RESOLUTION NO. 2019-01

A RESOLUTION OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA; REVISION RESOLUTION NO. 2018-01, AS AMENDED; AMENDING SECTION 4(1) OF THE UTILITIES COMMISSION RULES OF PROCEDURE; PROVIDING FINDINGS; PROVIDING DEFINITIONS; SPECIFYING OFFICERS AND THEIR DUTIES; PROVIDING RULES OF PROCEDURE FOR PUBLIC MEETINGS; PROVIDING RULES OF PROCEDURE FOR PUBLIC HEARINGS; PROVIDING RULES OF PROCEDURE FOR PUBLIC PARTICIPATION; DEFINING ALLOWABLE EXPENSES FOR REIMBURSEMENT; PROVIDING FOR DISCLOSURE OF VOTING CONFLICTS AND COMPLIANCE WITH THE CODE OF ETHICS FOR PUBLIC EMPLOYEES; PROVIDING DELEGATIONS OF AUTHORITY FROM THE UTILITIES COMMISSION; PROVIDING FOR RESCINDING CONFLICTING RESOLUTIONS OR PORTIONS THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. SHORT TITLE. This Resolution and the rules, regulations, and policies contained herein shall hereafter be referred to and may be cited as the “Utilities Commission Rules of Procedure.”

SECTION 2. FINDINGS AND INTENT. The Utilities Commission, City of New Smyrna Beach, Florida (the “Utilities Commission”) makes the following findings and declares the following legislative intent:

1. Since its inception in 1965, the Utilities Commission has adopted, maintained, and modified rules establishing its own procedures.

2. The “Utilities Commission Rules of Procedure” (the “Rules”) have been modified fifteen (15) times since the creation of the original “Rules of Procedure” adopted September 1, 1965.

3. The Utilities Commission elects its internal officers, which include a Chairman, a Vice-Chairman, a Secretary-Treasurer, and an Assistant Secretary-Treasurer, but neither the special act Charter nor general law set forth a procedure for filling a vacancy of an “internal” office.

4. Section 4 of the 1967 special act Charter provides for an election of internal offices each September; but does not address what happens if there is a vacancy in one of the internal offices.
(5) Recent example, the member of the Utilities Commission who now holds the internal office of "Secretary-Treasurer" has resigned (on 3-12-19), leaving this internal office vacant.

(6) The current Rules now specify that the Vice-Chairman and Assistant Secretary-Treasurer fill the offices of Chairman and Secretary-Treasurer until such time as the Utilities Commission shall elect a new Chairman or new Secretary-Treasurer.

(7) The Utilities Commission now wishes to amend the Rules to permit the filling of any vacancy by an election of the Utilities Commission members until such time as the Utilities Commission shall elect new internal officers in September.

SECTION 3. AMENDMENT TO SECTION 4(1) OF THE UTILITIES COMMISSION RULES OF PROCEDURE. The Utilities Commission hereby amends Section 4(1) of its Utilities Commission Rules of Procedure to provide as follows:

"SECTION 4. OFFICERS AND THEIR DUTIES.

(1) Officers. At the first regular meeting of the Utilities Commission in September of each year, the Commissioners shall elect a Chairman, Vice-Chairman, Secretary-Treasurer, and Assistant Secretary-Treasurer from its membership. In the event of an internal office vacancy, an election may occur for the filling of the vacant officer position. This would be additional to the required annual election of officers in September.

SECTION 4. SEVERABILITY. If any provision or portion of this Resolution is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Resolution shall remain in full force and effect.

SECTION 5. REPEAL OF INCONSISTENT RESOLUTIONS. All resolutions and portions of resolutions in conflict herewith are hereby repealed, including but not limited to Resolution Nos. 9-65, 35-75, 3-83, 1-84, 4-89, 2-94, 3-96, 27-96, 42-96, 8-03, 15-04, 16-04, 8-05, and 2-09.

SECTION 6. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage by the Utilities Commission.
THIS RESOLUTION was introduced at a regular meeting of the Utilities Commission, City of New Smyrna Beach, Florida, held this 28th day of May, 2019, by Commissioner Davenport, who moved for its adoption, which motion was seconded by Commissioner Griffith, and upon roll call vote of the Commission was DULY ADOPTED as follows:

CHAIRMAN

VICE CHAIRMAN

SECY.-TREAS.

ASST. SECY.-TREAS.

COMMISSIONER

APPROVED:

William E. Biedenbach, Chairman

APPROVED AS TO FORM & LEGALITY:

Thomas A. Cloud,
Utilities Commission General Counsel

ATTEST:

Secretary-Treasurer