

[ANNOTATED VERSION]*

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

MINUTES OF A REGULAR MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, MAY 23, 2022, AT 3:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA
(NOTE – THIS REGULAR U.C. MEETING WAS HELD ON-SITE)

Chairman Davenport opened the Regular U.C. Meeting to order and requested Commissioner Conrad to conduct the invocation.

Commissioner Conrad confirmed the pledge would occur after the invocation.

Subsequent to the invocation, Commissioner Hawes led in the Pledge of Allegiance.

Safety Message by Vernon Steele – Traffic Safety for Electric Utility Workers:

Mr. Steele, the Director of Electric Operations, provided his presentation entitled, “T&D Traffic Control Improvements”. Photos included in the presentation depicted improvements in signage and an arrow light trailer to provide enhanced public and personnel safety in electric work zones.

After some discussion and inquiries, Chairman Davenport commended Mr. Steele and Mr. Bunch for the safety information each month – keeps us focused on safety and is very informative.

Roll Call:

Chairman Davenport then requested roll call to be taken for this meeting.

A roll call was taken, all of the U.C. Commissioners were in attendance as follows:

Commissioner Lillian Conrad
Chairman James Davenport
Commissioner Richard Hawes
Commissioner Lawrence Kelly, Jr.
Commissioner James Smith

Others in attendance at this time were as follows: J. Bunch, General Manager/CEO; E. Chavez, Director, Finance/CFO; J. Couillard, Director, Engineering; T. Beyrle; Director, System Operations; V. Steele, Director, Electric Operations; B. Keehn, Director, Information Technology; J. McMurray, Director, Strategic Programs; J. Grusauskas, Director, Water Resources; H. Carrizales, Manager, Human Resources; M. Spellers, Sr. Help Desk Technician; E. Fisher, Community Relations Coordinator; D. Simmons, Exec. Mgr./Recording Secretary; General Counsel Thomas Cloud*, Esquire – Gray|Robinson Attorneys at Law (*Participated via Conference Phone); and John Moss and Lisa Martin, members of the public in attendance on site.

(1) Agenda Changes, Additions and Deletions:

Chairman Davenport confirmed with Mr. Bunch there were no agenda changes, additions or deletions. Also confirmed General Counsel Cloud was participating via the conference phone.

(2) Public Participation:

Chairman Davenport announced the opening of public participation and confirmed there were no members of the public desiring to speak.

There was no public participation at this time.

(3) Approval of Consent Items:

Chairman Davenport then stated item number three on the agenda, consent items, does anybody want to pull any items?

Commissioner Hawes stated I would like to pull 3-c. please.

Chairman Davenport stated yes sir, 3-c., and then confirmed no other Commissioners wanted to pull other consent items for discussion and stated we're going to pull 3-c. Then asked for a motion on items a., b., d., e., and f.

Commission Action:

Commissioner Smith stated so moved; specifically a motion to approve item 3-a. Minutes of Regular U.C. Meeting Held 4-25-22, approve as submitted; item 3-b. Approval – Cost Sharing Agreement for Washington Street Streetscape Project – City of NSB, approve this agreement for the City of New Smyrna Beach's Washington Street Streetscape Project, attached to the agenda item and authorization for the General Manager-CEO or his designee to execute same; item 3-d. Approval – Continuing Professional Service Agreement – RSQ 07-22 – Grant Research and Writing – The Balmoral Group, LLC, approve the issuance of this agreement and award of RSQ No. 07-22 to The Balmoral Group, LLC and authorize the GM-CEO or his designee to execute all documents associated with this matter; item 3-e. Ratification – Award of ITB No. 13-22 – Pole and Padmount Transformers for a Two-Year Purchase, ratify the award of transformers detailed in agenda item summary, to Gresco Utility Supply, the evaluated successful bidder, for a two-year period for a total amount of \$1,803,097.72. *(Noted disbursement of funds not needed until receipt of transformers.)* Previous overall purchase authorization (on 4-25-22, AI 3-i.) ongoing for the GM-CEO or his designee to execute all documentation for this matter; item 3-f. Approval – Interest on Customer Deposits, approve the interest rate of 0.005% which would become effective with first billing cycle in June 2022. *(note - maintained existing interest rate of 0.0005%)*

Commissioner Kelly seconded the motion.

Chairman Davenport stated thank you, Mrs. Simmons if you would call the roll please.

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

(3-c) Budget Ratification – North Atlantic Water Improvements Project and Approval – Cost Share Agreement Between UCNSB and City of NSB:

Ms. Julie Couillard came to the podium to support Commissioner Hawes' inquiries.

Commissioner Hawes stated just in reading this over it kind of caught me. One, it's a big dollar change from the budget, but it also kind of struck me that you know we kind of started under one thing and added going somewhere else, and I kind of wondered, how to say this nicely. Was the City keeping you informed of what you had to do because it seemed like it just sort of, if I'm reading it right, I could be wrong.

Ms. Couillard stated yes, so they changed the project scope and incorporated the larger space. We found out about it at 60% and then re-evaluated what we needed to do. In addition to that, the electric was now affected and in looking at the electric we are also upgrading it to harden it and add some additional switching capability, so there's an increase there.

Commissioner Hawes stated right, so there's some benefits as well.

Ms. Couillard stated yes, and there's new water. Beachside, we're trying to upgrade what we can, and so we take advantage of it when we can.

Commissioner Hawes stated okay, thank you.

Mr. Bunch stated thank you Ms. Couillard. Just a note on the topic, all except the largest of projects that would require Commission approval, just for say the engineering level of dollars. And this project, it wasn't enough that would have required Commission approval for engineering, so back in December we asked for project approval but that was pretty much with just having the documents from the City in hand for the project. I think in 2019 or 2020 we revised the project approval process. After the initial amount was approved everything gets delegated to me to sign off on and then it comes forward with ratification approval such as this one. Going forward we're going to, just makes sense, ask ourselves does it make sense to ask for the approval now or is it, would it make sense until we get a 30% or 60% design if the scope is in question. But that question on this one just caused us to have a good conversation this morning about when we take it to the Commission for approval. One that we will request approval earlier, for just the design cost would be the transmission project that we've been talking about lately. So that's one where I think dollars will be significant enough that we want to make sure we get the cost estimates pretty narrowed down before we go for approval requests. But thank you Ms. Couillard.

Chairman Davenport commented yes, but just no big surprises.

Mr. Bunch stated correct, I mean the dollars wouldn't have changed based on the revised scope it's just a matter of when you would have been presented the dollars for approval.

Chairman Davenport then asked for a motion on consent item 3-c.

Commission Action:

Commissioner Smith stated so moved; specifically to ratify a budget increase of \$1,400,000.00, bringing the total overall budget of this project to \$1,775,000.00 and approval

(3-c) Budget Ratification – North Atlantic Water Improvements Project and Approval – Cost Share Agreement Between UCNSB and City of NSB (cont.):

of the Asphalt Cost Sharing Agreement between UCNSB and the City of New Smyrna Beach. Previous project authorization, referenced in the agenda item summary, ongoing for the General Manager-CEO or his designee to execute all documentation for this matter.

Commissioner Kelly stated second.

Chairman Davenport then requested Mrs. Simmons to call the roll please.

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

(4) General Manager's Report:

Mr. Bunch requested Mr. Chavez to come to the podium and provide the April Financial Performance Report.

(4-a) Financial Status – April 2022:

Mr. Chavez then presented the April 2022 Financial Performance. April 2022 fiscal year to date change in net assets at about \$1.8 million with \$0.5 mark to market. Purchased power at \$64 per megawatt hour, which is 23% greater than prior year. Capital expenditures at \$11.3 million - \$6.4 million in major projects and \$4.9 million in annual projects. For operating income and loss, last year April 2021, at a \$2.4 million loss, now at about a \$400,000 loss. The drivers, increased revenues from water and reclaimed water but slightly lower revenues on electric because of the milder weather; will see that turned around in the upcoming hotter weather. Also slightly higher, increased depreciation and amortization.

Mr. Chavez explained there were two pieces for purchased power, an under-recovery ending in April and then an increase. Purchased power a net of \$2.2 million benefit, but a \$2.5 million purchased power increase year over year. Also pointed out was continuing to have steady growth in the UCNSB customer base – 1.9% increase in electric, 1.8% in water, 1.1% in wastewater and 8.6% in reclaimed water. Then turned the presentation over to Mr. Bunch.

Mr. Bunch proceeded to discuss a few slides tracking U.C. field or developer-driven activity. Explained in 2019 all elements of this process peaked out in terms of value. Also had a similar peak in "starts" which then dropped off in 2020. Explained starts were when a builder gets a permit and then applies for a service and a meter, occurs pretty much at the same time, but the way it is tracked is the service and meter volumes. Completions, installing meters and obtaining a certificate of occupancy, peaked in 2020. The time for when a builder applies for a meter or meters, and going through to completion, has more than doubled. Indicated this was probably due to materials and resource challenges. At this point, development front-end activity has waned, and based on historical activities, the starts and completions may now also fall off but that hasn't happened in a notable amount at this point in time. Also pointed out that residential dominates UCNSB development activity, in volume and dollars.

After further discussion, Chairman Davenport requested information to be provided to the U.C. Commission regarding upcoming and planned development activities. It was offered for

(4-a) Financial Status – April 2022 (cont.):

the City of New Smyrna Beach's monthly development report to be provided to U.C. Commissioners.

Mr. Bunch also indicated that U.C. Engineering would include some line of sight on pending U.C. developer agreements in the General Manager's Report moving forward.

(4-b) Presentation – Solar Power Update:

Mr. Beyrle then provided a presentation regarding an update or recap of the Florida Municipal Power Association (FMPA) Phase II Solar Project. Commercial operation is expected by the end of 2023 and the U.C. commitment for this project is 10 MW, with a price not-to-exceed \$28/MWh. *(Note - Two plant sites – one in Alachua County and one in Putnam County)* This is approximately 5% of the U.C.'s total current annual power supply. This project may be delayed due to the U.S. Department of Commerce investigation into solar panel tariff matters.

Mr. Beyrle also provided information on an additional, proposed solar project – FMPA Phase III Solar Project. Two to five additional plant sites being proposed with Duke and FPL interconnections, to support participation by all FMPA members. And will also include options for co-located battery storage and potential future installations. Commercial operation expected by end of 2026. If UCNSB decides to participate in this proposed project, expected participation level estimated currently in the 5 to 10 MW range. The estimated cost ceiling for this project is \$34/MWh. Albeit somewhat more expensive than Phase II project, should be noted U.C.'s aggregate supply cost is approximately \$65 per megawatt hour year to date. Staff is currently analyzing the U.C.'s power supply needs, a recommendation expected at the June 27th Regular U.C. Meeting.

Mr. Beyrle also mentioned that the final report from Burns & McDonnell regarding possible solar capacity on the U.C.'s Western Utility Complex site and the reclaimed water storage pond is forthcoming. Added that the net buildable area is limited by site conditions.

(4-c) Introduction – Josef Grusauskas, Director of Water Resources and Heather Carrizales, Manager, Human Resources:

Mr. Bunch indicated the aforementioned two new employees joined the UCNSB in the last month and then asked them to introduce themselves to the Commission.

Upon conclusion of introductions, Mr. Grusauskas proceeded to support the next agenda item.

(4-d) 2021 Consumer Confidence Report (CCR) – Water Quality Report:

A copy of the U.C.'s 2021 Consumer Confidence Report, better known as the Water Quality Report, along with an example utility bill, had been provided to the U.C. Commissioners on the dais. Mr. Grusauskas proceeded to discuss this report. Explained that this report will be distributed electronically to customers this year and a note will be displayed at the bottom of the utility bills for three months to support customers who prefer a paper copy. The note will state: "The Water Quality report is available online at <https://www.ucnsb.org/wqr> or call 386-427-1361 for a paper copy."

(4-d) 2021 Consumer Confidence Report (CCR) – Water Quality Report (cont.):

Mr. Grusauskas also briefly discussed a planned capital improvement project and newer process for the U.C.'s water plant, i.e., pellet softening.

Mr. Bunch explained this would be an improvement to the existing plant and when you compare the existing lime process, if we upgraded that to pellet softening over a 20-year period it's almost \$8 million less shifting to pellet softening than the current process; so it's a good business decision as well.

Mr. Grusauskas also mentioned there was a chlorine water system flush ongoing, planned to occur twice per year. Indicated staff may be adjusting the schedule for these system flushes to avoid holidays when possible.

(5) Commission Counsel's Report – General Counsel:

(5-a) Informational Presentation – Use of U.C. Revenues for Affordable Housing:

General Counsel Cloud provided a presentation in response to the Utilities Commissioners' request on March 28, 2022 and subsequent discussion on April 25, 2022, agenda item 6-b., related to a follow-up discussion on items from the Joint City / U.C. Workshop held on February 24, 2022. The question raised during the Joint Workshop by City Commissioner Hartman was whether or not revenues derived from U.C. operations can be used for Affordable Housing.

Mr. Cloud explained and discussed why the answer to that question would be no – basically three big reasons. First, there is no authority, no constitutional, general law or special act granting authority to the U.C. to provide or fund Affordable Housing. UCNSB's Special Acts are narrowly drafted for utility authority. State law actually prohibits UCNSB from expending capital or operating funds on Affordable Housing. And the U.C.'s bond covenants likewise prohibit expending monies for anything other than a "system purpose". UCNSB is a "Dillon Rule" political subdivision lacking constitutional or statutory Home Rule Powers. The U.C.'s Charter grants authority to manage, operate and control City utilities and can only collect rates, fees and charges for the services and utilities it provides. Looking at the capital connection fees, state statute and case law both state that if you're going to collect capital charges for a purpose, then there has to be a twin rational nexus that exists in how the charges are established and how they're levied so the charges are lawful. Cannot take charges levied for water and sewer capital needs and then use them for Affordable Housing.

Mr. Cloud indicated he had performed full jurisdictional research and there was only one state that had any kind of case law on this. It was New York state and dealt with general purpose cities, which in New York, as in Florida, has Home Rule Powers, which as stated previously, UCNSB is not.

Commissioner Smith requested for this legal determination to be forwarded back to the City, as a follow up to the previous letter (dated 5-3-22).

(5-a) Informational Presentation – Use of U.C. Revenues for Affordable Housing (cont.):

Chairman Davenport requested, specifically, for this legal determination to be forwarded by General Counsel Cloud to the City Attorney – Carrie Avallone, for distribution to the City Commissioners. (G.C. Cloud forwarded this legal determination to the City Attorney via email on 5-23-22.)

Mr. Cloud additionally provided some information regarding why solar projects were all under 75 megawatts (above 75 MW requires power plant siting approval under Chapter 403 and also requires FPSC certification of need). Also reported on a recent case, in the Vero Beach area and Indian River County, the Circuit Court handed down a decision which consistently ruled once again that utility rates cannot be limited by contract. Involved a town on a barrier island and a city utility, so this case will have full applicability to UCNSB.

(6) Old Business:

There were no old business items to consider.

(7) New Business:

(7-a) Scheduling of Public Hearings, with FPSC Electric Rates Submittal (Street Lighting and Electric Vehicle Charging):

Mr. Chavez stated as part of a couple of initiatives, there are a couple of rate proposals for electric rate tariffs, and this is the notification of the required public hearings. The two rates are a new rate for the pilot program for E.V. charging and the second, revisions to the public streetlight and private outdoor lighting rates. Explained with the supply chain issues and changes in material costs, the existing rates developed during the rate study, were now not reflective of today's associated material costs. With the public hearings, one in June, the final one in July, and then you will vote on this in the July meeting. Which would then become effective for August, first billing cycle in August. But nothing significant, more of updated costs and just letting you know.

(Note – The motion authorizing the scheduling of these public hearings, on June 27, 2022 and July 25, 2022, preliminary and final respectively, was made below, within the discussion under agenda item 8. Possible Other Business.)

(7-b) Presentation – Electric Vehicles and Infrastructure / Preparing for the Future:

Mr. McMurray provided a presentation entitled “Electric Vehicles & Infrastructure”. Discussed the U.C.’s current ongoing electric vehicle and electrification study and covered the various key points included in the study. Completion of this study is anticipated for July 2022. This study will provide recommendations for development of a long-term community approach. Also discussed the U.C.’s E.V. charger pilot program consisting of an initial five dual-port chargers. In the process of ordering, expected delivery by October 2022. Charger installation will be commencing at AdventHealth New Smyrna Beach (hospital), with two dual-port chargers. Then provided a map for the City’s determined ten priority charging locations and discussed the City’s top four locations. Also briefly discussed a seamless driver experience for charging and paying, as well as the expected data from the E.V. charging.

(7-b) Presentation – Electric Vehicles and Infrastructure / Preparing for the Future (cont.):

There was some discussion from Commissioners regarding various additional potential charging sites. Mr. McMurray pointed out 80% of charging occurs at home, 20% is the opportunity when people are traveling. Also indicated additional chargers could be ordered, currently a 12–14-week order time, but the U.C. could order more as determined needed. Indicated Shell Recharge, the selected vendor for the U.C., was awarded the RFQ, and is a proven charging system with great performance, a reputable firm.

Mr. McMurray concluded the presentation with a summary and next steps. The study is underway for the long-term E.V. charging strategy and rates, fleet electrification and use of distributed energy resource (DER) storage. The U.C.'s E.V. Charging Pilot has installations prioritized, with input from the Advent hospital and City. Vendor award for level II chargers completed and charging will include a seamless experience with a mobile app. Future charging locations can be easily added as the number of E.V.'s and the demand increases.

Commissioner Kelly indicated it was great the U.C.'s looking three to five years out. Mentioned a recent pre-order for an electric vehicle proved to be three times their anticipation; this will ramp up pretty quickly. Also indicated a lot of discussion ongoing about partnerships with different industries to sponsor charging stations.

Mr. Bunch stated in the U.C.'s service territory, regardless of who installs it, the U.C. will get revenue; indicating this will be a win, win. Most municipalities, like us, are installing them in key points to get this going and help facilitate the market.

Commissioner Smith also provided comments about the City might could support by zoning requirements, to include charging stations in projects and to ensure charging stations are in locations to benefit other parts of community as well - those more likely to have electric vehicles. Would like it known at some point, New Smyrna is an E.V. Friendly Community.

Commissioner Kelly also commented that he believes technology is going to change very fast, the technology is coming where there will be an 800 or 1,000-mile charge on an electric vehicle, probably going to be within five years. So you don't want to have charging stations all over the place or to invest a lot of money and rely on the revenue.

(8) Possible Other Business – Time for Commissioners:

Commissioner Kelly commended Mr. McMurray on the E.V. presentation and then inquired about street lighting in Venetian Bay. Had received some comments regarding different types of lights, being too bright, and asked if there's LED included.

Ms. Couillard indicated yes, dependent upon when the various developments within Venetian Bay were built. Explained UCNSB currently standardizing LED light lumens, going to 4,000 lumens with a natural daylight look, instead of 3,000 lumens with the blue hue that seems to bother people. Now have LED conversion kits available and if the affected HOA's would like to upgrade their streetlights, they can contact the U.C. to request that. And mentioned Ms. Fisher is working on a campaign and education around this. Explained the availability of street light units is also what prompted the updating of streetlight rates, can't get certain ones anymore.

(7-a) Scheduling of Public Hearings with FPSC Electric Rates Submittal (cont.):

Mrs. Simmons mentioned the need for a motion for the previous agenda item 7-a., regarding the scheduling of the public hearings for the proposed electric rates (streetlights and E.V. charging).

Commission Action:

Commissioner Smith stated so moved; specifically a motion authorizing the scheduling of two public hearings for the two proposed electric rates, for June 27, 2022 and July 25, 2022, preliminary and final respectively, at 3:00 p.m. prior to the Regular U.C. Meetings on those dates, and for General Counsel Cloud to submit these rates to the Florida Public Service Commission for the required rate structure review.

Commissioner Hawes seconded the motion, which then passed unanimously on a roll call vote.

Mrs. Simmons mentioned it was Tim Beyrle who had brought forth the missed action.

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

Commissioner Smith also commended the presentation and discussion regarding E.V.'s and then inquired about the status of updating the rebate form for installing higher-grade air conditioners.

Mr. Chavez explained staff was in the process of reviewing all programs, want to get through the next couple of months on the customer experience. Existing rebate forms are still available, no changes, and can be found on the website. Indicated looking at the whole program for a combo of energy efficient practices and want to tie it more to the SilverBlaze rollout, part of that is the conservation program.

Mr. Bunch added the old demand side management program is an unsupported system, will do something with that, whether it sort of sunsets and moves to a new program not sure yet, but reviewing all of those for recommendations. Anticipates either rebates or reduced rates for the conservation type things that are determined to continue.

Chairman Davenport inquired about the status of relocating UCNSB's fleet facility from the City's Swoope site.

Mr. Bunch mentioned the Joint Fleet concept study, which the City decided not to participate in due to their associated, required expenditure. Ms. Couillard's currently working with the U.C.'s consultant to determine a best location on the WRF site. Probably a year and half to two years from go to finish for construction and to get off the Swoope site so the City can provide more parking places for boats. Also commented not sure about the City's arrangement with the County for the remaining reef construction activities located on that site.

Chairman Davenport also inquired about the status of septic to sewer projects, i.e., for Silver Sands.

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

Mr. Bunch indicated at this point, for moving forward feasibly with Aqua Court and Silver Sands, Ms. Couillard will be having a discussion with the selected grant funding consultant. If grant funding not available, will need to determine residents' interest to pursue the expansion of sanitary sewer on their own.

Ms. Couillard indicated the new grant funding consultant group was approved today, should have a meeting in a couple of weeks for all UCNSB projects, including those two.

Chairman Davenport discussed recent FIND site visits discussing environmental quality of the water as well as the inlet. Commented County Councilman Danny Robbins and County and City personnel could possibly assist with getting money to get those areas off of septic tanks.

Mr. Bunch indicated after trying to assess all various avenues for potential funding, then can circle back if there's an opportunity to reach out to some of those contacts. Also mentioned, as additional potential contacts, Senator Wright, and the County Manager and County Water Director.

Chairman Davenport confirmed there were no further comments and adjourned the meeting.

There being no further business to come before the Commission, the Regular U.C. Meeting closed at 4:37 p.m.

APPROVED:

ATTEST:



CHAIRMAN



SECRETARY-TREASURER

These minutes were formally approved by the Utilities Commission at their June 27, 2022 meeting.