

*[ANNOTATED VERSION\*]*

*[\*Near verbatim/detailed version of minutes posted on NSBU website – nsbufl.com]*

MINUTES OF A REGULAR MEETING OF THE NEW SMYRNA BEACH UTILITIES,  
CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, MARCH 27, 2023, AT  
3:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA  
**(NOTE – THIS REGULAR NSBU MEETING WAS HELD ON-SITE)**

Chairman Davenport called the Regular NSBU Meeting on March 27, 2023 at 3:00 p.m. to order.

Quarterly Employee Recognitions – Michael Cardell, Joshua Tew, Gage Fisher & Frank Sharp:

Chairman Davenport explained NSBU’s new Quarterly Employee Recognition process and read each of the above listed Employee’s accomplishments. These employees were recognized for their efforts to improve their skill sets, education and/or their positions at NSBU, a tremendous value to NSBU as well as our community and customers.

After applause, photographs, and congratulations, Chairman Davenport requested Commissioner Smith to lead in the Pledge of Allegiance and Commission Conrad to provide the Invocation.

Safety Message by Josef Grusauskas – Sunshine 811 – Call Before You Dig:

Mr. Josef Grusauskas, Director of Water Resources, provided handouts to the Commissioners and displayed a Sunshine 811 education video entitled Sun 07 Understanding the Marks. Discussion included the required depth of utilities and soft digs with a vacuum extractor.

Roll Call:

Chairman Davenport requested a roll call to be taken. A majority of the NSBU Commissioners were in attendance as follows:

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

Others in attendance at this time were as follows: J. Bunch, General Manager/CEO; E. Chavez, Vice President/CFO; V. Steele, Director, Electric Operations; D. Hale, Civil Engineering Manager; J. Grusauskas, Director, Water Resources; L. Green, Help Desk Technician; D. Wood, Sr. Mgr., C.S. & Communications; E. Fisher, Communications Mgr./PIO; D. Simmons, Exec. Mgr./ Recording Secretary; Michael Cardell, Water Treatment Plant Operator; Joshua Tew, Wastewater Treatment Plant Supervisor, General Counsel Thomas Cloud, Esquire – Gray|Robinson Attorneys at Law; Ronald Whitesides, Audit Partner, and Matthew Ganoë, Sr. Audit Mgr., both with Purvis Gray; Lisa Martin, NSB City Commissioner, Paula Rossiter, and an unidentified woman, both members of the public in attendance on site.

(1) Agenda Changes, Additions and Deletions:

(1-a) Agenda Change Request – Consideration of New Business Item 7-a. Prior to Consent Items:

Informal request to have the Fiscal Year 2022 Annual Comprehensive Financial Report (ACFR), agenda item 7-a., moved up on the agenda to accommodate Purvis Gray auditors, from the Gainesville area. Concurrence received for FY22 ACFR to be presented after Public Participation (AI 2.) and prior to consideration of the Consent Items (AI 3.)

(2) Public Participation:

Chairman Davenport confirmed there was no one from the public requesting participation. Also recognized City Commissioner Martin for her attendance at this meeting.

There was no other public participation at this time.

(7-a) Fiscal Year 2022 Annual Comprehensive Financial Report (ACFR) – Audit\*:

*(\*Note – Item 1., moved up 7-a. on agenda for presentation, discussion, and approval prior to consent items – Item 3.)*

Purvis Gray Audit Partner Ron Whitesides briefly reviewed and discussed the Fiscal Year 2022 Annual Comprehensive Financial Report (ACFR). Mr. Whitesides commended New Smyrna Beach Utilities (NSBU) staff for their prep work and support during the audit. Mr. Whitesides reported to the Commission that there were no discrepancies found in financial rules and regulations within NSBU's processes and controls. This audit received an unmodified opinion, the highest form of assurance an auditor can provide and stating in their opinion all NSBU financial information was fairly stated in accordance with appropriate accounting policies and processes.

Mr. Whitesides continued and briefly reviewed NSBU's income statement. There was \$78 million in billed revenues, which was up from \$63 million in the prior year, about a 25% increase. Out of this \$16 million revenue increase, about \$13 million was from the electric utility. Primarily being driven by increased power costs. In expenses, purchased power is about a \$10 million increase over the prior year. This was the first year implementation of the new rates (10-2021), not a lot of impact on electric but increased water revenues of about \$2 million and about \$0.8 million in wastewater / reclaimed water revenues. The increases were from volume increases and the rates. Expenses for NSBU increased about \$13 million, \$10 million due to cost of power. The remaining \$3 million was spread amongst all functions. Most areas up 8% to 10% in total costs. Commented everything more expensive now compared to a year ago. Then reviewed income before contributions, a negative \$1.5 million compared to same, prior year. Fiscal year 2022 non-operating events of unrealized market value decline in investments and hurricane costs – about half of the hurricane costs, drove down the net final number for fiscal year 2022. Then pointed out this was accrual-based information, have about \$9 million in depreciation expense, and this is a book loss not a cash loss.

(7-a) Fiscal Year 2022 Annual Comprehensive Financial Report (ACFR) – Audit\* (cont.):

Mr. Whitesides continued and then reviewed the balance sheets. Due to the over-recovered position of the purchased power reserve, \$7.3 million at the end of 2021, and the power cost increases in 2022, cash declined from \$6 million to \$1 million. This was an example of why a reserve is needed. Account receivables increased, almost \$2 million, cost of power related. Unbilled energy costs and fuel adjustment created a net under-recovery at year end. Similar to a short-term loan to customers through provided rate relief. NSBU inventory was up, almost \$1 million. Typical for every utility due to supply chain problems along with increased costs. Internally designated cash investments, earmarked for future capital projects, balance increased about \$2 million over prior year. Indicated this was because NSBU now using bond funds and the capital funds now being replenished. Restricted assets decreased from \$68 million to \$50 million, \$18 million decrease is a spend down of bond funds on capital projects. Was \$200 million in capital assets, up \$13 million, cash converting to capital assets and then depreciated. As projects go on, this transition will continue of depleting bond funds and increasing capital assets. Liabilities / payables increased from \$4 million to \$9 million due to the cost of power and hurricane costs. Long-term debt decreased from \$77 million to \$74 million, routine pay down of bonds. Unrestricted equity from \$12 million to \$18 million, and was \$6 million in 2020, which was due to NSBU using bond funds for capital projects in lieu of internally designated monies.

Mr. Whitesides stated this utility was in good financial condition. The rate adjustments were necessary to turn from an operating loss to an operating income position. And then finalized his presentation by discussing a few items contained within the required Communication with those Charged in Governance – received by the Commissioners. In conclusion, stated so again as I said to start with, management was well prepared for the audit and you're getting timely information throughout the year, and what we do in the audit process just confirms that you're getting provided good information.

Commissioner Conrad stated thanked Mr. Whitesides and Purvis Gray for the work they do for the Commission. Also thanked Mr. Bunch for his leadership and the staff for getting everything together so Purvis Gray could do their job and confirm the information is correct that is provided at every board meeting.

Mr. Bunch also thanked Purvis Gray, adding they show up and apply a lot of rigor. Also commended Laurie Merchant, NSBU's Manager of Finance/Accounting, and Comptroller, stating she does a yeoman's job of making sure the organization is prepared for the audit. Also stated that a motion to approve was now needed.

Commission Action:

Commissioner Conrad stated I'll make that motion; specifically a motion to approve, receive the Fiscal Year 2022 Annual Comprehensive Financial Report (Audit) for the New Smyrna Beach Utilities.

Commissioner Hawes stated second.

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

(3) Approval of Consent Items:

After confirming none of the other Commissioners desired to pull any consent items from the consent agenda for discussion, Chairman Davenport stated I'd like to pull d. if I could please. And then requested a motion on consent items a., b., c., and e.

Commission Action:

Commissioner Smith stated so moved; specifically a motion to approve the consent agenda items a., b., c., and e.; approve item 3-a. Minutes of Workshop Held 2-8-23, and Special Meeting, and Final Public Hearing and Regular NSBU Meeting Held 2-27-23 (annotated versions), approve as submitted; item 3-b. Ratification – Granted and Accepted Third Party Utility Easements (6), ratify acceptance of the six third party granted utility easements, granted to NSBU for a customer-initiated overhead to underground residential electric services conversion on South Atlantic Avenue, attached to the agenda item and hereby submitted to the Commission; item 3-c. Renewal – ESRI Small Utility Enterprise License Agreement (SU-ELA), approve the renewal of this sole source agreement with Environmental Systems Research Institute, Inc. (ESRI) for a period of three years in the total amount of \$165,000.00, and authorize the GM-CEO or his designee to execute these documents; and item 3-e. Proclamation – Declaring April 2023 Water Conservation Month, approve the NSBU proclamation (copy attached to the agenda item), designating the month of April 2023 as Water Conservation Month. *(Note - After adoption proclamation reported to FSAWWA to add to the statewide list and ensure NSBU's efforts are included to promote the importance of water efficiency and conservation practices in the operations of water utilities within the State of Florida.)*

Commissioner Hawes stated second.

Commissioner Smith's motion approving consent items a., b., c., and e. then passed unanimously on a roll call vote.

(3-d) Ratification – I-95 & Pioneer Trail Interchange (FDOT Project No. 436292-1-52-01) – Funding of NSBU Potable Water Main:

Chairman Davenport explained that he had received an email from Ms. Shauna Junco (*sjuncopharmd@gmail.com*) who requested NSBU to not approve the funding for these water main improvements as depicted within consent item 3-d.

Mr. Bunch explained NSBU was not a driver of the FDOT Interchange planned for Pioneer Trail. NSBU has infrastructure that crosses the area and infrastructure planned in the future to cross that area. In response to some of Ms. Junco's statements and just as a comment regarding climate change, as of today NSBU receives 35% of our energy from renewable or carbon free energy – from a fractional portion of FPL's St. Lucie Unit 2 nuclear plant and other renewable energy embedded in the FPL supply portfolio NSBU purchases from. Also contracted with FMPA for 10 MW's of solar energy that should go online between end of this year and next. Also considering participation in an additional FMPA solar energy project.

Mr. Bunch and Ms. Dana Hale also then clarified, specific to water, that these were planned water main improvements, included in 2016 NSBU Master Plan, and that numerous benefits would be realized upon completion of these improvements. Added the source of funding was

(3-d) Ratification – I-95 & Pioneer Trail Interchange (FDOT Project No. 436292-1-52-01) – Funding of NSBU Potable Water Main (cont.):

from NSBU's Capital Connection Restricted Fund, collected from developers, and this project would also realize cost efficiencies within the installation of this water main and the electric undergrounding in conjunction with FDOT's Interchange construction. Also explained NSBU's electric infrastructure within the FDOT Interchange project area was required to be relocated, is associated with Federal Funding, and would be fully funded by FDOT.

Chairman Davenport stated okay, on d., can we get a motion to approve that item.

Commission Action:

Commissioner Hawes stated so moved; specifically a motion to approve consent item 3-d. Ratification – I-95 & Pioneer Trail Interchange (FDOT Project No. 436292-1-52-01) – Funding of NSBU Potable Water Main, to approve a not-to-exceed amount of \$2,388,672 from NSBU's Capital Connection Restricted Fund. Previous overall project authorization, as referenced in the Summary section of the agenda item, for the General Manager-CEO or his designee to execute all associated project documentation is ongoing.

Commissioner Conrad stated second.

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

(4) General Manager's Report:

Mr. Bunch requested Mr. Chavez to come up and cover the financial status report for February.

(4-a) Financial Status – February 2023:

Mr. Chavez came to the podium and presented the February 2023 Financial Performance Results. The results reflected a change in net assets of approximately \$300,000, driven by lower usage and increase purchased power impacts. This was \$2.2 million lower than prior year, electric 13.8% lower usage versus 2-2022. Also lower due to hurricane impacts and lower capital contributions. Year over year electric consumption 1.5% lower with the commercial subset 3.4% lower. February fiscal year to date purchased power at \$70.46 per megawatt hour. This is \$1.13 or 2% higher than the \$69.33 per megawatt hour budget number and 9% greater than the prior year. Water consumption 2.2% lower, wastewater 1% lower and reclaimed water 3.7% lower – mainly due to hurricanes. February 2023 fiscal year to date capital expenditures \$3.7 million in major projects and \$3.4 million in annual projects. Operating loss of \$700,000, \$1.2 million lower than 2-2022, driven by increased expenses, primarily increased purchased power and operating expenses. Lower usage partially offset by increased revenues due to October 2021 rate modifications, updated fuel cost adjustment and customer growth. February 2023 under-recovery balance at \$1.9 million, which is \$4.9 million under fiscal year end 2023 target of a \$3 million initial reserve. February 2023 capital contributions at \$800,000, \$700,000 lower than prior year. Starting to see a slow trend downwards on monthly and fiscal year to date purchased power costs. If natural gas costs remain stable, can expect this decline to accelerate during the remaining of this fiscal year which will help support recovery of the fuel and purchased power reserve.

(4-b) Informational Presentation – Wastewater Process Methane Reuse:

Mr. Grusauskas then provided an informational presentation responsive to Commissioner Smith's inquiry during the last NSBU Regular Meeting. Initially described NSBU's Water Reclamation Facility (WRF) current sludge operation, then potential wastewater methane uses, and some facts regarding methane recovery potential for NSBU. Our consultant, Stantec, additionally supported this determination that the current NSBU WRF plant was not designed for an anaerobic digestion process and would provide no advantages over the existing NSBU process. There would be high capital costs for anaerobic improvements, which are expensive to operate and maintain, and then would only be able to produce a small amount of methane.

After a few comments/inquiries, Mr. Bunch then explained, based on Commissioner Smith's suggestion at the last meeting, in addition to NSBU staff reviewing our water conservation programs, has also started discussions with City staff regarding their land development requirements for water conservation and/or incorporating Florida Water Star Program.

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

Chairman Davenport then moved on to the next item, item number 5., Counsel's Report, General Counsel.

(5-a) Summary/Status Update on Florida Legislation – HB 1331 and SB 1380:

Mr. Cloud provided an update on this proposed legislation – House Bill 1331 and Senate Bill 1380. Explained that House Bill 1331 initially attempted to give jurisdiction to the Florida Public Service Commission (FPSC) over municipal utilities that provide services to customers outside City limits. Pointed out that outside City customers would not gain representation by elected officials by this action since FPSC has been appointed since 1978. Subsequently HB 1331 removed the FPSC requirement, but the remaining parts of this bill are also bad.

Mr. Cloud continued and explained both these proposals have to be closely monitored and opposed, both include limitations on transfers to City General Funds. Additionally the remaining language in both of these bills have numerous flaws and will need substantial modifications. Once modified Mr. Cloud stated he believes most of the risk to our community will be removed, however it remains unclear regarding the next steps in the Senate. There is a slight difference between these two bills which may or may not move forward this year. Commented these bills are not being pushed by Investor-Owned Utilities (IOU's) nor by the Florida Association of Counties. Were created mainly due to the conflicts within three areas of the State (Gainesville, Vero Beach, and Miami Beach). Will continue to monitor this legislation via the Florida League of Cities.

(5-b) Update on APPA Member-Vendor Agreement Pass-Through Requirements Legal Services Template:

Mr. Cloud explained the legal services template Commissioners received a copy of was a replacement for the existing legal services agreement. This would enable NSBU to get reimbursed from grant monies from Department of Energy for legal services required on the APPA Participation Agreement. Then asked for an approval of the execution of this document.

(5-b) Update on APPA Member-Vendor Agreement Pass-Through Requirements Legal Services Template (cont.):

Chairman Davenport stated so we need a motion to approve, a motion on this.

Mr. Cloud stated yes.

Commission Action:

Commissioner Conrad made the motion; specifically a motion to approve the APPA Participation Agreement and Revised Legal Services Template as a substitute for the Second Amendment to Engagement Letter, and authorization for the General Manager/CEO or his designee to execute all documents associated with this matter.

Chairman Davenport stated Commissioner Conrad made the motion.

Commissioner Smith then seconded the motion.

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

Mr. Cloud stated that's all I have for you.

Chairman Davenport stated thank you Counselor.

(6) Old Business:

Chairman Davenport confirmed there were no items of Old Business.

(7) New Business:

Chairman Davenport stated number 7-a. is gone, that was earlier. And then confirmed with the other Commissioners they had no New Business items.

(7-a) Fiscal Year 2022 Annual Comprehensive Financial Report (ACFR) – Audit\*:

*(\*Note – Presentation, discussion and Commission Action / Approval for this item, Item 7-a. moved up on the agenda, transcribed above prior to consideration of consent items – Item 3.)*

(8) Possible Other Business – Time for Commissioners:

(8-a) 2023 FMEA Annual Conference – The Vinoy, St. Petersburg:

After a brief discussion regarding benefits of attending FMEA's Annual Conferences, Mr. Bunch indicated Mrs. Simmons will be forwarding additional information regarding the conference via email to each Commissioner. Then if anyone's interested in attending, can let us know and we'll coordinate that.

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

Commissioner Conrad commented she was glad to see that the Fiscal Year 2022 Audit Report was as expected – without comment.

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

Commissioner Hawes encouraged all, including the public, to read the Management’s Discussion and Analysis contained within the audit. Explained it goes into detail about how NSBU runs, what we’re doing, and why we’re doing it, the process that is used. Believes this is very helpful to understand. Also complimented all involved in the audit process – very eye opening.

Commissioner Smith thanked NSBU staff for their responses to his inquiries and the efforts put forth to research the issues.

There was a brief discussion regarding the nomenclature for wastewater and reclaimed water. Mr. Bunch explained the delineation occurs when discussing revenue. Reclaimed water is a by-product of wastewater but has its own associated revenue and expenses, and therefore sometimes shown separate.

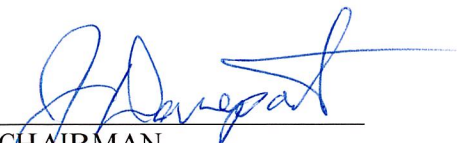
Chairman Davenport commended staff regarding the FY2022 Audit, very informative and supportive of trust – financial comfort level. Also expressed appreciation for the agenda inclusive of page numbers and highlights, as well as receipt of the City’s Economic Development Report monthly based on Commissioner Smith’s suggestion. Expressed pleasure in serving with the other NSBU Commissioners and appreciated their input. Also commended General Counsel Cloud’s legal services performed for NSBU.

Chairman Davenport confirmed with NSBU Commissioners they had nothing further to discuss and then called this meeting adjourned.

There being no further business to come before the Commission, the Regular NSBU Meeting closed at 4:14 p.m.

APPROVED:

ATTEST:

  
\_\_\_\_\_  
CHAIRMAN

  
\_\_\_\_\_  
SECRETARY-TREASURER

These minutes were formally approved by the Utilities Commission at their April 24, 2023 meeting.