion; specifically a motion to approve item 3-b. Ratification Approval – Interlocal Agreement for Fleet Fueling Services with the City of New Smyrna Beach, ratifying last month’s conceptual approval and to formally approve this Interlocal Agreement as attached to the agenda item and as submitted, to become effective March 1, 2021 with the Chairman of UCNSB executing same; item 3-c. Approval of Award – RSQ No. 05-21 – Continuing Professional Services Agreements, to approve the selection of firms as shown and listed in the summary section of the agenda item and authorize the General Manager/CEO or his designee to execute the Continuing Services agreements with these firms (Civil Engineering Firms: Kimley-Horn and Assoc., Inc., Mead & Hunt, Inc., and Reiss Engineering, Inc. Surveying and Mapping Firms: Dewberry Engineering, Inc. and Southeastern Surveying & Mapping Corp. Electrical Engineering Firms: GAI Consultants, Inc. and TRC Engineers, Inc. Mechanical, Electrical, Plumbing Firms: McKim & Creed, Inc. and Salas O’Brien Florida, Inc.); item 3-e. Bid Award – ITB #10-21 – Electric Transformers (Polemount and Padmount) and Switchgear, approve and award ITB No. 10-21 for Electric Transformers to the evaluated low bidders, Gresco in a total amount of \$247,885.86, Tri-State in a total amount of \$163,464.60 and Stuart Irby in a total amount of \$197,760.58 (sales tax included), for a combined total award amount of \$609,111.04; item 3-f. Project Approval – Corrective Maintenance Wastewater Projects (Sugar Mill Development), approve the correction maintenance Manhole 72-02 Replacement and Lift Station No. 73 Improvements Project in the total amount of \$217,000.00 and authorize the General Manager/CEO or his designee to execute all documents associated with this; and item 3-h. Ratification of ITB No. 06-21 – Field Street 115kV Three-Way Tie Switch Installation, to ratify the awarded contract for this ITB to Pike Electric, LLC in the amount of \$291,993.60 and authorize the GM/CEO or his designee to execute all documents associated with this matter.

Commissioners Conrad and Davenport simultaneously seconded this motion which then passed unanimously on a roll call vote.

(3-a.) Minutes of Preliminary Public Hearings (Nos. 1 and 2) and Regular U.C. Meeting Held
1-25-21

Commissioner Smith inquired about whether perhaps the minutes should be approved as a separate item outside of consent and regarding a potential annotated version of minutes for approval; expressed concern for the enormous amount of work on the part of staff.

After discussion it was determined near verbatim version of minutes would continue to be supported for now. Agenda software alternatives, for video and minutes, continuing to be explored by U.C. staff.

(3-d.) Additional Funding Request – Vegetation Management Program (Electric Reliability
Performance)

Additional operational and funding details were provided on the U.C.'s current and planned Vegetation Management Program.

(3-g.) Project Approval – New Circuit No. 29 Construction from Smyrna Substation

Additional operational details and project benefits for reliability were discussed.

(3-i.) Contract Approval – Cost Sharing with City of New Smyrna Beach on Septic to Sewer Study

Confirmed this study will include all unincorporated areas of the County within the U.C.'s service territory (referenced included map attached to the agenda item) and discussed desire for eventual determination of potential grant opportunities.

Commission Action:

Chairman Holcomb stated so the first step is your vote to match the City's investment which I need a motion approve consent items a., d., g., and i. Also commented to Commissioner Davenport, you're taking your first step.

Commissioners Conrad and Commission Hawes stated so moved; specifically a motion to approve the four consent items pulled for discussion: item 3-a. Minutes of Preliminary Public Hearings (Nos. 1 and 2) and Regular U.C. Meeting Held 1-25-21, approve as submitted; item 3-d. Additional Funding Request – Vegetation Management Program (Electric Reliability Performance), approve additional O&M funding in the amount of \$500,000.00 for the U.C.'s FY2021 annual Vegetation Management plan; item 3-g. Project Approval – New Circuit 29 Construction from Smyrna Substation, approve project in the total amount of \$375,000.00 and authorize the GM/CEO or his designee to execute all documents associated with this matter; and item 3-i. UCNSB and City of NSB Cost Sharing Agreement – Septic to Sewer Study, approve the cost sharing agreement in which the U.C. portion does not exceed \$55,000.00 and authorize the GM/CEO or his designee to execute all documents associated with this matter.

Commissioner Davenport stated second to this motion.

Commissioners Conrad's and Hawes' motion then passed unanimously on a roll call vote.

(4) General Manager's Report

(4-a) Financial Status – January 2021

(4-b) Balanced Scorecard and Enterprise Metrics – January 2021

Mr. Chavez provided his presentation entitled “January 2021 Financial and Operating Performance”. Highlights of the presentation included: Change in net assets of approximately \$0.1 million (\$0.4 million less than January 2020 year to date) – driven by lower capital contributions, higher debt expenses (\$65m new capital), slightly increased operating expenses offset by higher electric and reclaimed water volumes and continued purchase power favorability. January fiscal year to date capital expenditures approximately \$4.2 million; \$2.6 million in major projects and \$1.6 million in annual projects. An operating loss of \$0.6 million - \$0.3 million in improvements versus January 2020 year to date. The January 2021 update for metrics, mainly green with other metrics on track with improved performances from December 2020.

Numerous questions and discussions associated with the financial and metrics information presented were supported by U.C. staff and General Counsel with the Utilities Commissioners.

(5) Commission Counsel's Report – General Counsel

(5-a) Florida Statutes Chapter 112 – Section 112.3143 Voting Conflicts Compliance – Publicly Enter Chairman Holcomb's Form 8B into Record (for 1-25-21 Preliminary Public Hearing)

Mr. Cloud confirmed item 5-a. was notational, nothing the Commission needs to do. And then stated that he did not have anything further to report.

(6) Old Business

There were no old business items to consider at this time.

(7) New Business

(7-a) Proposed U.C. Resolution No. 2021-01 – Replacing Capacity Fees with New Capital Connection Fees

Commission Action:

After a brief discussion including a statement by Mr. Cloud regarding a scrivener's error in the recommended action (2020 s/b 2021), Chairman Holcomb stated I need a motion to approve Resolution 2021-01.

Commissioner Smith stated so moved; specifically a motion to approve the U.C. Resolution attached to agenda item 7-a. revising the U.C.'s capital charge structure and replacing capacity fees with new Capital Connection Fees. Upon approval, the resolution will be numbered 2021-01 and will become effective June 1, 2021.

Commissioner Davenport seconded the motion.

(7-a) Proposed U.C. Resolution No. 2021-01 – Replacing Capacity Fees with New Capital Connection Fees (cont.):

Chairman Holcomb then requested Mrs. Simmons to call the roll.

Commissioner Smith's motion approving U.C. Resolution No. 2021-01 then passed unanimously on a roll call vote.

(7-b) Proposed U.C. Resolution No. 2021-02 – Reconciling and Concluding Addendum to Developer Agreements and Infrastructure Fee Policy

Chairman Holcomb stated okay and this resolution, this is the Addendum to the Developer Agreements and Infrastructure Fee Policy and the Refunds correct, or the true-up.

Mr. Cloud stated yes, that's correct.

Chairman Holcomb stated which I am not going to vote on, I abstained from this last time and abstaining this time for a benefit that I would receive from this action.

Mr. Cloud stated right.

Commission Action:

Chairman Holcomb continued, so I need a motion to approve Resolution 2021-02.

Commissioner Smith stated so moved; specifically a motion to approve the U.C. Resolution attached to agenda item 7-b., reconciling and concluding the Addendum to the Developer Agreements and Infrastructure Fee Policy. Upon approval, the resolution will be numbered 2021-02 and will become effective immediately upon adoption.

Commissioner Davenport seconded the motion.

Commissioner Smith's motion approving U.C. Resolution No. 2021-02 then passed with a majority of the Commissioners voting yes on the roll call vote; Chairman Holcomb abstained*.

(*Form 8B - Memorandum of Voting Conflict filed by Chairman Holcomb on this date.)

(7-c) Extension of Current Purchase Power Agreement Between FPL and UCNSB – Fourth Amendment (Native Load Firm Power and Energy Transaction Confirmation)

AND

(7-d) Master Power Purchase and Sale Agreement – Tyr Energy (Short Term Wholesale Energy Purchases)

Mr. Beyrle provided a presentation entitled "Utilities Commission Energy Supply".

After the conclusion of the presentation, and questions and answers from the Utilities Commissioners, actions were taken on each item – 7-c. and 7-d.

(7-c) Extension of Current Purchase Power Agreement Between FPL and UCNSB – Fourth Amendment (Native Load Firm Power and Energy Transaction Confirmation)

Commission Action:

Commissioner Davenport stated I make a motion that we renew the agreement as proposed; specifically item 7-c. Extensions – Purchase Power Agreements Between FP&L and UCNSB, to approve the Fourth Amendment to the Native Load Firm Power and Energy Transaction Confirmation between the Utilities Commission, City of New Smyrna Beach, Florida and Florida Power & Light Company. The prior unchanged rates, terms and conditions of previous agreement/amendments, together with this Fourth Amendment shall become a novation agreement as of the effective date of this Fourth Amendment, and authorize the General Manager/CEO or his designee to execute the documents associated with this matter.

Commissioner Hawes then stated second.

Commissioner Davenport’s motion to approve the Fourth Amendment of the FPL Agreement (as stated in motion above), then passed unanimously on a roll call vote.

(7-d) Master Power Purchase and Sale Agreement – Tyr Energy (Short Term Wholesale Energy Purchases)

Commission Action:

Chairman Holcomb stated now we’re going to need a motion to approve the Master Power Purchase and Sale Agreement.

Commissioner Smith stated so moved; specifically a motion to approve the EEI Master Power Purchase and Sale Agreement by and between Tyr Energy, LLC and the Utilities Commission and authorize the General Manager/CEO or his designee to execute the documents associated with this matter.

Commissioner Davenport stated second.

Chairman Holcomb stated Mrs. Simmons.

Commissioner Smith’s motion to approve the EEI Master Power Agreement by Tyr Energy, LLC then passed unanimously on a roll call vote.

(7-e) UCNSB Strategic Reviews and Studies – Proposed Management and Governance Guidelines – (Proposed U.C. Resolution No. 2021-03):

Mr. Bunch provided a presentation entitled “Utilities Commission Management and Governance Guidelines”. The presentation included a graphic of proposed governance business model.

After the conclusion of the presentation and questions and answers from the Utilities Commissioners, action was taken on the proposed U.C. Resolution No. 2021-03.

(7-e) UCNSB Strategic Reviews and Studies – Proposed Management and Governance Guidelines – (Proposed U.C. Resolution No. 2021-03) (cont.):

Commission Action:

Commissioner Conrad stated I make that motion; specifically a motion to approve the proposed UCNSB Management and Governance Guidelines, U.C. Resolution No. 2021-03, to become effective immediately upon passage.

Commissioner Davenport stated second to the motion.

Commissioner Conrad's motion then passed unanimously on a roll call vote.

(7-f) General Manager/CEO Merit Reward Determination – for FY2020 Performance:

Mrs. Pitcher facilitated the discussion of this item with the Commissioners. Mr. Bunch was requested to leave the room during discussion to provide an opportunity for the Utilities Commissioners to freely discuss this matter. A merit reward determination for the General Manager/CEO's fiscal year 2020 performance is contractual, an item within the GM/CEO's employment contract. Discussed ensued regarding associated considerations for this determination: proximity to GM-CEO position market reference points, U.C.'s FY2021 budget, and the annual performance appraisals completed by the U.C. Commissioners (unanimously indicated a merit reward should be awarded). She also provided multiple recommendations of merit range.

Commission Action:

After conclusion of discussions and questions, a motion was made: Commissioner Hawes stated I would make the motion to pay him, do you want a number, \$257,000?

Mrs. Pitcher stated that's fine, that representative of about an 8.5% increase just so you know.

Commissioner Davenport stated I second that.

Prior to roll call on the motion, Mr. Bunch was requested to re-enter the room and Commissioner Hawes then stated my motion was to pay for 2021, \$257,000.

Chairman Holcomb then stated, and seconded?

Commissioner Davenport stated I had seconded it.

Chairman Holcomb stated okay, Mrs. Simmons call the roll.

Commissioner Hawes' motion then passed unanimously on a roll call vote.

Mrs. Pitcher stated all right, so that is about an 8.5% merit increase effective (retroactively) on February 1, 2021. *(Additional note only – For FY2019, the U.C. Commissioners' appraisals for Mr. Bunch also indicated a merit reward should have been awarded but was declined by Mr. Bunch prior to Commission determination.)*

(7-f) General Manager/CEO Merit Reward Determination – for FY2020 Performance (cont.):

Mr. Bunch thanked the Utilities Commissioners for this merit reward and the Commissioners thanked Mr. Bunch for his work performance and accomplishments.

(8) Possible Other Business – Time for Commissioners:

Commissioner Davenport commended the Field Operations staff for a water break repair. Also inquired and briefly discussed with the Director of Central Services the potential of internal job opportunities at the U.C. between utility departments.

Chairman Holcomb indicated he had no further comments and stated this meeting is adjourned.

There being no further business to come before the Commission, the Regular U.C. Meeting closed at 5:24 p.m.

APPROVED:

ATTEST:

VICE CHAIRMAN



SECRETARY-TREASURER



These minutes were formally approved by the Utilities Commission at their March 22, 2021 meeting.