

[ANNOTATED VERSION]*

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

MINUTES OF A FINAL PUBLIC HEARING AND REGULAR MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, JULY 25, 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, called the meeting to order.

Commissioner Smith led in the Pledge of Allegiance and Commissioner Conrad provided the invocation.

Safety Message by Julie Couillard – Hurricane Preparations:

Ms. Couillard provided a slide presentation entitled “Hurricane Preparedness Reminder”. Discussed tips and numerous suggestions for hurricane preparations, supplies and how to build hurricane kits associated with individual requirements.

Chairman Davenport and Mr. Bunch commended Ms. Couillard on her safety message.

Chairman Davenport requested all to keep Vice Chairman Hawes in their thoughts, was ill and couldn't attend nor participate in today's meeting.

Final Public Hearing RE: Proposed Revisions to UCNSB's Electric Service Rates for Public Street Lighting and Private Outdoor Lighting (Increases) and Proposed New Electric Service Rates for Electric Vehicle (E.V.) Charging:

Chairman Davenport opened and conducted the final Public Hearing regarding the above stated proposed electric service rates.

Chairman Davenport requested a roll call to be taken for this Public Hearing.

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

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

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; D. Wood, Customer Service Manager; M. Spellers, Sr. Help Desk Technician; L. Green, Help Desk Technician; D. Simmons, Exec. Mgr./ Recording Secretary; General Counsel Thomas Cloud, Esquire – Gray|Robinson Attorneys at Law; and Lorraine Sharp, Lisa Martin, David McKenna, and Mark McCain, members of the public in attendance on site.

Final Public Hearing RE: Proposed Electric Rates (SL's & E.V. Charging) (cont.):

General Counsel Cloud read the proposed Resolution (No. 2022-01) by title - a Resolution of the Utilities Commission, City of New Smyrna Beach, Florida; Modifying Rates, Charges, and Fees Related to Electric Service; Providing Findings; Providing for Severability, Conflicts, and an Effective Date.

There were no public comments nor internal comments regarding the proposed electric rates.

Chairman Davenport asked if he needed to get a motion for the proposed resolution.

Mr. Cloud indicated yes, a motion to approve the resolution.

Commission Action:

(Formal Approval of Agenda Item 7-a. – 7-25-22 on Regular Meeting Agenda):

Commissioner Conrad stated I'll make the motion; specifically to approve Resolution No. 2022-01 modifying NSBU's electric service rates for streetlighting (increases) and a new rate for electric vehicle (E.V.) charging. Resolution No. 2022-01 will become effective immediately upon adoption, with the approved electric rates taking effect on August 1, 2022.

Commissioner Kelly stated second.

Chairman Davenport stated okay, any discussion here Commissioners.

Commissioner Conrad stated no, the only discussion I would have is I do believe this is timely and we need to have it and I'm all in favor of it and looking forward.

Chairman Davenport stated that's good discussion Commissioner Conrad. Mrs. Simmons would you call the roll.

Commissioner Conrad's motion approving NSBU Resolution No. 2022-01 then passed unanimously on a roll call vote.

This Final Public Hearing closed at 3:10 p.m.

Regular U.C. Meeting Held 6-27-22:

Roll Call:

An additional roll call was taken to commence the Regular U.C. Meeting, and the same attendees remained in attendance, as shown in the Final Public Hearing above.

(1) Agenda Changes, Additions and Deletions:

Mr. Bunch stated he would like to make an addition to the General Manager's section, adding item 4-d., an informational presentation on the power market conditions.

(1) Agenda Changes, Additions and Deletions (cont.):

Mr. Cloud stated he would like to add item 5-a., a proposed settlement of the Cory case.

Chairman Davenport acknowledged both add-on items to the Regular U.C. Meeting agenda.

(2) Public Participation:

Chairman Davenport announced the opening of public participation and then 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 announced item number 3. Approval of Consent Items and confirmed none of the Commissioners wanted to put anything from the consent agenda for discussion.

Commission Action:

Commissioner Conrad stated then I'll make a motion for approval of the consent items, a. through f.; specifically a motion to approve item 3-a. Minutes of Preliminary and Regular U.C. Meeting held 6-27-22, approve as submitted; item 3-b. Developer's Agreement – Ocean Gate PUD – Phase 2 (Ocean Gate Commerce Center, LLC), approve the agreement as submitted and authorize the General Manager/CEO or his designee to execute this document when contingencies are met; item 3-c. Granted and Third Party Utility Easements, ratify the acceptance of one third-party granted utility easement – granted to NSBU for the NSB Imaging Center – 1998 S.R. 44, Unit 3, from Gerard G. Gaenther, Jr., copy attached and submitted to the Commission; item 3-d. WRF West Clarifier Drive Unit Replacement Project, approved the Project in the total not-to-exceed amount of \$115,000 and the associated sole source purchase of the West Clarifier Drive Unit from Ovivo USA, LLC, in the amount of \$107,400, and authorization for GM-CEO or his designee to execute all documentation for this project; 3-e. Project approval – Smyrna Substation Circuit 32 Construction, approve the project in the total amount of \$1,500,000.00 and authorize the GM-CEO or his designee to execute all documents associated with this matter; and item 3-f. Agreement Approval – Addendum No. 3 to General Counsel's Agreement – Rate Modification, approving this addendum between NSBU and Gray Robinson, P.A. (G.R. – Thomas A. Cloud, Esq. responsible for all legal work performed for NSBU), and authorization for the GM-CEO or his designee to execute the documentation for this matter.

Commissioner Kelly seconded this motion.

Chairman Davenport requested Mrs. Simmons to call the roll.

Commissioner Conrad'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 June 2022 Financial Performance Report.

(4-a) Financial Status – June 2022:

Mr. Chavez provided his financial presentation for June 2022 and stated the change in net assets were about \$4.5 million. With warmer weather, New Smyrna Beach Utilities (NSBU) has increased revenue which was offset by increased purchased power and related operating expenses. Fiscal year to date purchased power cost was at \$65.74 per megawatt hour, which was \$13.81/MWh higher than last year's \$51.93/MWh. Staff is monitoring and continuing to monitor the fuel and purchased power cost. Due to natural gas prices staying relatively high, staff is forecasting another potential upcoming FPPCAC adjustment (increase).

Mr. Chavez continued and indicated water consumption was 4.2% higher, wastewater 3.3%, and reclaimed water 7.3% higher. Capital expenditures were at \$14.5 million, with \$8.6 million in major projects and \$5.9 million in annual projects. Mentioned purchasing is proactively working with all impacted parties, internal and external, to procure the critical items needed for operations, continuing to work with our vendors and our suppliers. Fiscal year to date, approximate \$2.1 million operating income. Last year NSBU had a \$1.2 million loss. Staff met with NSBU's largest purchased power provider and confirmed they also do not see markets or increases in fuel and purchased power abating any time soon. NSBU investments remain conservative but are still earning more than average. Fiscal year 2022 income before contributions at a \$1.9 million profit versus a \$1.7 million loss last year, a \$3.6 million year over year improvement. Adding, this was really our overall efforts to make sure that we're heading in the right direction and not continue to operate at a loss, and just making sure we're building up for the sustainability of our longer term.

Mr. Chavez went to the next slide and stated so the rest of the presentation was the Appendix on the KPI's, which we will not go through in detail unless you have questions. We are in pretty good shape overall. With no questions, then turned it over to Mr. Bunch.

(4-b) Quarterly Submission of Balanced Scorecard and Enterprise Metrics – for June 2022:

(Submitted; informational only, no discussion nor questions at this time.)

ADD-ON (4-d.) Informational Presentation RE: Power Market Conditions:

Mr. Bunch provided various slides and discussed the current status of the power market. Explained the information on some slides from Florida Municipal Power Association. Pointed out as the market goes with the price of gas, so does the price of power in Florida. On a relative basis, NYMEX pricing, the gas settlement group for bulk gas purchases, has more than doubled, and at some points in the year has been three to almost four times more from October 2021. Was only about \$2.50/MMBtu and currently in the \$10.00 plus range. The next slide provided the change in oil prices as well as gas. Gas crude was only a little more than \$50 a barrel in 2019 and recently went up over \$115 a barrel. Natural gas prices, which produces over 70% of NSBU's electricity, as explained are in the \$10 range. Oil production,

ADD-ON (4-d.) Informational Presentation RE: Power Market Conditions (cont.):

rig count is down, existing production mainly through short term, shallow fracking rigs (good for 2-4 years) instead of the previous more expensive deep production wells (good for 20+ years). Will need to drill many more if there's a desire to keep up domestic oil production, but due to financial risks and government restrictions on the number of permits the result is demand is up, paying over \$100 per barrel – real time supply demand situation in the market. Also pointed out gas inventory was another factor – demand is up, extremely high, and supply is only getting back to where it was a couple of years ago. If you name any commodity right now, if it's used for producing energy, the prices are up. Added this is the state of the market right now and NSBU's cost for power, as stated in the financial report, is about \$67 a megawatt hour. The majority of that is purchased power through our contract with FPL. Our peers in the FMPA municipalities are a good deal north of that. Staff did meet with FPL to talk about options going forward and have the option to go out to market, try to get different contracts, or extend existing contracts.

Mr. Bunch continued his presentation and discussed NSBU's existing contract with FPL. Indicated since January 2022 when the contract was struck and May, FPL's system average energy costs have increased about 50% (from \$29.75/MWh to \$47.27/MWh). Last month, in June, this went up to about \$62/MWh, more than doubled since January. Stated as Mr. Chavez had mentioned, staff is working to try to mitigate the increased system average pricing. The second component is intermediate and peak load, have your average and the intermediate is purchased above and beyond that. Going forward, as mentioned NSBU can go out to market or keep the existing contract pricing in place with just updates to the cost of gas. FPL has additionally offered NSBU to go to an overall average which rolls the intermediate peak calculation into one average. Tim Beyrle and Efren Chavez will be reviewing this matter and will be coming back with recommendations on how to best structure this contract for NSBU. Because of the healthy reserve fund in purchased power last year, NSBU has been able to ride recent ups and downs over the last seven months, but at some point NSBU will need to adjust the purchased power portion. Pointed out NSBU remains as a low-cost provider, currently about the second least cost provider in Florida for residential electric and small commercial customers. Then concluded by stating this provided what was going on in the market and the things that influence NSBU's cost of power. Then offered to answer any questions on his informational presentation. There were no questions at this point.

**(4-c) Approval – Commissioner Travel Expenses FMEA 2022 Annual Conference –
Commissioner Smith:**

Mr. Bunch introduced this item.

Chairman Davenport confirmed Commissioner Smith would like to reserve his comments regarding the conference until item 8., time for Commissioners.

Commission Action.

Commissioner Kelly stated move to approve; specifically approving Commissioner Smith's travel expenses in the total amount of \$1,982.50 for the FMEA 2022 Annual Conference (held 7-12-22 through 7-15-22 in Palm Beach, Florida).

(4-c) Approval – Commissioner Travel Expenses FMEA 2022 Annual Conference –
Commissioner Smith (cont.):

Commissioner Conrad and Chairman Davenport simultaneously seconded the motion.

Chairman Davenport requested Mrs. Simmons to call the roll.

Commissioner Kelly's motion then passed unanimously on the roll call vote.

(Commissioner Conrad's expenses will be formally approved at the next Regular meeting –
on 8-22-22.)

In between the motion and roll call, Mr. Bunch indicated he had one additional item under the General Manager's Report. Mentioned an item that had been included in the Executive Summary section. There was some discussion last month regarding Mr. Chavez' position and subsequent to that with input from the Commissioners on making a title change for his role, from Director and CFO to Vice President and Chief Financial Officer. And in the process, stated we're actually eliminating another Director role and moving those functions under him. So a move that manyfold pays for itself, but I wanted to advise the Commission on that change that will be made effective August 1st.

After expressions of congratulations, Chairman Davenport confirmed the Commission did not need to take any action on this matter related to Mr. Chavez.

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

Mr. Cloud provided some background on the 2012 lift station no. 4 project which led up to the problem of the pipe installation being too low when it got to the lift station. A surveying error was partially at fault, took a long time to get resolved, and the mediated settlement offer for the surveying error was \$110,000.00 to NSBU. Recommended the Commission approve this settlement and offered to answer any questions. Also added the staff person who worked on this was Julie Couillard and who has a lot of the background on this matter.

Chairman Davenport confirmed with Mr. Cloud that he was advising the Commission to accept this settlement agreement and general release for this matter. Also confirmed a motion was needed.

Commission Action:

Commissioner Smith stated so moved; specifically a motion to approve, adopt and ratify the Mediated Settlement Agreement and General Release for UCNSB v. Daniel W. Cory Surveyor, LLC (Case No. 2019 10426 CIDL).

Commissioner Conrad stated second.

Additional discussion ensued prior to the final roll call approval of this action below.

Chairman Davenport inquired as to the total cost of the project.

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

Ms. Couillard stated the total cost to rework the project was \$286,000.00. Pursuant to Mr. Bunch's request, Ms. Couillard additionally stated the other parties involved were the surveyor, contractor on-site, and previous Engineering staff, no longer employed at NSBU.

Chairman Davenport asked if there was any recourse for the contractor.

Ms. Couillard indicated no, they were notified at fault, were supposed to send their insurance information but then staff paid the final invoice, and everything was gone.

Mr. Bunch pointed out the original surveying error occurred in 2012, confirmed construction was in 2017, so five years in between. There was a construction contractor involved and yes, the surveyor had some blame, but I think it would be a stretch for any of us to say the surveyor was solely at fault. Our recommendation is to accept the settlement that was negotiated in a mediation. Is it perfect, no, but we think its equitable to all parties.

Chairman Davenport confirmed with Ms. Couillard that this referenced contractor is not being used and added, if used would need to bond them really good.

Ms. Couillard indicated she would deal with things like this quickly and this would not happen again.

There being no further discussion on the motion, Chairman Davenport requested Mrs. Simmons to call the roll.

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

Chairman Davenport confirmed Mr. Cloud had no further matters to discuss.

(6) Old Business:

There were no Old Business items to consider at this time.

(7) New Business:

(7-a) Proposed NSBU Resolution No. 2022-01 – Modifying Electric Rates Related to Streetlighting and New Rates for Electric Vehicle (E.V.) Charging:

Chairman Davenport confirmed with General Counsel Cloud this matter had been completed. Formal action on this matter, adopting and approving NSBU Resolution No. 2022-01, took place at the end of the Final Public Hearing.

Commission Action (duplicated from Final P.H. above):

Commissioner Conrad stated I'll make the motion; specifically to approve Resolution No. 2022-01 modifying NSBU's electric service rates for streetlighting (increases) and a new rate for electric vehicle (E.V.) charging. Resolution No. 2022-01 will become effective immediately upon adoption, with the approved electric rates taking effect on August 1, 2022.

(7-a) Proposed NSBU Resolution No. 2022-01 – Modifying Electric Rates Related to Streetlighting and New Rates for Electric Vehicle (E.V.) Charging (cont.):

Commissioner Kelly stated second.

Chairman Davenport stated okay, any discussion here Commissioners.

Commissioner Conrad stated no, the only discussion I would have is I do believe this is timely and we need to have it and I'm all in favor of it and looking forward.

Chairman Davenport stated that's good discussion Commissioner Conrad. Mrs. Simmons would you call the roll.

Commissioner Conrad's motion approving NSBU Resolution No. 2022-01 then passed unanimously on a roll call vote

(8) Possible Other Business – Time for Commissioners:

All Commissioners congratulated Mr. Bunch on his recent nomination and appointment as the President-Elect for FMEA's 2022-2023 Executive Board. An honor which took place at the Annual FMEA Board Meeting during the FMEA 2022 Annual Conference.

Discussion ensued regarding E.V. charging and utility system planning, as well as this being a possible consideration and inclusion as a requirement into land development planning by the City of New Smyrna Beach.

Mr. Bunch mentioned that John McMurray, the Director, Strategic Programs could provide guidance for E.V. charging in condos and additionally could assist Commissioner Conrad's condo association on this topic. Also indicated a near future NSBU presentation will be forthcoming by Mr. McMurray regarding E.V. charging installations.

Ms. Couillard indicated that Engineering was actively working with this subject, E.V. charging in multi-family locations, with development and current customers.

Commissioner Kelly applauded NSBU staff for their preparation and planning surrounding E.V. charging. Indicated the car industry is expecting rapid development in the next two years. Also commended NSBU leadership for the \$3.6 million swing in profit as shown and discussed during the financial presentation.

Chairman Davenport congratulated Efren Chavez on his promotion and new position and reiterated his commendation for realized savings on the prior NSBU bonds issuance. Also discussed the desire to get funding for septic-to-sewer initiatives, especially for Silver Sands (south beach area). And challenged all in attendance to think about future, out-of-box solutions to assist with downtown New Smyrna Beach parking.

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

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

There being no further business to come before the Commission, the Regular U.C. Meeting closed at 3:58 p.m.

APPROVED:

ATTEST:



CHAIRMAN



SECRETARY-TREASURER

These minutes were formally approved by the Utilities Commission at their August 22, 2022 meeting.