

MINUTES OF A SPECIAL MEETING AND EXECUTIVE SESSION OF THE NEW SMYRNA BEACH UTILITIES, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, SEPTEMBER 12, 2022, AT 3:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

Chairman Davenport opened the Special NSBU Meeting, called the meeting to order, to be held today Monday, September 12, 2022 at 3:00 p.m.

Chairman Davenport then requested Mrs. Simmons to take a roll call. All of the U.C. Commissioners were in attendance as follows:

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

Others in attendance at this time were as follows: J. Bunch, General Manager/CEO; L. Green, Help Desk Technician; D. Simmons, Exec. Mgr./ Recording Secretary; General Counsel Thomas Cloud and Jack Kirschenbaum – Gray|Robinson Attorneys at Law; Frank Mari, Bell & Roper, P.A.; and with no members of public in attendance on site.

(1) Ratification – Re-Scheduling of Executive Session – Closed Attorney-Client Session:

Chairman Davenport stated okay, number one on the agenda is the Ratification – Re-Scheduling of the Executive Session and the Closed Attorney-Client Session. Under the line, 1-a., is Rescheduled from 9-26-22 to 9-12-22, to today. And then b. 9-12-22 date for Closed Attorney-Client Session Properly Noticed in Orlando Sentinel on 9-2-22 (sic 9-4-22).

(2) Approval – Re-Scheduling of Regular (Reorganizational) NSBU Meeting:

Chairman Davenport stated, and then item number 2. Approval of Re-Scheduling of the Regular / Reorganizational meeting of the New Smyrna Beach Utilities Commission meeting. 2-a. Rescheduling from 9-26-22 Monday, 3:00 pm, to 9-22-22 Thursday and at 10:00 am. Then the next one here on, we've got item I.

Commissioner Conrad interjected do you need a motion on that approval?

Chairman Davenport stated do we need a motion Mr. Cloud?

Mr. Cloud stated yes, you need a motion on both of them.

Chairman Davenport stated both of them, okay, so I went too fast.

(1) Ratification – Re-Scheduling of Executive Session – Closed Attorney-Client Session (cont.):

Chairman Davenport then stated back to number one, ratification, can I have a motion on that?

Commissioner Conrad interjected I make that motion, then added go ahead.

Chairman Davenport continued, on number one I'll just read it real quick, a ratification of re-scheduling Executive Session, closed Attorney-Client Session; may I have a motion?

Commissioner Smith then stated so moved; specifically a motion ratifying the re-scheduling of the Executive Session – Closed Attorney-Client Session from September 26, 2022 to September 12, 2022 at 3:00 p.m. This session was properly noticed in the Orlando Sentinel on Sunday, September 4, 2022.

Commissioner Kelly stated second.

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

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

(2) Approval – Re-Scheduling of Regular (Reorganizational) NSBU Meeting (cont.):

Chairman Davenport stated okay, then number 2., we're going to need a motion on it too. And that's approval of re-scheduling the Regular / Reorganizational New Smyrna Beach Utilities Meeting.

Commissioner Hawes stated so moved; specifically a motion approving the re-scheduling of the Regular / Reorganizational NSBU meeting from September 26, 2022, Monday, at 3:00 p.m. to September 22, 2022, Thursday, at 10:00 a.m.

Commissioner Kelly stated second.

Chairman Davenport stated okay, Mrs. Simmons call the roll please.

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

I. Executive Session – Closed Attorney-Client Session

Chairman Davenport stated okay, now the next thing Mr. Cloud, the Executive Session. Do we close, attorneys, is this where we...?

Mr. Cloud stated you, commented oh, I can't think of the word.

Chairman Davenport stated excuse ourselves?

Mr. Cloud stated recess, you recess this meeting, a motion to recess this meeting until after the completion of the Executive Session, and then you would break into Executive Session.

I. Executive Session – Closed Attorney-Client Session (cont.):

Commissioner Smith stated so moved; specifically approving recess of the Special NSBU Meeting until after the completion of the Executive Session – Closed Attorney-Client Session.

Commissioners Conrad and Kelly simultaneously seconded the motion.

Chairman Davenport stated okay, Mrs. Simmons call the roll please.

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

Chairman Davenport stated okay, now we'll break, we'll go to the second floor.

Mr. Cloud stated that's correct.

Chairman Davenport added and then we'll come back and reconvene.

Mr. Cloud reiterated, that's correct.

Chairman Davenport stated thank you.

The below attendees retired to the 2nd floor Executive Conference Room at approximately 3:04 p.m. to conduct the Closed Session:

ATTENDEES

NEW SMYRNA BEACH UTILITIES COMMISSIONERS (FIVE):

- 1) CHAIRMAN JAMES DAVENPORT
- 2) VICE CHAIR RICHARD HAWES
- 3) SECRETARY-TREASURER LILLIAN CONRAD
- 4) ASST. SECRETARY-TREASURER JAMES SMITH
- 5) COMMISSIONER LAWRENCE KELLY, JR.

IN ADDITION TO THE FIVE NSBU COMMISSIONERS, EXPECTED ATTENDEES TO THE ATTORNEY/ CLIENT SESSION ARE:

- 6) THOMAS CLOUD, GRAY ROBINSON, P.A.
- 7) JACK KIRSCHENBAUM, GRAY ROBINSON, P.A.
- 8) FRANK MARI, BELL & ROPER, P.A.
- 9) JOSEPH BUNCH, NSBU GM-CEO
- 10) CERTIFIED COURT REPORTER* (*Set-up in conference room.)

(3) Resumption of Special Meeting – 3rd Floor DeBerry Room:

At approximately 4:00 p.m., the above attendees returned to the 3rd floor DeBerry Room.

Chairman Davenport then stated we'll reconvene this Special NSBU Meeting on the third floor in the DeBerry Room. And what I'd like to have now is the motion to adjourn.

(4) Possible Action Concerning Settlement Negotiations and Strategy:

No discussion nor action taken concerning settlement negotiations or strategy.

(5) Conclude Special Meeting:

Commissioner Conrad then stated I'll make that motion.

Simultaneously Commissioner Smith stated so moved; specifically a motion to adjourn today's Special NSBU Meeting.

Commissioner Conrad then stated I'll second it.

Chairman Davenport stated okay, Mrs. Simmons call the roll please.

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

Chairman Davenport then stated okay, thank you everybody. Thank you, Mr. Kirschenbaum, Mr. Mari, and Mr. Cloud, I think we're going down the right road here guys.

There being no further business to come before the Commission, the Special NSBU Meeting closed at 4:02 p.m.

{NOTE – Effective at the U.C.'s 3-22-21 Regular U.C. Meeting, commencing with the minutes for Two Final Public Hearings and Regular U.C. Meeting Held 2-22-21, the Commission will start approving annotated minutes within the agenda package. These detailed, near verbatim minutes will still be prepared for reference, electronic searches, and will additionally be posted on the U.C.'s website – nsbufl.com}