

## AGENDA ITEM 2-b

MINUTES OF A REGULAR MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, NOVEMBER 19, 2007, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

Chairman Spangler requested Commissioner Allen to proceed with an invocation and requested Commissioner Hall to lead in the Pledge of Allegiance immediately following.

Chairman Spangler then requested for a roll call to be taken with all of the Commissioners in attendance as follows:

Chairman Richard L. Spangler  
Commissioner Oscar Zeller  
Commissioner Walter Allen III  
Commissioner Jeanne K. Diesen  
Commissioner William E. Hall

Others in attendance were as follows: R. Rodi, General Manager/ CEO; L. Klinkenberg, Director of Finance; R. Mitchum, Director of Electric Operations; D. Hoover, Director of Water/ Wastewater; J. White, Director of Engineering; R. Lemoine, Director of I.T.; P. Perez, Director of H.R.; E. Mahle, Public Information Manager; D. Wood, Customer Service Manager; D. Zorge, Customer Service Supervisor; D. Simmons, Executive Asst./Recording Secretary; and a few other U.C. employees; B. Preston, Interim U.C. Legal Counsel; Melanie Stawicki-Azam, Reporter for the NEWS JOURNAL; Bob Tolley, Teresa Webb, Steve Provost (ECT), Daniel Raymond (Business Mgr./IBEW), Sid Cohern, and an unidentified man, all members of the public.

### (1) Agenda Changes, Additions and Deletions:

Chairman Spangler asked if there were any agenda changes, additions or deletions.

Mr. Rodi indicated no.

### (2) Approval of Consent Items:

Chairman Spangler asked about the consent items, do we have any comments or discussion. He then stated I do, about arbitrage. There was a mention, in the last meeting, that we had about our \$1.9 million as being arbitrated and it said we got \$19,000. To me that's one percent of \$1.9 million, so can we assume that's about what our arbitrage difference is.

Mr. Rodi stated between what we owe in the loan and what we're making. He confirmed with Mrs. Klinkenberg that he was correct in that.

Chairman Spangler stated right, so the reason that I asked that is we can presume that whole sum is in an interest bearing account and that we don't dip into it back and forth and play with it, we just make money on it.

Ms. Klinkenberg stated correct, it's in a money market account and they buy repurchase agreements for us.

(2) Approval of Consent Items (cont.):

Chairman Spangler stated okay, that was my comment. He then asked if there were any further comments or discussion. He stated hearing none, do we have a motion to approve.

Commissioner Hall made a motion to approve the consent items; item 2-a. Minutes of Regular U.C. Meeting Held 10-15-07, approve as submitted; item 2-b. Developer's Agreement and Addendum – American Auto, item 2-c. Developer's Agreement and Addendum – City of New Smyrna Beach Skate Park, and item 2d. Developer's Agreement and Addendum – The Victoria, approve all three items as submitted and authorize the General Manager/CEO to execute these documents. Commissioner Allen seconded this motion and it passed unanimously on a roll call vote.

(3) Public Participation:

Chairman Spangler stated, prior to public participation, it is our policy not to hold you to three minutes but the Chairman reserves the right to say that's enough after a while. He stated Mr. Tolley you're up front so we'll let you go first, and added we know you.

Mr. Tolley stated his name and added that he resides at 803 Fairway. He stated we were here the last meeting and I also came before the Commission. I asked you all to consider some type of civil action against those who may be involved with the telecom issue. Well, I'm coming back again tonight, I was expecting some other people here, but I guess they forgot where the Commission office is. I don't know, they'll be here, so I'm back again. I want to raise the issue again and I want to see if I can get some reconsideration before the Commission. I think there are a lot of people out there that would like to see something happen and I think they outweigh those who would not like to see something. So I'm coming back before you again to see if I can raise the issue for some debate amongst the Commissioners and see if I can get you to change your minds. He then concluded his comments by stating thank you and Happy Thanksgiving.

Chairman Spangler then asked if any Commissioners wanted to add any comments different than we did last month.

Commissioner Diesen stated I don't have any comments but we did have, did you get the email that was sent to all of us, I just happened to be sitting at the computer.

Chairman Spangler asked what time was that?

Commissioner Diesen stated 5:30 p.m.

Chairman Spangler stated no, I did not then.

Commissioner Diesen stated actually I think it was sent about 4:30 p.m. It was asked that it be read into the minutes and it's on that subject. I don't know if you want to read it or not, but it was to all of us.

Chairman Spangler stated okay, I will read this then. It says hello, this is a group email to the board of the Utilities Commission. I had planned to attend the meeting tonight, November 19<sup>th</sup>, but due to prior commitments I am unable. As you know, I was recently campaigning for the Commissioner

(3) Public Participation (cont.):

seat. I went door to door on a daily basis. I wanted to let all of you know that one recurring question I received was, "What is anybody doing about all the missing money from the UC?" To be honest, I was astonished that so many citizens, from different age groups and walks of life, had the same concern. This is a VERY hot topic for scores of peoples. I remember at the last meeting, the issue of filing a civil suit was raised. While I can understand your position(s) I still believe that it might be short sighted to let this opportunity pass. I can assure you, if my experiences were any indication, you would have a bounty of support from our residents! Again, I regret not being able to deliver this message in person. I am hoping that perhaps one or two of you will receive this in time for your meeting. If possible, I would like it entered into public participation. At the least, could you copy this so that all of your board will have a copy? Thank you for working for all of us. Sincerely, Kassi Mercy.

Chairman Spangler asked if any Commissioners cared to comment.

Commissioner Allen stated as I said at the last meeting, I continue to lean upon our attorney to give us direction in that. This Commission, we have a great responsibility, not only of past things that have happened, but there is a great need to move forward in seeing the customer's needs being met as far as power supply, as far as water, pollution control, and different aspects. I don't have the wisdom to go out and chase. I think as far as staff and staffing trying to meet the needs of the customer as things have moved forward and looking forward. I know it seems like a long time waiting for something to come about and we went through a process so far. I would seek the wisdom from our legal counsel to move forward.

Commissioner Hall stated I agree with Commissioner Allen.

Commissioner Diesen asked Mr. Preston if the Commission would have any comments from him.

Mr. Preston stated I will if you wish or at any time.

Chairman Spangler stated I believe the last time this was brought up, Counsel said he had not been directed to investigate what it would cost and what our chances were by the Commission. Is that sort of accurate?

Mr. Preston stated yes, that's accurate. There have been a couple of things on the other side of the coin, on the criminal side of the coin. Mr. Rodi, in his diligence, found and passed on to me a news article written by the Palm Beach Post, a staff writer there, and in that article it identified an FBI agent who was actively pursuing this kind of criminal activity. So I've had the opportunity to pass messages, but yet to speak, directly with Mr. Tim Delaney there. In the passing of messages to his assistant I explained to her what our particular issues were and needs and wished that he would call me back. The last time I did that was on Friday with him. Following our regular meeting that we held last month, I contacted Chris Bonner again just to see if I could get some satisfaction as to where we were in the status of their investigation. After some discussion, he indicated that he would become more active in the file and let me know something but he too has not. Mr. Delaney's message from me was just last Friday, so I still expect to hear from him. I spoke to Chris Bonner, it was probably a week and a half ago, about a week following our meeting.

(3) Public Participation (cont.):

Mr. Preston stated on the civil side, we have all read the summary investigation report, that which was considered by the FDLE. The burden of proof, as you know, in a criminal matter is far greater than that in a civil matter. We saw in that investigative report the allegations and the alleged facts which backed up those allegations. It is easier to prove a civil matter than it is a criminal matter in terms of any kind of responsibility. I have not sought the advice of a trial attorney to determine whether or not a civil claim would be viable, nor have I gone into more depth in investigating any potential likelihood for recovery. That's the legal way of saying also that what we say in the investigative report was disheartening, in the sense that there was some traceable monies and assets that might be available even if we prevail in a civil claim. Again we did research, not in a civil context, we did so in a criminal context. I don't know what assets or what resources are there should we prevail in a civil claim, where we could recover. I don't think they're readily visible, those assets.

Chairman Spangler well to me I'm hearing on one hand that this is a distraction from what we're really here to do and on the other hand I'm hearing that people out there can't figure out why we can't do anything about it. My personal opinion is that what we would gain from this wouldn't necessarily be monetary but maybe we would gain credibility on all of those claims. Of course it's not that we have no credibility on the claims, it's that nothing has come from them at this point through the proper channels. I think the evidence speaks for itself. I think that the problem is getting somebody to read it myself. But I'm open to whatever the Commission thinks we should be doing about this.

Commissioner Diesen stated I would like to ask if there could be some consideration, if we could wait for Counsel to get a reply perhaps, because I think, I believe that our best bet may lie to the south. They have made white collar crime their number one priority in that division and they have added fifteen new agents. So it would seem to me that might well be worth waiting on for another 30 days or so until at least he could get a reply from Tim Delaney's office or Tim Delaney. We can still, in December, we would still have time to make a different decision if that were the way the Commission decided to go. That's my feeling, since our Counsel has made the contacts, let's see where that goes. Because clearly, if that were to move forward, there would be a whole lot more in discovery than anything that a civil suit could bring. They can go out of state, out of country, and they've done it down there before and they can do it again. Since we have a connection down there, then I would like to see that; that's my feeling.

Chairman Spangler stated I don't know if we're under any statute of limitations on this, that December is the deadline. It's heartening to hear that maybe something will come out of the wood work here. It's easy to say we're going to wait until December, so what are we going to wait to do. We're going to wait to say that we're not ever going to do anything, is that close? We're not going to just say that we're discouraged about this, we're going to say this sounds encouraging and let's hope we get a response by the next meeting.

Commissioner Diesen stated I think it would be prudent to wait and see what kind of response we get. If that happens and the door is slammed on both sides, which could happen, and could very easily not happen. For all we know it's moving forward right now and we don't know about it. I guess that's the thing with this kind of investigation.

(3) Public Participation (cont.):

Chairman Spangler commented that's a cheerful thought.

Commissioner Diesen stated it takes time. They've been in South Florida for whatever, two years, and I think they just put the first guy in jail, what was it, Friday. They put some in jail in Broward but they got Ken Jenne in jail now. And the fact people think this is a small item, it was only \$85,000 with him, but they pursued it diligently and so Mr. Jenne's doing his time. I don't know, maybe the Commission wants to say no, we're never going to pursue it civilly. That's another matter, I just would like to have another report from our Counsel since he's made the contacts.

Commissioner Allen stated one of the things I see, if you look at priority, and you say this is going to be our number one priority, and you're going to pour resources into it and you're going to pour time to it. When you start doing that, those resources, where do they come from? They come from the ratepayer and our customer, so there's a balancing act and I think it behooves us to take the wisdom of our Counsel to move forward and move forward in a prudent manner. When we start pouring resources to it, you really don't know where you're going and how long it's going to take to maybe get the satisfaction we think we may get.

Chairman Spangler stated it would be wonderful if this were some kind of a case where Counsel could say we want to take this on contingency, we think this is the hot one, and we'll put our own money into it. I don't hear that, I don't see that happening. So I think at this point what we're going to do is we're going to wait and see if someone contacts Mr. Preston.

Mr. Preston stated I accept that.

Chairman Spangler then asked if someone else would like to speak under Public Participation.

Mrs. Teresa Webb addressed the Commission and stated a year and a half ago we signed a promissory note to remain at residential rates. I can't keep my promise, there's a lot that's happened in the last year and a half that prevented us from building at all. I was wondering if we could get some kind of an extension. I had to fill out a residential permit to get this permit to build our storage barn. I don't know if that helps.

Chairman Spangler asked if that was a residential permit, I think the agreement was that within 18 months you would have a residential building permit.

Mrs. Webb stated well this is a residential building permit but it's for the storage barn to put the tools in to build the house. So the County's considering us residential but we didn't get as far as the house yet.

Chairman Spangler stated you made it a little more complicated. He then asked if all the Commissioners pretty much understand what the issue was 18 months ago. Does anyone want to respond? If we don't respond then what we have to do is go by the terms of the promissory note agreement which said if there's no residential permit within 18 months, then the party to that agreement would pay us whatever the difference was plus interest and they would then go on a commercial rate. So if there is no residential permit then they have not fulfilled their end of the agreement and they just agreed to pay that note. So the question before us, and I don't know, is a

(3) Public Participation (cont.):

residential permit to build a storage building a residential permit to the extent that it would satisfy the agreement that we all made. I'm welcome to hear what any Commissioner says, and barring that, if Counsel would like to make a comment we would appreciate that.

Mrs. Webb asked if she could let everybody know why they don't have the permit yet.

Chairman Spangler stated yes, you can, but I have your papers, some of us have read it, and it was a long list of extenuating circumstances. The only comment that I'm going to make right up front is you brought us a long list of extenuating circumstances 18 months ago. So go for it.

Mrs. Webb stated my 87 year old mother broke her leg, I took care of her for a month and a half. She had an intestinal infection that lasted for six months, I took her back and forth to the doctors and cared for her then. I severely hurt my neck, I had to quit my job because of the heavy lifting. I wasn't able to help my husband at all for six months and then tried to work myself back into being the other half of the team. My husband had a huge hernia that had to get operated on, and that set us back. And he had two bouts of kidney stones and again he is still passing those. I don't know what to do, every time I turned around someone was sick or injured.

Chairman Spangler stated okay, would any Commissioner like to speak to this.

Mrs. Webb then stated we are right out on the main road. I can understand your position that if we don't have a house yet, the County's big, the city's big, and you can't keep an eye on everybody. I know there are certain people that have 100 acres that hide in the woods and would love to rip off the Utilities Commission.

Chairman Spangler stated we're assuming that you're not intending to do that. The issue here, among other things, I think is the Utilities Commission's not authorized under its Charter to dispense financial favors to ratepayers. And the last time you were here the Commission said well, we believe you're earnest and sincere and we made this agreement. But my personal opinion ... Chairman Spangler then recognized Commissioner Hall to speak.

Commissioner Hall stated that he would speak after Chairman Spangler.

Chairman Spangler stated I'm willing to stop right now and let you go.

Commissioner Hall stated it appears to me that this is the typical caught between the proverbial rock and a hard place for this lady and for us. If we agree to extend her conditions, are we opening the flood gates. I will just tell you from my experience each case is individual and we have to deal with each one individually. I've never seen that old can of worms opened up and I was always threatened with it. If I made this decision it was going to open it up, all throughout my career, and I never once saw it opened up. And not if we're all making good decisions and sticking by them. I'm not sure how I would vote on this. One side says cut it here, she's had 18 months, and the other side says there are some extenuating circumstances. He stated I think maybe I would like to hear from our attorney because I'm sure he's been caught between the rock and a hard place on several things.

(3) Public Participation (cont.):

Mr. Preston stated one question I have is what is the date of the permit that you have now for your storage barn?

Mrs. Webb stated the date that we submitted for it?

Mr. Preston stated that would work.

Mrs. Webb stated do you want to see it?

Mr. Preston stated either that or you can read it, it doesn't matter.

Mrs. Webb stated 6-08-07.

Mr. Preston asked Mrs. Webb if they had begun any construction on the storage barn at this point and to what degree is that completed.

Mrs. Webb stated we dug and constructed the forms ourselves, we got that okayed. We laid every single block ourselves. We're now framing the storage for upstairs and we have the rafters up and the collar ties, then the side rafters. Then there's going to be overhangs so we can park a vehicle or repair a lawn mover.

Mr. Preston stated is the design and use of this storage barn for residential purposes?

Mrs. Webb stated it's for our lawn equipment and tools. She stated we have the property as agricultural. So far, we have to drag things from our rental of 11 years in Florida Shores, we have to drag our lawn mower and tools. We do have a little shed that we got for free that we can keep some stuff in but for the most part we're dragging back and forth. This will be stuff for the house and for the land, to mow the lawn.

Mr. Preston stated the purpose for the questions are just to determine substantial compliance with the agreement, whether or not there has been substantial compliance. I believe the agreement calls for a residential facility itself, not just a storage barn. Does this begin the road to compliance with that agreement? Because you are mandated, unfortunately or fortunately whichever the case may be, in regards to commercial versus residential and treatment of commercial versus residential, it was on a per case basis in this matter just simply because the use of the property if in fact is residential can be treated as residential by the Utilities Commission. But it hasn't been demonstrated that it is in fact residential to this point. I think that the question to you is, is the storage facility that has been built, substantially built to this point, substantial compliance with your agreement to designating this parcel as residential. Is it committing that property to be residential? Obviously a house commits that property to be residential, does a barn/garage/storage facility, whatever this may be, commit or substantially commit this property to be residential.

Mrs. Webb stated we also bought, for when my husband draws the plans for the house, we can then legally move into a trailer we bought for that purpose; that's just waiting.

(3) Public Participation (cont.):

Chairman Spangler stated to Mrs. Webb, when you say when your husband draws the plans for the house, this is the house that you said you would start in 18 months. If you don't have a plan for the house yet, you surely can't have a permit for the house.

Mrs. Webb stated he has the plans for the house.

Chairman Spangler stated but you have not applied for a residential permit.

Mrs. Webb stated not yet because we didn't get this work done because of our circumstances.

Chairman Spangler stated we understand that and we're sympathetic with that but I don't think personally that after 18 months we need to be a party to this. I think you need to build a house if you're going to build a house, particularly if it's taken you this much time and difficulty to do a storage building. I think maybe in my opinion your effort would have been better building the house. I just don't think personally that we need to be involved in this for another year or another 18 months so I would be looking for a motion as to whether we should just collect on the promissory note, make the service what it is, non-residential. I don't see at \$370 or whatever it is for 18 months, if you intend to build a house, the \$370 can't be a huge financial burden so I really don't think personally that we need to continue to be involved in this. So I'd be looking for a motion from someone that would basically say do we want to collect on this promissory note and make it commercial. However that we should word this, and then if we say no, we don't want to collect on it, then someone is going to have to make a motion and say do we want to continue this agreement for another period of time. But I think first we need to decide, and the first one could end it, if we say you have not done what you said you would do and therefore you owe us the promissory note, then that would be the first motion. If we don't want to do that, then we can see if someone will put up a motion to extend this again. He stated I would think that would be the way we would go, so I'm personally looking for someone to make a motion. Do we want to end this now, collect on the promissory note because the agreement has not been fulfilled, do we have a motion for that?

Mrs. Webb stated the reason for the storage barn is to put the tools in so that we can build the house.

Chairman Spangler stated I understand that but most people can build a house without first building a large storage barn. I was a contractor.

Mrs. Webb stated we're doing it all ourselves.

Chairman Spangler stated I know but that's a very large storage building and it's been a long period of time. I'm only a vote here, I'm listening for a motion as to what we should do.

Commissioner Diesen stated since you haven't closed public participation yet I'd like to ask Mrs. Webb, do you have any intention of living in that barn.

Mrs. Webb stated no, it's 10' by 20' downstairs.

Commissioner Diesen stated two stories.

(3) Public Participation (cont.):

Mrs. Webb then corrected to 12' by 20' and added storage upstairs for things that aren't immediate use. But we need to get all of our tools to the site so that we can build the house.

Commissioner Diesen stated to Mrs. Webb, I'm going to ask you a question and I want you to look me right in the eye and answer me, do you intend to live in a house on that property.

Mrs. Webb stated yes I do.

Chairman Spangler stated well I think we've heard the story. Let's end public participation and see what we can do for this lady, we need to resolve this. I'm just waiting to hear a motion.

Commissioner Allen stated I'd like to make a motion that we collect on this promissory note.

Chairman Spangler then asked do I hear a second? There being no second, Chairman Spangler stated motion fails for lack of a second. He then asked do I now hear a motion or discussion as to whether we should extend this for another 18 months.

Commissioner Hall stated I have an alternative. I suggest we extend it for six months with no ands, ifs, or buts. And if she can not get that residential building started in six months, then as they say fish or cut bait, we cut the bait.

Mrs. Webb stated it will take four months to finish the building.

Commissioner Hall stated I'm sorry. Well, that's four months and you've got two months to get started on the house, in my opinion.

Chairman Spangler stated let's maybe, we will not charge them interest on another promissory note for that six months but if they do not comply, they will owe us the original amount plus the interest to six months from now. Do we have to have a motion for that or is that a motion.

Commissioner Hall stated that was a motion.

Chairman Spangler stated all right, do we have a second on that.

Commissioner Zeller seconded Commissioner Hall's prior motion to extend the promissory note for six months with no further extensions. Interest will not be charged on another promissory note for the six month period unless there is non-compliance at the end of the six-month extension and then it will be the original amount plus interest for the six months. This motion then passed unanimously on a roll call vote.

Chairman Spangler stated six months ma'am, and then added good luck.

Mrs. Webb stated thank you.

Chairman Spangler then confirmed there was no further public participation at this time.

(4) General Manager's Report

(4-a) Financial Status September 2007:

Ms. Klinkenberg stated for the month ending September 2007 our change in net assets was \$769,971 for the combined system. Our forecast reports reflected a \$258,148 favorable balance for the month. She stated these are the unaudited September 30<sup>th</sup> financials and speaking to that I was just given a verbal confirmation today the field work is completed on our fiscal year end audit with no material weaknesses. I've held off issuing October's financials knowing that they were almost done, going to save some trees, and I'll just issue one set of October's and they will be the final. We will be reissuing September's with the audited numbers, our internal statements, probably by the end of next week. She then asked if there were any questions.

Chairman Spangler stated congratulations.

Ms. Klinkenberg stated thank you, we have a great team.

Chairman Spangler confirmed Mr. Rodi had nothing to add under this section. He added I was going to comment but I don't think we need to comment on that, I think it's fine.

(5) Commission Counsel's Report:

Chairman Spangler asked if there was a Commission Counsel's Report this evening.

Mr. Preston stated I do have a report and requested Commissioner Hall to start the distribution of a document to all the Commissioners. He stated what you are getting and reviewing is a letter written to me recently by Alex Kish of Brent Millikan and Company and in particular, addressing comments that have been made not only recently but in the past by the former Director Ron Vaden regarding in particular an alleged transfer of funds, \$1.1 million. Most recently at the September 25, 2007 meeting of the City Commission, Mr. Vaden made comments that the Commission and staff commingled funds, transferring them from one utility to another, and they took money from the electric fund and transferred it to the water and pc funds, and what's that doing is diverting a rate increase, etc. These comments are not new, they surfaced primarily a year ago, or over a year ago in September at a meeting as well with the City Commissioners and then again in January. Brent Millikan and Company was asked to investigate those comments to verify the use of funds by the Utilities Commission and provided an explanation following the January meeting and again in this letter to me of November 12<sup>th</sup>. The implication is that the Utilities Commission took the \$1.1 million and possibly other monies and used it to subsidize the water and wastewater operations. I'm sure as you know, but just to highlight again, the Utilities Commission is a single enterprise fund entity. What that means is that we as the Utilities Commission basically have a pot for the revenue and a pot for the expenses, designation for revenue and expenses. We do not have separate accounts for any particular utility. The revenue and expenses from the operations of the utilities are accounted for on a combined basis. Therefore there are no separate funds that maintain electric, water, wastewater, or internet systems. Mr. Vaden, according to this letter, as you will see at the bottom of page two, directed this organization and should certainly be aware of that, and should certainly know that the allegations and statements that were made were incorrect. So there can be no commingling of funds within the same pot, bottom line.

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

Mr. Preston stated the conclusion from Brent Millikan's review and study over the past year and several months since these allegations were made, are found in the third to the last paragraph of the letter which says we have found nothing in our prior year audits or to date in our current year audit of the Utilities Commission's financial statements that suggest there have been diversions of rate increases or transfers of funds from the electric system to subsidize water and wastewater operations. We conclude that Mr. Vaden is confused and is again reckless in making misleading statements to the City Commission. For the record this is the third time that we have had to investigate matters from statements made by Mr. Vaden at City Commission meetings that spans a period of more than one year.

Mr. Preston stated this letter was received by me in my office along with the attachments of the minutes of the City Commission meetings which I have also copied for your use, as well as the letter that had been written to Mr. Rodi following the January meeting. I just thought this was important to bring to your attention.

Commissioner Diesen stated this has been sent to the City Commission as well.

Mr. Preston stated the most recent letter has not.

Commissioner Diesen stated it will be, however, right?

Mr. Preston confirmed that it had not been sent to his knowledge. This is a letter I received, recently received, and then today asked that Mrs. Simmons make copies for you to review.

Commissioner Diesen reiterated it will be sent to the City Commission, won't it.

Mr. Rodi stated if that's your preference, yes.

Commissioner Diesen stated absolutely, I'll make that motion if we need one. She then added and we will give a copy to the newspapers. She stated this is the third time we've had to answer the same thing.

Mr. Preston stated correct.

Chairman Spangler stated we also understand the legal implications of a presumed expert making statements in the face of this.

Mr. Preston stated I'm sorry, was that a question, do we understand the legal implications?

Chairman Spangler stated it would be my presumption that it wouldn't be wise for someone in his position to continue to make those statements in the face of this.

Mr. Preston stated the statements are certainly, based on our experts, apparently false.

Chairman Spangler stated he is a presumed expert in utilities.

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

Mr. Preston stated he certainly has the experience of having served for the utilities, correct.

Commissioner Hall then asked are we required to make a response at all to this so called expert.

Commissioner Zeller asked why are we on the defensive all the time.

Commissioner Hall stated yes.

Chairman Spangler stated what happens here is, in the past, the man would appear at City Commission or Utilities Commission meetings and get up and go into a rambling attack on the Utilities Commission...

Commissioner Hall interjected, and then leave.

Chairman Spangler reiterated, and then leave. And it's just like this other business, why the question is, do people believe it or should you just ignore it. I think in this particular situation nobody but an expert could have understood anything that he said but one thing that we all understand is, his more specific allegations are not true, have been proven not to be true, and therefore he, as a presumed expert in that field, shouldn't be saying those things any more. That would be the conclusion that I would draw. So I think we need to just ... I don't want him to speak here. I don't know if I have the right to tell him no, he can't get up here and speak.

Commissioner Hall stated I think as Chairman, under Robert's Rules of Order, you can do what you want to, that's as Chairman.

Chairman Spangler stated can I, boy I love that, but I don't think it's going to happen again. Well anyway, this is fine, I think this needs to go to the City.

Commissioner Diesen stated I don't think it will happen again either, if it does I think we'll deal with it when it comes but the political situation in the City has changed and I don't think he'll find nearly the reception that he once did. He has continued to do this and in an attempt, I believe in my humble opinion, to perhaps undermine what is going on here or to raise issues and questions and continuously raise questions in the citizens' mind about what we're trying to do. I find that just unacceptable because we've been very fortunate to have a man who has stayed with us through these tough times and brought us through. And righted the ship and lifted it off the bottom as I think one of the City Commissioners said before. And it has not been without expense of this constant trying to fend off and still do the job that needed to be done to bring the utilities back to where it needed to be. So I hope that this ends this, if it doesn't, Chairman Spangler deal with it however you'd like and we'll back you on it.

Chairman Spangler stated well as Chairman I think I can probably make the statement that I would not welcome his presence to speak here any more. I think his credibility is gone, it's a waste of our time, and it would be malicious what he would say anyway. And if I have the right to say no, you can't speak sir, that's what I will say, and I'll just go on record saying that. He then asked do we want to have a resolution here that we want this sent to the City. How do we do that Mr. Preston?

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

Commissioner Diesen asked do we have consensus?

Chairman Spangler stated I think we probably do.

Commissioner Zeller commented it's a public document now so you can send it.

Chairman Spangler stated so we don't need to make a motion or resolution, we just need to agree that we want this sent over there. Chairman Spangler confirmed there was no disagreement from the Commissioners to send this to the City. There being none he stated okay, then we'll do that.

Mr. Rodi stated Commissioner Hall asked a question that I think is very germane and the question was why have we responded to these allegations. The reason is we adopted a code of ethics, an expectation of behavior, that is pretty far reaching. Whenever there is an allegation of the appearance, and of course obviously you can be abused holding to that high standard, but after what the U.C. has gone through, adopting the code of ethics was a new level for the bar. Of course, this is to dismiss these kinds of serious claims by perhaps someone who, and according to the report, did some of the actions involved in the allegations. So I think those are important elements in trying to conduct business in an open fashion.

Commissioner Diesen stated isn't there a limit to the number of times someone can do this, do the same thing over and over. I do know professionally there is a level to which you no longer have to take it.

Commissioner Hall interjected put up with it.

Commissioner Diesen stated there is legal, okay.

Chairman Spangler stated well we're not going to listen to it here and if it occurs across the street for any reason then this letter is there. He added I wouldn't want to go across the street and say those things again in the face of this letter but that's someone else's decision. He then thanked Mr. Preston.

Mr. Preston stated that was all for his report.

(6) Committee Meeting Reports

Chairman Spangler commented I don't believe we have any active committees at this time.

(7) Old Business

Chairman Spangler then asked if there was any old business.

Commissioner Hall stated I just have a question Chairman Spangler to Mr. Rodi. At one of our previous meetings, we had some concern, you had some concern and the Commission did too, about the number of vacant positions that we had that we were not able to fill. Is that still a concern?

(7) Old Business (cont.):

Mr. Rodi stated in this marketplace, yes. Since we had that discussion we were fortunate to fill a senior engineer position principally dedicated to the water portion of our business which was a primary problem. But we still have ongoing issues for highly skilled personnel, whether it's a water plant operator which there's just a tremendous amount of knowledge in those positions, or a line position. So when we have those vacancies, they're difficult to fill because of the competitive situation that we're in.

Commissioner Hall stated if you would, and I'm sure that I probably speak for the rest of the Commission members, please pass on to our employees they're still doing a great job under some trying circumstances.

Mr. Rodi stated yes, thank you very much. He added I had the opportunity this morning to thank each of them personally. We had a Thanksgiving breakfast, that is somewhat of a tradition here, and during that time I did pass on the general phrases, thank you for what you do.

Commissioner Hall stated I'm sorry I missed that, I promised to be here but as you can tell from my voice I'm a little bit under something.

Commissioner Diesen stated I guess I have an order of old business now that I look at it. In the past we had asked that we set up quarterly workshops with the City, that they be put on the calendar, and that a joint agenda be put together. That was never able to happen. Now, I think it can and I'd like for us to pursue that again. If possible, I would think that it might be prudent if we could have a workshop, even in December, because of the situation with power. I think they have an interest with what's going on and it's so volatile right now and so many changes are taking place. I don't believe they have the opportunity to be as informed as you have informed us. I think that is something we should do now and get that set regularly because we need to work together and if we can set it up ahead of time on the calendar, this is when it will be, March and whatever, I think that will go a long way to bringing peace to the valley as it were. So I would like to ask my fellow Commissioners if they would agree with me on trying to move forward on that.

Mr. Rodi stated not knowing the schedule, because usually it's very difficult at this point to schedule something for December, but perhaps after the first of the year.

Commissioner Diesen stated if we can't do it in December, but if we start having productive meetings where we have real serious input and we don't have a lot of machinations going on and personal agendas, I think that even if we were to meet an hour, say before even a City Commission meeting. I think in an hour we could accomplish a lot, especially say at our first meeting we could be looking at the planning or whatever. I just think it's real important that we move forward with this now, we have an opportunity and I think we need to do it.

Chairman Spangler stated yes, I think that maybe we have a climate where we might get some resolution in other areas that are difficult. So I don't know how we would arrange that, how we would notify them or whether they would really want to meet with us for an hour. When is their next meeting?

(7) Old Business (cont.):

Commissioner Diesen stated but I'd like it to be Commission to Commission, not Mr. Rodi trying to work it out with Mr. Hagood. I would like the letter to go to the City Commission, so that's it's understood that it's Commission to Commission.

Chairman Spangler stated well I'm not sure what the dates are.

Commissioner Diesen stated then we'll do it in January but let's make the effort now. We have this honeymoon and open door, and let's move in there.

Chairman Spangler requested Ms. Simmons to get a calendar and see how many opportunities we have to do that, I think we would have at least two, I hope.

Ms. Simmons commented she believed the next City Commission meetings would be held on November 27<sup>th</sup> and December 11<sup>th</sup>.

Chairman Spangler stated we'll see if we can push that through then and just do a little communicating; thank you.

(8) New Business

(8-a) Request for Approval – Revised Personnel Practices Manual – Employee Equity:

Mr. Rodi stated let me introduce this, obviously we have a number of personnel related items that are going on. I had asked Ms. Perez to go through the Personnel Practices Manual with the idea, of course like many other things she had done well, is to just make it consistent and also to have some consistency with some of the latest changes with the Collective Bargaining Agreement. So with that introduction if Ms. Perez can give us a few words and answer any questions you may have.

Ms. Perez then addressed the Commission and stated basically what I did with the packet that you have is I attached our current Personnel Policies Manual and the print that appears to be lighter in the package that you have, are some of the changes that were made to provide equity between the hourly employees. Also for clarification, some of the things in there are current language but it required a little clean up to better understand it. And secondly, practices that have been going on for quite a long time, which were fine, but they were never in the manual, so we've put those in as well.

Chairman Spangler commented I know we all read this from one end to the other, and added I tried to, it's impressive.

Commissioner Hall stated I have a question, "at will" employment is a great thing, I wish I had that before in my other life, we had some restrictions that applied. However, if you get an SOB who is your CEO it can be a nightmare and you can end up with a lot of lawsuits. Going along with that, is the "at will" use for all of our employees being in that category, going to be a hindrance to hiring. He said I favor this but I do have some concerns about where we are in our employment status because of the conditions that I think probably every power company is facing; the graying of America, etc. etc. So I just throw that out for discussion.

(8-a) Request for Approval – Revised Personnel Practices Manual – Employee Equity (cont.):

Mr. Rodi stated if I can respond to that, first of all we're focused on state law, this is an "at will" state. And what tempers it, if you have individual contracts, like with your CEO or with a Collective Bargaining Agreement, you honor the terms and conditions of the contract. This speaks to those employees that are covered under the general policy and procedures of the Utilities Commission. So that what we're trying to address is providing equity and consistency for that group of employees as well.

Commissioner Hall stated if I could have read this Saturday instead of this morning, I could have called you this morning and asked that question. We had a classification of employees in my other life that fell under this same thing.

Commissioner Diesen stated this is actually a small group isn't it?

Mr. Rodi stated it's relatively small.

Commissioner Diesen stated in comparing, 120 some in the unit.

Ms. Perez stated I don't know if it's even that big.

Commissioner Diesen stated covered by the unit (Union) but this would be those outside of that.

Ms. Perez stated correct.

Mr. Rodi stated and some of this overlaps too so that we have to have consistency with our personnel policies and our CBA, so that's why we need to go through it.

Chairman Spangler asked if any of this is driven by our Union contracts?

Mr. Rodi stated some provisions are, sure.

Commissioner Diesen stated so that there's parity between the two groups.

Chairman Spangler then asked if there were any other questions. There being none, he asked if there was a motion to approve.

Commissioner Allen made a motion to approve, (to approve the revised Personnel Practices Manual and attachments, to extend these items which are included in the 2007-2010 IBEW contract to be extended to the non-union staff). Commissioner Hall seconded this motion and it passed unanimously on a roll call vote.

(8-b) Change in Bankable PLT Hours:

Chairman Spangler stated we have one more item.

Mr. Rodi stated yes.

(8-b) Change in Bankable PLT Hours (cont.):

Ms. Perez stated we have the issue of bankable PLT, which is personal leave time. Currently the employees can bank 480 hours and in the prior personnel practices manual it was 240 hours or 480. In the new IBEW contract it went to 480 hours, which is typical for our industry. What we're asking for is for the exempt employees to be able to bank 600 hours because they have actually less opportunities to use the time; so that was the request.

Commissioner Diesen asked why do you think they have less opportunity to use it?

Ms. Perez stated normally what I'm seeing in my past year here is they go out during whatever events occur. Many times when they're not necessarily required to be there, above and beyond just the Supervisors being out there. The level of supervision that we ask them to perform, the amount of hours that they're working; that was the spirit behind the request. I'm not sure if I'm answering exactly what you're asking.

Commissioner Hall stated because they're management, they work 24/7. That's not to say that our employees don't either but there is a finite difference between the two. My question is if you go over 600 hours, you lose those hours? You can only bank 600 hours, you can't bank 1,000 right?

Mr. Rodi stated what happens is, those hours are earned, for example vacation time and accrued personal leave time, but once you start to go over that then you're compelled to cash them in. That's the idea behind this, it isn't that we're taking away something that has been earned.

Ms. Perez stated the other issue is the long term nature of many of our Supervisors and length of time that they've been here, eventually they cap out.

Chairman Spangler then asked do I hear a motion?

Commissioner Allen stated the other concern I have is as you change the banking hours of this time, and if you have enough people banking, if I remember back in my time there was a lot of concern from our auditors about this banking. It can impact you if you have a large amount of people that bank these hours and all of a sudden they start leaving you. My concern is you look at 480 hours, that's 60 days, go to 600 hours, you're looking at 75 days. The other thing is I'm a firm believer that you cannot do a quality job in performance if you don't take some quality time away from the position and that needs to be something that really needs to be looked at; so it's important.

Ms. Perez stated we have a clause in both the IBEW contract and the Personnel Practices Manual, you have to use 50% of what you earn each year so that was also an issue that we had. We want our employees to go out and get off site and get some relaxation and get away. So that clause is in there now and the other issue about employees leaving, we did talk to Finance about having to look at the dollar amounts and what people are accruing but our turnover rate is extremely low. I actually did a brief review of our turnover during the budget process and it was under 4% and our Supervisors have been here extremely long term. So I think overall it's a good benefit for them and we are still requiring and enforcing that they're going to have to use 50% of that time each year.

Commissioner Diesen stated is there anything attached to that 50%, in other words if they happen to take one day a week, they're not getting any rest. Do they have to take a block of time?

(8-b) Change in Bankable PLT Hours (cont.):

Ms. Perez stated we don't tell them that. At present what we're doing is we're doing quarterly reminders, this is how much time you have on the books, and this is what you're required to use to meet the stipulations here for the amount of hours. So we're doing reminders of where they are so they know how much time they haven't used.

Commissioner Zeller stated if they don't use it, right?

Ms. Perez stated they lose it or they can sell it.

Commissioner Diesen stated the other question I have is how much do we have accrued on the books right now.

Ms. Klinkenberg stated I don't know the exact number, it's one of our audit entries that we just prepared. I'm sorry I don't have that in my head but we do true it up every year. It's something that we go back and analyze how much is on the books to make sure that we're carrying enough to cover if everybody exited at once.

Commissioner Diesen stated it's sort of our decommissioning expenses internally.

Mr. Rodi commented but these you know what they are.

Commissioner Diesen stated right, we think we do.

Ms. Klinkenberg stated we do base the amount that we carry on our books based on their current salaries now, it's not based on what the salary was when they earned it, so it's a true dollar amount.

Commissioner Diesen stated it's a nice savings account, you started saving it 20 years ago and now its worth a whole lot more; it's a nice little savings account.

Chairman Spangler asked Commissioner Allen if he was satisfied with the answers.

Commissioner Allen stated yes, but I would share one thing, years ago, the Commission required their management level people to take, when we had time off, a week's vacation. We had to take a lengthy time because there was a habit of taking one to two days. You really didn't get rested and that of course changed as directors changed but there was a time that it was pretty well mandatory that when you took leave, you took a week and got away.

Commissioner Diesen stated see, I like that. I don't know if that's oppressive but it seems to me it benefits the institution because it gives the employee a renewed feeling. There's some islands in the Caribbean that you're mandated to get off the island, they'll give you the time and the pay but you've got to leave. We're kind of like in an island and I think maybe it's a good thing. This is a very intense industry.

Commissioner Allen stated personally for me, I found it very beneficial. You know you've got stress in your life when you're working under some of the circumstances that some of our folks work under. They get away for a week, they came back refreshed and was able to even perform that

(8-b) Change in Bankable PLT Hours (cont.):

task in a much better way with a better outlook.

Commissioner Diesen stated absolutely.

Chairman Spangler stated well I would imagine Ms. Perez knows a lot about things like that and I think that probably falls in your area of expertise. My feeling is if you think this is an adequate situation, if you think people are going to get the adequate rest and are going to function well for us, then that's good enough for me. He then asked if there was a motion to approve?

Commissioner Hall stated so move, (a motion to approve a change in the bankable PLT hours from 480 hours to 600 hours for exempt staff (Directors or Supervisory positions), to become effective retroactively to October 1, 2007). Commissioner Zeller seconded this motion and it passed unanimously on a roll call vote.

(9) Possible Other Business – Time for Commissioners:

Commissioner Allen stated Commissioner Diesen brought up the one thing I was really wanted to look at, at this time, a planning schedule of dates that we can meet jointly. There are times of the year that we know that we need to meet and discuss, like the budget. If we can plan those dates out in advance where everybody is aware of them, we can calendar and work towards being able to meet those obligations. To be able to meet together cooperatively and communicate and being able to see things move forward. Because I know my calendar begins filling up, I'm filling up 2008 already. He concluded by stating that's all I have.

Commissioner Diesen stated I have two things. She stated I would like to talk about the 800 acres, I think that is absolutely so important to this Commission. Somehow and some way I'd like to have some agreement between us and the City Commission. I don't know how we can do it or in what form it should be, so that is taken off the table, I would like to say, in perpetuity forever. I know nothing is forever but it is so critical to our needs and to the water situation and everything we are looking at as a utility. It's been bounced around, up in the air, and back and forth, and I think once and for all we need to have that set in cement. It's here to stay folks, get over it, it's ours, we need it, we have a use for it, it's not going to be declared surplus. I think that will go a long way toward ratcheting down some of the speculation.

Commissioner Hall stated I thought we had already settled that.

Commissioner Diesen stated not too much.

Commissioner Hall stated didn't we deal with this at a previous meeting Mr. Rodi, that this was our piece of property to do with as we will.

Mr. Rodi stated I think the words were ...

Commissioner Hall interjected were not strong enough?

Mr. Rodi stated well I don't know, it depends upon what people meant by those words. This came

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

up I think at a City Commission meeting and the words were well, you can't sell it until it is declared as surplus. So the process that was described was the process of what has to be done if someone did have the intent of selling it, and everyone denied any intent; well, not everyone.

Commissioner Hall stated then I agree with Commissioner Diesen. I remember when we first came on the Commission in May of 2005, there was a big hullabaloo from this Commission about whether or not we needed to sell that 800 acres, or a portion thereof, to get out of debt. We almost did it and then for some reason we held back. So I would agree with her that we need some stronger language.

Commissioner Diesen stated to Mr. Preston and Mr. Rodi, whatever your input is on it, and whatever we need to do, could you bring it back to us so we can move it forward. She then stated and then I have one other thing Mr. Chairman, because we do have a different situation in the City now and hopefully things will begin to calm down, I just want to say, I said this the other day but I want to say it again. I want to say thank you to Mr. Rodi for what he's been through with us and what you have brought us from and to, and I know it's not been without a lot of sniping, undercutting, attempting to undermine and it's constant. It even wound up in the paper this past week and I won't go down that road right now, but I want to thank you Mr. Rodi as one member of this Commission because you have stayed on the straight and narrow. You've not gotten politicized, you've not allowed yourself to be sucked into that when there were many opportunities presented to you to do so. I just think that we're extremely fortunate to have someone of your caliber here and I just want to say thank you. It's Thanksgiving and you're at the top of my list.

Mr. Rodi thanked Commissioner Diesen.

Chairman Spangler asked Commissioner Zeller if he had any comments.

Commissioner Zeller stated no, and added he was still learning.

Chairman Spangler stated I would like to make a couple comments about Commissioner Diesen's comments. First of all, as far as our CEO, I just hope that the whole community understands him as we do and if they don't I hope that they soon do because we're very, very fortunate. He stated the 800 acres, I see it a little bit differently. I see it, if the majority will on this Commission changes, then the disposition of that land could change. So the question would occur to me, is there anything that we can actually do to prevent a future majority with a different idea from changing whatever we say. And the second thing is, I would prefer to say that we are in complete control of that property forever until such time as we have done everything that we could conceivably do with it and then at that point, if there's anything left, we would address what we would do to that. I don't really think that we need to put the 800 acres away in perpetuity, but I think that our control of that 800 acres needs to stay until such time as we don't feel we need it. I would just say that slightly differently. I'm not sure the 800 acres needs to be for the utility use forever and ever; we may come up with some magic potion that will create water and electricity and then we may want to do something else with it. But the important thing is, is that we understand that property was acquired for the Utilities Commission, for the use of the Utilities Commission, and if it wasn't, that was the way it appeared to be and that's the way it is now. We are in control of that land, it is not surplus, and unless this Commission ever decides that it, or part of it is, that's the way it is. He added that's

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

a long winded way of saying it.

Commissioner Diesen stated you want to leave the door open a little.

Chairman Spangler stated yes, you always want to leave the door open a little bit. It's just important to me that when we've done everything we could possibly do, then we can revisit it.

Commissioner Diesen asked and who is going to make that determination, that's why I wanted to take it off the table.

Chairman Spangler stated the standing Commission.

Commissioner Diesen stated well I think there are other things we can do but anyway I'm not going to debate it with you.

Chairman Spangler commented me either.

Commissioner Diesen stated it just needs to be, at least for now and I hope for the foreseeable future, off the table, stop the vultures from circling, there's not going to be a landing point, get over it, move on, it's ours, we need it, and we're going to use it.

Chairman Spangler thanked Commissioner Diesen.

Commissioner Zeller stated I believe the 800 acres is a very bankable asset. A buffer zone if we decide to put a power plant out there at some point. I think it'd be foolish to even consider getting rid of it at this point.

Chairman Spangler stated I agree, in this climate to try and speculate what we might be doing in ten years or whenever would be premature, so I think we pretty much have covered that. He stated then that leaves me, what do I have to say. The only issue that I really wanted to address at all was conservation and I just wanted to make a little statement so that we can be thinking about this issue.

Chairman Spangler then read a statement. The Utilities Commission is in phase one of energy conservation, this is where we increase the public's awareness. Phase two may be some sort of incentive system. I don't know if our conservation awareness seminars, our energy audits, as to whether they have caused any measurable reduction in consumption so far. At some point our conservation program will have an impact on existing consumption and we do know that reduction of consumption through conservation has a direct effect of reducing our revenues. Which means the less energy we sell, the less revenue we have, this is the flip side of the coin for utilities. This side of conservation, the loss of revenues, is a situation that will be faced by all utilities. The most obvious opportunity to conserve without causing revenue decline is with more energy efficient development. That opportunity to increase our customer base with energy efficient housing is presently on hold. When that opportunity returns, and even if New Smyrna starts to grow by a 1,000 new homes a year, which would double the size of our town in ten years, at that point, ten years in the future, only half of our housing stock would be energy efficient; that's the new half. When we realize this it becomes apparent that effective conservation is also very much about

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

reducing existing consumption, therefore the flip side, the loss of revenue, must be faced. My question would be, and I just throw this out and would like to hear something about it in the future, is have we been working out any preliminary figures on how much conservation we can afford at this time. And is there any area of electrical sales where we're not making money? Do we make net money from our peaking sales? Do we have a road map for moving forward towards achieving a decline in the existing use per account?

Mr. Rodi stated quick answer, you don't make money on peaking sales, you lose money, generally. There's a completely different rate concept that starts to come into play with combination of efficiency and conservation. Part of what some of our new positions will be doing is assessing where that tipping point is.

Chairman Spangler stated right.

Mr. Rodi stated and think of it this way, if we are fortunate enough to have individual homes in the future powered individually, whether it's solar power, wind, or some other type of a system. More than likely that powering won't happen always. There would be some problem, like if someone has a fuel cell, is another example, where the membrane fails, or there's something where they have to go back out onto the grid. The presumption is that the grid will be there, and I'm talking about the distribution grid, the transmission grid, all of the infrastructure that we have now. That also presumes then because you have it you have to maintain it. So what happens then is you have a fixed asset with fixed costs and some variable costs that go on.

Mr. Rodi stated and I know that when the natural gas industry was deregulated, one of the things they did was they separated the traditional rate making approach, that is based essentially on assets in the investor-owned world, and moved to a system where the costs needed for that year would be estimated and then the rate would depend upon how that money would be collected from the ratepayers. So there's a disconnect from the way it was done before and there are a lot of philosophies about that, but that is an end state result. It's just like someone who invests in solar power. We're one of the utilities that supports net metering. Net metering is just a concept of facilitating paying more for the solar reimbursement, that's artificial. The reason for that is it really should be real time so that if we're buying power and it's costing us 30 cents a kWh, and that solar is contributing to the reduction in that peak, they ought to get 30 cents an hour. But when we're only paying two cents for it, we only ought to be paying two cents. Well, in order to execute that kind of a system, you need a good communications infrastructure, you need sophisticated metering, you need metering in and out, and so we need infrastructure in order to do that. Where I'm going with the discussion is we are about to embark upon a tremendous change within the country and within the state that deals with our power sources, how we do things. Water is right there with it, there are issues of life line rates, conceptually do you have a rate that is up to 300 kWh that is much like what had been done with telephones, that someone who absolutely needs that essential commodity for that amount of time. I mean it gets to be exceptionally complex.

Chairman Spangler stated I understand that and my concern is that the incentives that we give on the one hand when we're looking at expansion of demand. We all know that the cheapest new energy is what we've conserved.

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

Mr. Rodi stated right.

Chairman Spangler stated but you also have to say well we have all these mandates from the state to conserve, and fortunately their real mandates are about renewables, but we are faced with a situation of the less energy our customers use, the less we're able to pay our fixed cost. That's why efficient new development will not impact that fixed cost, and that's where we can really do it. But the tipping point, I would love to know what the tipping point is.

Mr. Rodi stated yes, and that means that we have too, and even a lot of the regulations that are coming, we have to validate what we are doing. For example, we're spending quite a bit of money right now with regard to energy efficiency and doing house surveys. The quality of our surveys has been excellent so that we're getting a lot of return both for the customer and for ourselves. But we don't have the measurement mechanism in order to show that this investment for the audit is paid over the lifetime of the remaining improvement that is driven. So in order to do that you have to start to invest in meters that they call recorders under glass and those can be a substitute for the existing recorders, and you can take measurements, and we have to compare. It's a very complex area and that's why we have an engineer that we have asked for to be Mr. Beyrle's area, so that's the other side of this equation, so we can begin to define it.

Chairman Spangler stated right, so we're beginning to look at that.

Mr. Rodi stated yes sir.

Chairman Spangler stated thank you.

Commissioner Allen stated there's an added benefit. A lot of times we look and think about as we reduce and become more energy efficient, we think and talk about loss revenues. But with the tide changing, when you look at, especially as solar gets more in line and even wind technology, that really benefits the utility because you bring that on during those times. Think about solar, it starts working as you start coming up and it will max out on your peaks, which reduces the peak. He added, which you never make any money on peak at all.

Chairman Spangler stated that's where I was going in a way. It seems to me the one area that we can attack right now, without hurting our revenue, is where we're paying too much, and that's peak. So solar is one way. If there was a magic way to reduce peak demand, incentive, we'd be doing it.

Commissioner Allen stated but it gets back to this really getting into the metering, it's a whole new way of really looking at things. The other thing is as people come on with solar, is the documentation of that and what it's providing to your system because when you start looking at the counteracting of emissions of other resources, all that comes into play and can definitely be a large savings when you look at percentages. Of what percentage of your system is green energy and what percent is coming from nuclear and what percentage is coming from normal generation resources. When you start balancing all of those, it's going to be a main player in the future.

Chairman Spangler thanked Commissioner Allen for his comments and then confirmed no one else had anything they would like to talk about.

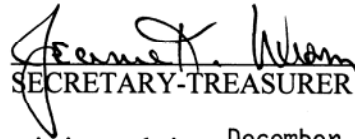
(9) Possible Other Business – Time for Commissioners (cont.):

There being no further business to come before the Commission, Chairman Spangler stated we're adjourned. Chairman Spangler closed the regular U.C. meeting at 7:27 p.m.

APPROVED:

ATTEST:

  
\_\_\_\_\_  
CHAIRMAN

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

These minutes were formally approved by the Utilities Commission at their \_\_\_\_\_ December 17, 2007 meeting.