

AGENDA ITEM 2-a

MINUTES OF PRELIMINARY PUBLIC HEARING AND REGULAR MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, JUNE 18, 2007, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

Chairman Para stated typically before we officially start the meeting we ask our Utilities Commissioner, Pastor Walter Allen, if he would give a blessing. For those who would like to participate in that you're welcome to do so. After the invocation Chairman Para requested Commissioner Diesen to lead in the Pledge of Allegiance.

Chairman Para then asked for roll call to be taken with all of the Commissioners present as follows:

Commissioner Jeanne K. Diesen
Commissioner William E. Hall
Chairman Kevin J. Para
Commissioner Richard L. Spangler
Commissioner Walter Allen III

Others in attendance were as follows: R. Rodi, General Manager/ CEO; L. Klinkenberg, Director of Finance; R. Mitchum, Director of Electric Operations; T. Beyrle, Director of System Ops. & Generation; J. White, Director of Engineering; D. Hoover, Director of Water/ Wastewater; R. Lemoine, Director of I.T.; P. Perez, Director of H.R., E. Mahle, Public Information Manager; D. Simmons, Executive Asst./Recording Secretary; B. Preston, Interim U.C. Legal Counsel; Melanie Stawicki-Azam, Reporter for the NEWS JOURNAL; Tammy Dickerson and two unidentified women; Sally Mackay; Bob Tolley, Leonard Revell, Robert Helsley, and a few unidentified men and women, all members of the public.

Preliminary Public Hearing RE: Revision of Existing and Addition of New Reclaimed Water Capacity Fees:

Chairman Para then opened the preliminary public hearing regarding the Revision of Existing and Addition of New Reclaimed Water Capacity Fees, and requested a roll call to be taken at this point. All the Commissioners and attendees as shown above were still in attendance.

Chairman Para confirmed the microphones were working very well and asked the audience if they could hear. He then requested Mr. Preston to read the notice of public hearing and proposed resolution.

Mr. Preston stated for the record this preliminary public hearing was authorized by the Utilities Commission during their May 21, 2007, Regular U.C. Meeting and notices appeared in THE OBSERVER at least ten days prior to this date. Notices were also placed on the bulletin board at the Utilities Commission office at 200 Canal Street and City Hall at 210 Sams Avenue. Proof of publication of advertisement of this hearing will become a part of the minutes. Mr. Preston then proceeded to read the proposed resolution by title only.

Preliminary Public Hearing RE: Revision of Existing and Addition of New Reclaimed Water Capacity Fees (cont.):

Chairman Para then asked if there were any comments for or opposed to the Revision of Existing and Additions to the New Reclaimed Water Capacity Fees. There being no comments, Chairman Para closed this preliminary public hearing at 6:03 p.m.

REGULAR U.C. MEETING:

After a member of the audience inquired about public participation, Chairman Para confirmed the comments were not regarding reclaimed water capacity fees and explained that general public participation was later on the agenda.

(1) Agenda Changes, Additions and Deletions:

Chairman Para confirmed there were no agenda changes, additions or deletions at this point.

(2) Approval of Consent Items:

Commissioner Hall then made a motion to approve the consent items as follows: item 2-a. Minutes of Regular UC Meeting Held 5-21-07, and item 2-b. Minutes of Special UC Meeting Held 6-1-07, approve both as submitted; item 2-c. Bid No. 13-07 – Ameron Poles and Cooper Lights, approved and awarded purchase order nos. PON0004126 in the amount of \$22,500.79 to HD Supply Electrical, LTD and PON0004125 in the amount of \$34,623.40 to Electric Supply Incorporated, the evaluated low bidders; item 2-d. Disposal of Surplus Inventory, approved the disposal of the U.C.'s surplus inventory utilizing the recommendations stated in the agenda item instead of the previously approved participation in the City of New Smyrna Beach's Multi-City Public Auction; item 2-e. Developer's Agreement and Addendum – New Smyrna Harbor, approved the Developer's Agreement and Addendum for New Smyrna Harbor and authorized the General Manager/CEO to execute these documents; item 2-f. WWTP Permitting Assistance – Quentin L. Hampton Associates, Inc., for information and reporting purposes regarding a task authorization for permitting assistance services in a lump sum amount of \$12,580.00. Commissioner Allen seconded this motion and it passed unanimously on a roll call vote.

(3) Public Participation:

(3-a) Request for Additional Consideration – Tammy Dickerson – Staff Response:

Chairman Para stated to Mr. Rodi, how would you like to proceed, would you like the public participation first and staff to respond, would that be good.

Mr. Rodi indicated visually okay.

Chairman Para then requested Ms. Tammy Dickerson to make an overview for us, get us up to speed.

Ms. Dickerson addressed the Commission and stated I'm here before the board tonight asking for a change to be made to the requirements for the Principal retirement account. I would like the

(3-a) Request for Additional Consideration – Tammy Dickerson – Staff Response (cont.):

U.C. to change the rules that in a QDRO case only that the ex-spouse would be able to cash in the money at any time. I do understand that the U.C. is trying to make it so employees will have their money when they retire and I think that's great that the U.C. would be concerned about their employees' welfare. But in my case this was a settlement between my ex-husband and myself on how to split our assets and we thought this would be the best way for both of us in order for us not to have any financial burden after the divorce. I called Principal on Friday after receiving the agenda for this meeting and asked Christy who answered the phone if in most cases employers do allow for the accounts to be cashed in in a QDRO case and she stated in most cases that is correct and that is probably why I was misinformed when I called that day. She also stated that it now states on the U.C.'s account for the person inquiring about a QDRO to call the U.C. with any questions.

Ms. Dickerson stated I know that this is misfortune that this has happened with the wrong information that was given to me but this is putting a major financial burden on myself and my children. I did try to contact the U.C. with questions during this divorce but found myself speaking to Barbara Mudge who wasn't very nice or helpful. I will say Ms. Perez has been great and helpful through all of this, unfortunately she wasn't there during the time when I was asking questions. I was informed by Jack Ascherl today that these rules were made back in 1995 and 1996 and back then probably there weren't a lot of QDRO's coming into the U.C. and this wasn't considered to be changed because the Florida Retirement System didn't allow for it either. Mr. Ascherl told me that the new State Defined Contribution Plan is now allowing for QDRO's to be out before retirement. So I think these changes are being done when it comes to QDRO's. I was also told by Mr. Ascherl that this is a simple thing to amend the plan, that Principal would do the wording and send it to the U.C. for it to be approved by the Commission. And the cost would be \$300 and I'm to the point now that I'm willing to pay that fee because I need this money desperately. My attorney has already billed me over \$200 for sending a letter and calling Mr. Preston several times. I would not have received that bill if he just would have spoken to me when I called or if he had returned my call instead of making me contact my attorney to call him. So I know that this is a change that staff is not in favor of but I'm asking the Commission to consider my side also. Thank you for your time, questions.

Chairman Para stated well thank you Ms. Dickerson for articulately covering your comments. He then directed to Mr. Rodi, now who is going to respond.

Mr. Rodi indicated Ms. Paula Perez.

Ms. Perez addressed the Commission and stated she was the H.R. Director. She stated first I'd like to say that this is a very difficult issue and unfortunately I'm just going to try and present the facts from my side and what I went through and I do appreciate everything that Ms. Dickerson is going through and it's a very tough time for her as well. I would say a month, a month and a half ago, when we got the call from Ms. Dickerson or maybe a little longer or a little shorter than that, she was asking our Payroll Administrator, Britney Todd, with this QDRO if she could have her payout in cash or check or describing a format there. Ms. Todd asked her well how would you like it and then Ms. Todd was going to call the Principal and find out how that could be disbursed. In doing so when Ms. Todd called our rep. at the Principal they said to us well based

(3-a) Request for Additional Consideration – Tammy Dickerson – Staff Response (cont.):

on the plan document we can't do that, there is not a disbursement of funds until you reach retirement. And I asked today, as a matter of fact, just for my own edification when is retirement. They said either at age 62, well actually it's like the rule of 67, if you're 62 years old and you've worked there five years or 67. But in any event they said we cannot disburse the funds until the person has retired because it is a retirement plan. So when I got that information I called Ms. Dickerson and she and I talked a couple of times. I said I apologize for whomever you spoke to at the Principal because she had called the Principal directly and unfortunately it appeared that someone there had misinformed her. So I called our rep. at the Principal and asked and they said yes, in fact they had misinformed her and had to correct themselves. And in doing so the Principal suggested that possibly the U.C. could change our plan. So I then spoke with Ms. Dickerson and we sort of brainstormed and I said I think the next step for me would be to have to go Attorney Preston and to Mr. Rodi to find out where we go from there but for my knowledge base there's not much we can do with this plan which is also very similar to the other pension plan we have, ICMA. There's a little more latitude there and I spoke to Ms. Dickerson about it, if you have a huge catastrophe or disaster you can pull out money from there and there's a penalty, but we don't have that on the Principal.

Ms. Perez stated so Ms. Dickerson made some calls to Attorney Preston's office, I believe she also called Mr. Rodi's office and Debbie Simmons called me right away when she had left the message for Mr. Rodi's office and then Ms. Dickerson and I conferred again. I followed up with Attorney Preston which it did take some time for him to research and for his office to do what they needed to do and in the meantime he did call her attorney back and sort of left the ball in that attorney's court to say this is what needs to happen. So Ms. Dickerson called me again and said where do we stand with these things and I said actually your attorney has the information. Normally when you go attorney to attorney we kind of have to leave it like that and I do appreciate Ms. Dickerson's concern that she had to spend money on her attorney but they're speaking the same language – the attorneys. So I told Ms. Dickerson if you give your attorney a call, your attorney's got the information now. So I'm assuming that she did and in the meantime I went back to the Principal and they said well what we can do with this document is we can take her name and put it in there for the amount of dollars that her QDRO allowed for or stated that she should have in the divorce settlement and we can move it out of her ex's name and into her name and she will have it and it's hers but she can't pull it out, but she can collect interest and do whatever and it's kind of like a forced savings at this point. So I told her that and I know that's not what she needed but that's what we had at the moment and I gave her that information.

Ms. Perez stated so things sort of laid where they were for the time being and then I know she did a little more research and called around, I did a little more research. There may or may not have been a Florida statute out there that the Principal called me on to look into, we did that. The City of New Smyrna Beach contacted me actually today and the HR Director said to me that they have the same plan, they checked from their frame of reference and their plan said the same thing to them, you can't take the dollars out ahead of time, it's a retirement fund, it's meant to be there for when the employee leaves and that's really all we can do. And the other concern is, and as much as I think we would all really like to help Ms. Dickerson, the next concern is if we do some sort of non-precedental agreement and that would be after the Principal could rewrite the document which they told it would take three to four weeks and that fee of \$300, and after the

(3-a) Request for Additional Consideration – Tammy Dickerson – Staff Response (cont.):

attorneys reviewed it and we had a resolution, and I don't know how this would impact Finance and GASB and refunding, because now people may ask can I take my money too, what do I say to the next person that's going to ask me. So there are a lot of things here and in trying to consider her as well, I just wanted to give you everything that I've researched to this point.

Chairman Para thanked Ms. Perez and asked if there were any questions.

Commissioner Diesen asked does this stand in place of the Florida Retirement, is that what it is.

Mr. Rodi stated yes, and this is a defined contribution plan, it's not a defined benefit plan, so that whatever monies go into the retirement account, that's it. So it's unlike a defined benefit plan where the employer contributes dollars and then there's a fixed benefit for the employee at the end of that period. Here it's their money and usually they are safe guarded, just for the reason of all of us as people encounter some very difficult times in our lives and if it's spent then there's nothing left at the time of retirement.

Chairman Para then asked Mr. Preston if he had any comments that he would like to make.

Mr. Preston stated yes I do. First of all Ms. Dickerson I just want you to know that if you are represented by counsel, I ethically cannot talk to you.

Ms. Dickerson commented it was a divorce attorney though.

Mr. Preston stated well the QDRO was through the divorce proceeding but I just wanted you to know that number one. Number two the issue is clear, the research that I did and then conveyed to your attorney, was that in fact our plan, which is an approved plan does not allow for distribution of a segregated QDRO account or QDRO account for that matter prior to retirement. And there is no law that I have found that exempts any particular account in such a plan for distribution and so I conveyed that to your attorney, that it is clear that as it stands now there is no right for distribution within the plan and we have to abide by the terms of the plan. The plan can be changed and if the plan is changed of course we have the opportunity to do what it is that the plan tells us to do and if it's a segregated QDRO account for distribution, so be it. So that's really where we stand with it, so it's a matter of our hands are tied so to speak in regards to what we can do with this account. Ms. Perez is absolutely right in that when the QDRO order is entered by the judge in the divorce proceeding that at that point a segregated account should be established in your name for those dollars at that time. So currently that's where we stand, we have an account that is segregated in Ms. Dickerson's name and our plan restricts us from making any distribution on that account. If it actually hasn't been done, it can be done and certainly back to the date of the entry of the QDRO. But that's where we stand with the plan itself and what we can and cannot do. In essence leave it as is or change it.

Chairman Para stated what language in Principal's agreement provides for a separate account for a non-employee to be established, she's not an employee of the Utilities Commission; I'm just curious.

(3-a) Request for Additional Consideration – Tammy Dickerson – Staff Response (cont.):

Mr. Preston stated the law does, the law provides for a segregation of that account when a QDRO is entered into. Now simply speaking and as Ms. Perez said, what the QDRO does, and it's a Qualified Domestic Relations Order is the acronym, and what it does is in the distribution of assets from a marriage, one's retirement account that has been set aside as a contributive plan, can be in fact divided, in any percentage for that matter, but generally by half between the divorcing spouses. And it's more a matter of bookkeeping of an entry in terms of well as of that date those monies technically become in this case Ms. Dickerson's monies. She then is a part of the plan by way of that QDRO order and she is a beneficiary of that plan inasmuch as whatever income is earned on that plan is hers from that date forward.

Chairman Para stated Commissioner Hall, you've had a lot of experience with these kinds of things, is there anything you can add to this discussion.

Commissioner Hall stated only that the School Board as far as I know did not have such a plan, with 8,400 employees and the divorce rate running 50% or higher, it would break the piggybank.

Chairman Para stated okay thank you and then stated to Ms. Perez thank you for your time. Are there any other Commissioners that would like to speak on this issue?

Commissioner Spangler stated yes, there's a couple, and I mean I see this as a plan that now belongs to a non-employee, that's interesting to me.

Chairman Para interjected that's my trouble, yes.

Commissioner Spangler stated the next thing is I would want to know and I think I heard, how many of these plans have this clause in there where it doesn't address QDRO's because as Mr. Preston said with 8,400 people it would happen a lot, we have 100 or 200 people, it's never happened before. I would like to know what the thinking was, where the thinking came from, that didn't put a clause in there to address something like this. I mean what was the advantage or the disadvantage of that clause to Principal or to the U.C.

Chairman Para stated well the way I understand it is we're not talking about, at least I'm not putting my arms around or embracing the idea of opening this up so any employee for any hardship can come and I say I want access to my funds. What we're saying here is possibly a policy change as in relationship to a dissolution of marriage, it would be a provision, because it's a reality unfortunately in life, that there would be some sort of mechanism that could allow us to navigate through this. I'm uncomfortable as a Commissioner having someone hold a retirement account with us on a long term basis that is not an employee of ours.

Commissioner Spangler interjected I am too.

Chairman Para stated that's my concern, that's my problem, my preference would be is in the event of a dissolution of marriage if that's part of the settlement, that we settle up with that person because that's person's not our employee. Therefore we ought to separate ourselves from each other in that perspective.

(3-a) Request for Additional Consideration – Tammy Dickerson – Staff Response (cont.):

Commissioner Spangler stated ideally that's the way I'd like to see it and the only question I would have and I don't know whether Ms. Perez can tell us or what, what would be the ramifications. How many times is this going to happen in the next 20 years and I'm thrilled that it hasn't happened before, how many times can this happen and what happens to the gross fund? Are these all separate individual funds or does one sort of dependent upon the other, I don't know.

Ms. Perez stated in the six years that I was the Personnel Director for the town of Milford where I moved from, I did come across two QDRO's and our plans did not allow for disbursement prior to retirement so we simply held the QDRO's until the person retired and then we honored those ahead of any other beneficiary assignments that were there. But none of our plans allowed for disbursement prior to retirement.

Commissioner Spangler stated even though the person holding the fund would not be an employee.

Ms. Perez stated right, these were both employees who based on a divorce the spouse had a QDRO in place.

Commissioner Spangler stated obviously that's the precedent.

Ms. Perez stated the problem was funding with GASB, when that came in we had to fund the whole pension plan based on if everybody wanted to start taking funds out and like you had said that was the issue of funding.

Commissioner Spangler stated so it's more than just hardship what you don't want to allow but if there is enough QDRO agreements then it could impact the fund, is that what it is.

Ms. Perez stated theoretically, yes.

Commissioner Spangler stated so that would be the reason why that everyone would not want to do that.

Ms. Perez stated well that's why we didn't have it in Connecticut, there were 194 cities our size and none of them had it.

Commissioner Spangler stated none of them did that.

Ms. Perez stated yes, right.

Commissioner Spangler stated well I'm surprised, my feeling is that Ms. Dickerson's not an employee and therefore shouldn't be subject to that but I see the other side. It's conceivable that we would have 50 QDRO's in the next 10 years and the fund would, I don't what that, the fund would collapse if we set this precedent. So I don't know, I would say that whatever our attorney advises us. I'd like to release it but if its going to jeopardize our fund, because you can't just do

(3-a) Request for Additional Consideration – Tammy Dickerson – Staff Response (cont.):

it in one case, you'd have to change it and say in all QDRO's we're going to refund the money. Now if that's not a financially advisable thing to do that's the end of that.

Chairman Para stated one last question just for clarification, maybe Mr. Preston you can answer this. God forbid something were to happen to Ms. Dickerson, this is her asset, and let's say her children, Mr. Preston what happens in that instance, is this hers and therefore she could leave it to her children or what.

Mr. Preston stated she steps in just as any other employee would as far as her rights to those benefits so there is no difference there at all. I think in theory if a change was made to our plan that depleted most of the assets of our plan, what that does is it weakens our investment capability, our potential for earnings on that plan. That's theory as to the potential withdrawal of assets from the overall plan, I think it's more of a matter of strength for the carrier in terms of its ability to provide sufficient assets for better investments is what it amounts to. How many of these can we expect if we make a change in our plan, who knows. How many have we had as far as requests in the past, none that I know of.

Commissioner Spangler stated I think that's probably unusual then from what I'm thinking.

Mr. Preston stated it appears to be.

Commissioner Allen stated I think your driving forces on that where you don't see many is when employees come on board they go through a review process coming in, they understand the benefits, they understand the plan, and knowing that the plan is a retirement plan. So consequently in the past it's never been a part of negotiating for separations in spouses. It's sad that it wasn't checked in thoroughly before the process and getting to the settlement stage that they come to this point.

Chairman Para stated good points Commissioner Allen, are there any further discussions on this issue? Ms. Dickerson do you have any closing comments?

Ms. Dickerson addressed the Commission again and stated one thing I just want to ask is I don't understand why when I call Principal that they tell me that in most cases this is how it's being done now, that QDRO's are automatically paid out, you know to the ex-spouse. I mean I understand that how's the cities are working but when I call there and they say most cases this is how they are paid out in QDRO's, that's my argument I guess. Why, you know just because this is how the cities work, this is how the U.C.'s work, that's my argument for one thing. Commissioner Allen I did check with the Principal and I thought I was going right to the source, you know what I mean.

Commissioner Allen stated I'm not talking about Principal, employees as they come to work for the Commission or for the cities, they go through a review process coming on board and when they sign up for their retirement systems, they go through a whole process and understand what you have before, you should lay the ground rules in your planning.

(3-a) Request for Additional Consideration – Tammy Dickerson – Staff Response (cont.):

Chairman Para stated Ms. Dickerson you know you can hear a lot of pain in our engagement in this subject because of the nature of it and our desire to help you but I think also there's a sense of our responsibilities as Commissioners to preserve the integrity of the fund for all employees.

Ms. Dickerson stated I don't understand that, what fund, what are we taking from because the monies being paid out, it's in Principal's hands now, its no longer in the U.C.'s hands it's in Principal's hands. What fund are we speaking of?

Chairman Para stated my limited understanding of it, and I don't want to go long on this, Ms. Klinkenberg correct me if I'm wrong, but each of the employees of the Utilities Commission received these funds, they're invested in their behalf and it becomes sort of like an arm with strength and because of its presence in the market it's able to earn a certain return. It's designed for long term investing strategies, it's not designed to be a like a bank and therefore the concept being that the return will be greater when you get to 62 or 65. So from that standpoint that's the way it was set up and as Commissioner Allen rightly said is that you know not going back and critiquing whoever negotiated this for you, but that would have been the last thing that process should have used as an instrument to negotiate with. That would be probably the best explanation, have I done a fair job of explaining it?

Ms. Klinkenberg visually indicated yes.

Chairman Para then stated so we apologize but it doesn't appear that we have neither the will or the reason to change it at this point, so I apologize.

Commissioner Diesen stated I would like to know about what Ms. Dickerson just said that in talking to the folks at Principal they tell you that the current plans, most current plans take this into consideration. I would like to have a little bit more information on that, Mr. Preston is that your bailiwick.

Mr. Preston stated in terms of finding out numbers of plans, percentages that may and percentages that don't, I could do that.

Commissioner Diesen stated current plans, I don't know when this one was negotiated but I'd like to know if there's been a sizable change in the way that things are now being handled at Principal. I'm not satisfied with dropping it right here until I get that information when I hear from someone who's definitely hurting and in pain and she gets that kind of information from the holder of the money; I'd like to know more about that.

Mr. Preston stated and I can find that out, I can investigate to find out generally today what plans contain as far as that provision.

Commissioner Diesen stated right and what the detriment is to those plans that have had that, I'd like to have that, I want to make sure we've uncovered every bit of information and turned over every rock before we just slam the door on this because I do think it's unusual. I know when people leave the U.C. and they're not of retirement age the money stays there, they were

(3-a) Request for Additional Consideration – Tammy Dickerson – Staff Response (cont.):

employees and it stays there. You know they may go on to who knows and 30 years later come back and say hey I had 10 years invested, I want my retirement. But this is a totally different case and I would like to have every bit of information before I'm willing just to say forget it.

Chairman Para stated good point Commissioner Diesen.

Commissioner Spangler stated yes, there's a contradiction in what we've heard, one we've heard that it's financially damaging to allow this to happen and the other we've heard is that it happens all the time. So I think we need to know that before we actually say no or yes, we need to know which is the case. So I don't want to say we're not going to do it at this point personally.

Chairman Para stated good, well that sounds well reasoned and we will wait to hear back. He then stated to Ms. Dickerson, I apologize for being in limbo here but better to have hope than no hope at all.

(3-b) Request to Appear – Clarification of RFP for Generation/Renewable Energy – Bob Tolley:

Chairman Para then stated with that we'll move on to the next public participant and that is I believe Mr. Tolley, you're up next, you wanted clarification.

Mr. Tolley, a resident on Fairway Drive, addressed the Commission and stated good evening. He stated the clarification for the RFP regarding generation, renewable energy, has been taken care of so I don't have to bother you guys with that. Unless you want an update as to where we stand with 19-05, I'll blow by that and speak to you guys later on. And with your permission, if you don't want to know about 19-05, then I'd like to possibly make comment on 4-c. and definitely number 5. He added I may not say anything depending on what comes out.

Chairman Para stated then let's go and leave that open for you so that you can comment at those points.

Mr. Tolley confirmed so it's okay.

Chairman Para stated yes, sure.

Mr. Tolley stated thank you.

(3) Public Participation (cont.):

After determining the next public participant, Mr. Leonard Revell addressed the Commission and stated I own property at 305 and 307 South Atlantic. He stated 307 South Atlantic is a two story, three unit apartment house that I built with my bare hands and I built it to and above all codes that existed. Lorren Koppick was your chief building inspector at the time, and any problems or anything I didn't know after he told me no you can't do that, from then on I would go to Mr. Koppick and say Mr. Lorren I've got a problem here, how do you want me to do this. He'd tell me and I would do it, no hesitation, I found out it was better to do it the first time than try to redo

(3) Public Participation (cont.):

it the second time. I only bring this up is because it goes into the dilemma that I have with the Utilities Commission.

Mr. Revell stated in 1975 when I got this sealed I had three electric meters put in and was in the process of putting in three water meters in when they said oh you don't need to do, that they would charge each of your tenants the minimum water. I don't know if there was a sewer charge then or not, I forget, probably was, so that was the way that it stood. Now some years ago ya'll went and started sending me, or my father and me, a water bill which the girls downstairs called it usage. Well if you use water it's usage, everybody was using it. But here you are, you're collecting twice, you're collecting from my tenants and then you're collecting from me. I started with the City Commission, they sent me over to here, which I started downstairs and they told me that was the City's business, and so back to the City and then I'm here; now this has taken several years for me to get here. Now I had the run around to saying this is a usage charge or this that and the other and to me it's malarkey. The reason why I say that I can put it all on one meter and have one water meter and one light bill but then I have to divide it up and get it from my tenants which I'm not in the water business, nor am I in the electric business. And when you put a tenant in, I think we have a lawyer up there that will tell you, you can't just go and cut his lights off if he doesn't pay you if you're furnishing it. Is that right, are you the lawyer?

Mr. Preston stated I'm the lawyer.

Mr. Revell stated you can't go in and cut his lights off because he doesn't pay you whether it be the rent or what.

Chairman Para stated well I have to first ask the obvious question, several years? Are we that slow?

Mr. Revell stated I didn't say you were that slow, I said I was that slow but now I have time, I've retired.

Chairman Para stated okay.

Mr. Revell stated I want to clear that up, and the only thing I brought it up about Lon and the inspections is because I did it like you were suppose to do and if you changed this I should have been grandfathered in if there was any change on there. But I have not come before ya'll before hand but here I am, and to me it's very illegal to collect twice.

Commissioner Spangler stated I'm not sure, if you're the landlord for six tenants.

Mr. Revell stated three.

Commissioner Spangler stated three, and you have the option of having all of your water come on one meter and then you bill them which you don't want to do.

Mr. Revell stated I'm not in the water business.

(3) Public Participation (cont.):

Commissioner Spangler continued or you have the option, well we are and it costs us money, so if you have three meters, then you're getting three bills and even though each person's only using a third of that water we still have to administer each of the three bills because you don't want to. So you're probably paying a little bit extra but if you're saying you're paying on one meter for yourself and then paying on three meters besides, then that's another matter.

Mr. Revell stated I'm paying the water bill.

Commissioner Spangler stated which one.

Mr. Revell stated for 307 South Atlantic, 307A, 307B, and 307C pay a water bill.

Commissioner Spangler stated okay.

Mr. Revell stated would you like to see them.

Commissioner Spangler stated no, I believe you. So what's wrong with that, it should be cheaper than having three meters, just a little bit more trouble.

Ms. Klinkenberg stated it sounds like to me it might be set up as a master account. She stated to Mr. Revell if you would come in and see me, I'll give you my card, I'm head of the Customer Service Department, I'm the Director of Finance and they work for me, I will meet with you.

Chairman Para commented if you waited seven years, I think you can wait 30 more days and Ms. Klinkenberg I guarantee can straighten something out.

Ms. Klinkenberg stated it won't even be 30 more days, call me tomorrow I'll set up a meeting.

Mr. Revell stated I have heard this, that this is the City's minimum bill, that the City gets it.

Chairman Para stated well, you go see Ms. Klinkenberg and if for some reason we can't work it out, you come back and see us in a month, but I think Ms. Klinkenberg can work it out for you, she's good at explaining things.

Mr. Revell stated I'll tell you the only reason I'm here is I just got my tax bill, my insurance bill, and then to get my water bill, it's too much.

Chairman Para commented it blew you away huh.

Mr. Revell stated to Ms. Klinkenberg I'll be back to see you, what's a good day?

Ms. Klinkenberg stated call me any time, call me and set up an appointment, that's my direct line, it's right to my office.

Mr. Revell introduced himself to Ms. Klinkenberg and then asked if he could ask a quick

(3) Public Participation (cont.):

question about the young lady that was up here working her retirement out.

Chairman Para asked are you going to write her a check?

Mr. Revell stated no but I might if I get my water bill straightened out, but then asked if that was her money in the retirement account.

Chairman Para stated that was her money.

Mr. Revell stated that was just her money in there?

Commissioner Diesen stated no his.

Mr. Revell stated you can't give her money back, what's wrong with that.

Mr. Rodi stated the money was her husband's who is our employee.

Mr. Revell stated oh, it's not hers.

Mr. Rodi stated through the divorce settlement the court said his money is now her money and our retirement plan says that we should protect our employees.

Mr. Revell then stated he's not your employee you said.

Mr. Rodi stated she is not, he is.

Mr. Revell stated oh he's still an employee.

Chairman Para then commented who's on first and stated don't start talking taxes because Commissioner Hall will get fired up and start talking.

Mr. Revell then stated okay, I hope this young lady can settle this or I'll be back.

Ms. Klinkenberg stated I'm sure we can.

Chairman Para stated you be working on it with us and come see us next month. He then stated the next public participant, you sir, you're up next.

(Mr. Robert Helsley) addressed the Commission and stated after hearing those matters mine's a small one so it should be pretty easy.

Chairman Para commented it didn't take you seven years to get here.

(Mr. Helsley) He stated actually no, I've actually been here a couple of years but I'm new to New Smyrna, since November and I have all my water bills, they've been paid. June the 1st is

(3) Public Participation (cont.):

what was in question, I made a phone call to the utility department, and I've been running behind schedule. The City of Daytona Beach Shores hit me heavy with a lot of permits because I do construction and it almost wiped me out being new to the area and relocating and so with all that in regards, I'm a little low on funds and so I was running behind schedule. So I called up Friday, June 1st, and told them that I'd be in Monday and somebody had said that I needed to be in before noon if possible and Monday came and I worked all weekend long just to try to make it happen. So Monday came and I was running a little bit late and I had called three times through the length of all day Monday and told them that you know I'd be in, I'd be in, I'd be in. I was running late because I didn't want my electric turned off. So I'm on my way there and my wife calls me and tells me that they had turned it off so I showed up to pay it and I paid it and they're wanting to charge me a \$375 or something like that, I don't even know what it is, \$345 additional deposit when they already have \$290 I believe of a deposit. And I could see if I hadn't called and hadn't tried to make it in and hadn't made it in or something but I just don't have it, I don't have the extra cash, I mean that's food money to me you know at this time.

Chairman Para stated all right, Bob had called me and I recommended that he come here tonight and discuss this. My concern is that he made arrangements, kept our people up to date, and it still was cut off.

Ms. Klinkenberg stated that's unusual, I'd have to talk to my Customer Service Manager to find out because when somebody's working for it I mean I will stretch to like five minutes before we're closing.

(Mr. Helsley) He then stated well that's what I was hoping for and I had called them throughout the day and told them and they said no you have to be here at noon, it's a policy. I'm like I can't make it at noon but I'll be, I promise you I'll be in there today and because Friday they had told me I had to be in at noon.

Ms. Klinkenberg stated uh huh, and that's our cut off because then we have to schedule the meter team.

(Mr. Helsley) He stated I understood that but I was letting them know that you know I was working all weekend long and I did the best I could.

Chairman Para stated well we got that, and the extraordinary thing because I work construction too and over the years from time to time I too ran a little close to the wire, the reality is that these folks are good to work with and that was what was so odd when you mentioned it that went down that way. And I think what I hear Ms. Klinkenberg, she's like the go to person so if you would just see her and contact her maybe they'd get it worked out in a favorable way because a hard working man like this, we want to try, you know if he's worked hard and tried hard, we want to make sure that happens; so if that's satisfactory to you.

(Mr. Helsley) He stated yes, just one more question, they gave me a hang tag Friday so here I am again.

(3) Public Participation (cont.):

Ms. Klinkenberg stated for non-payment of the deposit, let me take your address and everything and talk to me, call me.

Commissioner Diesen stated yes, look at that whole thing, please, please, look at that. I get more complaints about this stuff that we've got to do something. We are a ...

(Mr. Helsley) He stated my only other, can I say one more thing, the only other thing that my concern was how many other people are out there struggling...

Commissioner Diesen stated that's right.

(Mr. Helsley) He stated and then getting hit with that additional deposit that they really don't have right now.

Commissioner Diesen stated exactly.

Ms. Klinkenberg stated and that's a policy issue, that's a policy that goes before the Commission to get approved about increasing the deposit; I mean we would have to come before you to change that.

Commissioner Diesen stated we need to look at all that stuff, I get so many complaints, I mean if you're already against the wall, and in your case maybe you're new here but some people have been here 17 or 18 years and something like this happens; we are a monopoly they can't go somewhere else. If they could go somewhere else and we need to be very nice to people too. That's all I'm going to say, I don't want to...

(Mr. Helsley) He stated I want to thank you all.

Chairman Para stated sure, thank you very much. Commissioner Diesen would that be something, Mr. Rodi could we discuss this maybe at the next meeting and bring it up.

Mr. Rodi stated sure.

Chairman Para stated because I think the same way Commissioner Diesen, I hear this a lot and I understand from a business standpoint but if somebody, let's say this gentleman owns his home or whatever he's vested here, there's recourse and there's an opportunity for us to work through things, so.

Mr. Rodi stated are you talking about putting a lien on a home?

Chairman Para stated no, I guess what I'm talking about is somebody...

Commissioner Diesen stated no but he owns his home, it's not like he's not hooked up to a pole from his vehicle or something.

(3) Public Participation (cont.):

Chairman Para stated correct, my point is can there be a stair stepping policy change, I don't have all the answers, I'm not going to do policy right from the hip. I'm simply saying that if there are these options we can walk through, maybe we can discuss that at the next meeting.

Mr. Preston stated sir, could you do me a favor and just state your name into the mike there so that we can have that for the record.

Mr. Helsley then stated my name is Robert Helsley.

Commissioner Hall stated I would just like in this investigation to know when this policy went into effect because I think its been in effect for quite some time. Maybe not to the extreme it is now but I would like to know the history of it and how it's been handled by other Commissioners and administrations over time.

Ms. Klinkenberg stated we have done that comparison that I sent out to all of you for what the other utilities, local and private have done. We're pretty close in what they do and we do try and be very flexible with the customers. I mean we're trying to get, I don't get to all the customers, and I'm not suppose to have to, our managers are but they don't always make it.

Chairman Para stated well they've got a lot of people to see and I know our people are really trying hard.

Mr. Rodi stated let me repeat what I'm understanding is that you'd like to know the history of this policy, when it was implemented, what issues along the way have been there, and the comparison maybe with some others, and suggestion that we may see from this review.

Commissioner Hall stated yes.

Commissioner Spangler stated yes, I would like to comment on that too, we're going to look at two things, we're going to look at the fact that we want to have a friendly face and we want to look at the fact that at what point do we want to start underwriting people with financial problems. Otherwise we can't be overly liberal with the ratepayer's money but on the one hand we want people to like us, but we want them to like us without having to pay their bills.

Commissioner Diesen stated no that isn't true.

Commissioner Spangler stated no?

Commissioner Diesen stated we don't want them to like us without having to pay their bills, I think that's...

Commissioner Spangler stated well that's what the big deposits are about, if you start getting shaky then the amount of the deposit goes up and I think that's what we want to examine.

(3) Public Participation (cont.):

Commissioner Diesen stated but I don't think, I think it goes up quite quickly.

Commissioner Spangler stated yes, \$345 for being a month late is pretty steep.

Commissioner Diesen stated so I just think we need to address that because I get that complaint all the time and I want to make sure we're handling people in a very nice manner, let me just put it that way.

Commissioner Spangler stated I agree.

Chairman Para stated very good, thank you, is there anyone else that would like to be recognized for public participation. There being no other participants, he then closed public participation.

(4) General Manager's Report

(4-a) Financial Status April 2007:

Ms. Klinkenberg stated I'm sure you've noticed in your agenda packet that I made a significant change in the Executive Summary. A lot of it has to do with reporting more like a business entity and provide you more useful information and some interesting statistical information. She then stated note that in the prior year information I left telecom in the combined system because it needs to match the financial statements but I didn't list it next to Internet because that would skew the percentages. She then stated if you have any questions about that I'll be glad to answer.

Chairman Para confirmed there were no questions from the Commissioners at this time. He then thanked Ms. Klinkenberg and added I like your changes and I like the fact that you're fresh, you look at things, and you give us good information so I appreciate your intuitive nature; good work.

(4-b) PURPA – Discussion Detailing UCNSB Exemption:

Mr. Rodi stated for those of you who remember the mid-70's and the oil embargo and the consequences in this country, there was some federal legislation that was passed that was meant to encourage energy self sufficiency. PURPA obviously was the result and there were stated requirements that applied to different entities depending on how they were classified. There's another milestone that's now coming across our threshold and it relates to real time metering. Again, it's intended to accommodate what is an emerging industry in terms of perhaps solar energy, distributed generation or any number of variety of technologies. In our case we are excluded from the mandatory requirements, one that we aren't regulated in the traditional sense and our sales fall under the 500 million kWh threshold. So as a result one of the things I wanted to do was publicly bring this forward and its part of the requirement in our case to have a public discussion of it. But secondly there were a couple of other documents that were attached to this agenda item. One of them is a draft rider because it's apparent that in the future we will want to encourage as many renewable distributed generation resources as we can and secondly there's a document that is our existing solar photovoltaic interconnection agreement and that will become

(4-b) PURPA – Discussion Detailing UCNSB Exemption (cont.):

a template to then serve for distributed generation. So someone may have solar panels, someone else may have some type of bio-fuel CT set while others may have some other technologies that are just now emerging on a small scale.

Mr. Rodi stated so the purpose of this item was to make you aware, to bring forward the document, the rider itself. And as it is currently written it is essentially intended to provide a benefit based upon what the U.C. would paying out on the grid and it's a net sum zero. There can be changes made to that in the future so that if we wanted to provide incentives for particular kinds of generation we could do so; but this is just a very first preliminary step.

Chairman Para then asked who would like to go first, anybody.

Commissioner Spangler stated well I got on "Google" and I know about all this interconnection stuff and all the things that we're talking about and my issue was the one that had come up before, stranded costs but unless we're going to start paying these small generators which would be homes, unless we're going to start giving them money back, stranded costs doesn't mean anything. Otherwise they're only going to pay based on what their net usage is so I think what this is, is a preliminary. If everybody in the world starts generating their own power then the policy's going to change because there will be something stranded but it won't happen that fast. So I think this is wonderful, this is simple, the draft looks like the ones that I've seen on "Google" and I think given the seminar that we're going to give a week from tonight, we probably need to have this in front of us, so I think this is great.

Chairman Para asked Commissioner Allen if he had any comments.

Commissioner Allen stated this is a good beginning. One of the things I've noticed that's coming out now is most of our photovoltaic systems they drop off line when the system power reduces but a lot of systems now, as people are building up, are actually building battery banks and the design on their inverters are different where they continue to have power yet they're separated from the utility and when the utility comes back they're interconnected automatically. That's some of the upcoming technology that we have today and especially if somebody gets into multiple resources on one piece of property so it's a changing world that we need to be aware of.

Chairman Para confirmed there was no further discussion by other Commissioners and stated I just had some thoughts I shared with Mr. Rodi and I compliment you in beginning this discussion and that's how I look at this, being a beginning point. My personal take on it is I would like us to stretch a little from the 20 KW maybe up a little bit to 100 KW or something so someone can really build in if they're building something. I know Commissioner Allen spoke during our last discussion about the generation, about having some large photovoltaic set ups and I think you mentioned ten 1 MW units or whatever they are. And what goes hand in hand in that and what I've seen when I've done research myself even back several months ago, is many utility companies national have gone to an actual purchasing agreement. I have heard you say this before and this is very interesting to me, it's not in here, I understand this is a first take at this, I'd like to see that because I think that's really going to light the fuse. As a business person

(4-b) PURPA – Discussion Detailing UCNSB Exemption (cont.):

you know exchanging power is one thing, that's one level of the discussion, but when you excite someone with the idea that they're actually making a difference in the larger picture, I think you really give somebody the inspiration to move to the next level and conceivably they'll begin that process of developing something that has an impact. Now we talked about this, Commissioner Spangler, almost a year or so ago where the trends are and research is that people think of distributed generation being a lot of the answers because then you're not relying on one source. In our discussions when we had the folks, the experts here, that was their premise, you don't want to have all your eggs in a basket. So I'm thinking that if we can come up with something, maybe we can be a little bold and be on the cutting edge and provide whatever we're paying Progress Energy or Florida Power & Light we ought to pay these folks. I don't see any reason from a policy standpoint why that wouldn't be a good idea. I didn't think that you know say we've got somebody building let's say a 100 KW unit we ought to work with them and I noticed there's a lot of language in here about us requiring them to foot all the bills. So again, maybe we can go six months or a year and then sunset some sort of a policy that would be again a bit bold but I really would like to prime the pumps and get things moving so that people who are out there trying to innovate can be inspired to do so; end of my comments.

Mr. Rodi stated there's just a caution here and that's why this is again a step-wise approach. Going from encouraging applicable technologies that can be used at residences to a commercial style agreement where there are responsibilities to produce is a big jump and the only way to step into that is to begin and work out the details of it. If you're trying to load a system properly, bear in mind this is only from a provider's standpoint as opposed to someone like Mr. Beyrle that would have to be able to know where these power sources are and when they come on and when they come off and because there's a consequence in for him to balance the system. So the way in which we can step into this is just to take a step at a time, make this introduction, it is an acknowledgement of the direction that we're headed in and it certainly is an encouragement for those who want to see us take another step in this direction, so that's some of the thinking behind it at the moment.

Chairman Para stated great, and just as an anecdotal to that if we were to put a cap on that at 10% let's say that we would not enter into these micro-purchase agreements beyond 10% of our power usage. So again I'm just offering some suggestions in the creation of this, like I say just a 100 KW and no more than 10% but that they would be paid as opposed to just a net exchange. So I think the difference to being paid and an exchange is huge and I think if we can do that and govern that against a 10% or a sunset or whatever other vehicle, you're the wiser man in this area because of your experience, but it's again in the beginning you're priming the pump. He then stated to Mr. Rodi, so thank you for the cutting edge approach.

(4) General Manager's Report (cont.):

Commissioner Diesen stated I had a couple of questions under the General Manager's Report too, we kind of went right by that.

Chairman Para stated please proceed.

(4) General Manager's Report (cont.):

Commissioner Diesen stated I noticed the New Business Representative met with representatives to discuss pre-site plan requirements for Lowe's, let's talk about that.

Mr. Rodi asked Mr. White to discuss this matter.

Commissioner Diesen stated to Mr. White and while you're there I'd like you to talk about the "began design on Callalisa Condominiums" too.

Mr. White stated okay. The plans that Lowe's has or may have we aren't privy to, they have not prepared or presented a site plan. They were in my offices seeking information on the development, the pre-development requirements of a site plan which they would then take to the City and file presumably what I believe would be a Level III site plan. Now that location that is under consideration to the best of my understanding is still the Myrtle Avenue / S.R. 44 south location. What that will entail we do not know, we know that there is some opposition among the neighbors there. One item that has been discussed and considered is relocation in some fashion of part or all of Myrtle Avenue. If that does happen that has the potential of having a significant impact on the Utilities Commission in that we have a variety of utilities in the existing right-of-way of Myrtle Avenue which we properly have there. If that were a decision that was made at some level then those utilities would either be a) would have to continue to exist in their present location so we would have to be provided with easements to remain there since we're legally there or b) they would have to be relocated presumably at Lowe's expense. I think there might be some other peripheral impacts such as we are contemplating a large water line from the plant to this area, undetermined final route, the center and north, south somewhere in that vicinity that might affect the ability of us to do that at that location, might affect the final route of that. It's pretty hypothetical, that sort of stuff at this point.

Commissioner Diesen stated have they been meeting with you on a somewhat regular, irregular basis or just...

Mr. White stated no, I have not personally met with them at all, and Mr. Walter has met with the representatives who I believe was their information gathering from their engineering firm who was preparing to do a site plan; so this is pretty much out front kind of stuff yet.

Commissioner Diesen stated okay, then tell me about what work we're doing with Callalisa Condominium.

Mr. White stated okay, Callalisa Condominium is a plan for a condominium development on the barrier island on the west side of Peninsula Avenue just slightly north of Third Avenue, A1A, S.R. 44 and south of Ocean. I think the size of the development is proposed for about 15 units, the work we're doing relative to that is centered around the fact that we have underground cables going to what is it Marker Area 32 Condominium which is across the canal. They are underground, they go through those building sites, and then under ground, under water over to supply Marker 32 Condominiums which is on the order of 25 to 30 condominiums on the other side of the canal. The design work that we're doing is designing the relocation of those existing underground cables. The reason we're doing that is to make their development possible number

(4) General Manager's Report (cont.):

one, and number two, they will bare the cost of all design and construction, provide easements for the new location, and pay for the construction, and then we will have replaced pretty old direct buried cables that we might have to do sometime anyhow like next week or 20 years. We'll have a better more reliable system in that area for having done that and they will have what's essentially a useful site then.

Commissioner Diesen stated okay, thank you, that's what I wanted to know.

Chairman Para then asked if there were further questions of Mr. White, there being none he moved on to the item.

(4-c) FPL 230 KV Substation – Status Update:

While Mr. Beyrle was coming to the podium, Chairman Para stated to Mr. Tolley you wanted to be recognized at the end of this.

Mr. Beyrle addressed the Commission and stated just a brief update. He stated FPL recently hired a new real estate manager for this area and Daytona Beach who is reviewing all pending projects including this substation, 230 KV to 115 KV switching station. After they've had a chance to do the full legal and management review of the lease agreement they're putting together, they'll be forwarding it to us for our review and for our legal review as well. We've seen some preliminary wording on the lease agreement that they're putting together but now that they have new real estate personnel, and they've had a chance to review it more with their legal department, they're updating it quite a bit. The FPL risk committee makes all the final determinations for substation sitings for FPL and they've requested that all options be presented to them and compared because FPL prefers to own the land they put their substations on but this being an ideal location they're considering a lease as one of the possibilities for this station. The local office, they expect to have their matrix of all the possible sites to their management next week and they'll convene their risk committee shortly after that. So we hope by the July 16th meeting to have a lease agreement that they have proposed and that we have reviewed and worked out with them to present to the Utilities Commission for possible okay.

Chairman Para stated my desire is not to enter into your negotiating or make any recommendations, I don't think it would be wise and I know your loyalties lie here so we'll leave it at that. Are there any questions of Mr. Beyrle?

Mr. Rodi stated just a comment too, the lease agreement because of its term will not only be approved by the Utilities Commission but the City Commission as well, so I just wanted to go on the record to make that clear.

Chairman Para stated I think they had asked us at one of our joint meetings that occur, yes. He then thanked Mr. Beyrle and asked Mr. Tolley to come forward.

Mr. Tolley stated you know I never thought I'd agree with you so openly regarding your commercial idea to give guys like us you know the same price as FPL but commented Mr. Rodi

(4-c) FPL 230 KV Substation – Status Update (cont.):

broke out in such a sweat I thought I figured I wouldn't even laugh.

Chairman Para commented well he'll come around in time to see the value of us green guys.

Mr. Tolley stated I agree with you as far as the FPL issue, not to get in the way with Mr. Beyrle or Mr. Rodi but we've got a great opportunity coming up here. It's an opportunity we haven't had I don't think ever at the utility for this issue to be coming up at the same time simultaneously as the RFP that's out there. All I'm saying is let's make sure we take a hard look because I think there may be some very interesting business deals that might be available for the U.C. and the City in addition to what FPL may be looking to do. So I'd like you all to just keep an open mind, maybe not be in such a hurry with this, and let's see what the RFP shakes up. Thank you.

Chairman Para stated I think that's the intent, thank you Mr. Tolley. He then confirmed there were not further comments regarding this matter from the Commissioners and the public. He then confirmed with Mr. Rodi that this matter did not require a motion, just an update.

Mr. Rodi stated no, that's all it is.

(5) Commission Counsel's Report

(5-a) Request Executive Session RE: Collective Bargaining Negotiations (Tentative):

Mr. Preston stated the item is we need to schedule an Executive Session for Collective Bargaining Negotiation (Strategies) and I don't know what dates have been discussed but we need to determine a date when we can get together for that.

Chairman Para stated it's not something that we can discuss now.

Mr. Preston stated no.

Chairman Para stated I mean go into an executive session, because that's the way we use to do it, we use to go.

Mr. Rodi stated well if I'm understanding the protocol we have to make an announcement that we intend to do this.

Mr. Preston stated that's correct so we cannot go from this meeting into Executive Session.

Chairman Para stated okay, that's fine, so whatever is everybody's schedule, if everyone would just get their schedules with Mrs. Simmons, and then we'll try to work something out, right.

Mrs. Simmons commented my concern is Commissioner Spangler, how long are you going to be here before you go.

Commissioner Spangler stated a couple of weeks.

(5-a) Request Executive Session RE: Collective Bargaining Negotiations (Tentative) (cont.):

Mrs. Simmons stated so we have a little more time.

Chairman Para stated the sooner the better for everyone.

Mrs. Simmons then asked Mr. Preston if this needed to be announced today.

Mr. Preston stated we should announce the date, so if we can determine that date now we can speed up the planning for the session.

Chairman Para stated how's everyone's schedule for, is this week good or would you prefer next week. This week, I see a nod, okay, this week?

Commissioner Hall stated this week is not good for me.

Chairman Para stated this week is not good for Commissioner Hall, okay, next week, is next week good, first part, second part. First part Commissioner Hall?

Commissioner Hall stated yes.

Chairman Para stated all right so is like a Tuesday in the afternoon good.

Commissioner Diesen stated that's the City Commission meeting.

Chairman Para stated in the afternoon?

Commissioner Diesen stated no, at 7:00 p.m.

Mrs. Simmons stated we have a pre-bid conference at 10:00 am on the RFP on that date, so it would have to after that.

Chairman Para stated 2:00 p.m. on Tuesday.

Mr. Preston stated 2:00 p.m. works for me.

Commissioner Diesen confirmed with Mr. Preston that date was the 26th.

Chairman Para stated all right, so we're in agreement with that. He added that was rather easy, in the past it hasn't been that easy. He then stated Mr. Tolley you had asked that you speak on this issue too.

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

Mr. Tolley then addressed the Commission and confirmed the other Commissioners were done with Counsel's Report, I didn't want to step on anybody's toes here.

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

Chairman Para stated I think we just coordinated a date here that's all we did.

Mr. Tolley commented that was cool, you got that done quick, so long as the City's kept out of the loop we can move along real quick. Anyway getting back to Attorney Preston, I know how we've been sitting very patiently waiting for somebody from Washington or the Feds to get back to us and what I'd like to do this evening is to talk to the Commissioners about the potential of getting some documentation released so that we can possibly put a fire under this thing in another direction. Make sure that it's not dying on the vine somewhere, either in Daytona Beach or in Jacksonville. It's been 120 days I believe since the document's been giving to them. Now normally with the Feds it takes them that long to make their coffee but this is a very important topic, we don't want it to die somewhere and I think if we can just get some information out there we do have options available to really push this forward so to speak. So that's why I've come before you tonight to see if we can do something about it.

Chairman Para stated so am I to understand that you have made or want to make a public records request on this subject.

Mr. Tolley stated yes.

Chairman Para then asked have you done that already.

Mr. Tolley answered yes I have.

Chairman Para stated and the response from counsel's been?

Mr. Tolley stated nyet.

Mr. Preston stated I'm sorry I didn't hear your answer.

Mr. Tolley stated nyet, no.

Mr. Preston stated that's correct, at this point we have determined that being the investigative report sent to the Federal bureau is in fact exempt.

Chairman Para stated I see and then stated to Mr. Tolley and that does not satisfy you and what you're saying is you want something further.

Commissioner Diesen stated you want it made public at this point right, you're asking us to make it public or to release it.

Mr. Tolley stated well whatever you folks decide as a body, just so we can move the process along and make sure that it is moving along, not that we get a surprise like what happened with Tanner's office.

Chairman Para stated and this scares me because I find myself agreeing with Mr. Tolley tonight.

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

Commissioner Diesen commented well it's because your days are numbered.

Commissioner Spangler stated I have to ask you the question Mr. Tolley, and you may not want to answer this, what possibly is going to happen when the public gets a hold of these records that isn't happening now, who is going to do what with this stuff. I know you don't really want to say so, I have to assume that you think you may have access to federal people somewhere and if this stuff were in your hands you might be able to circumvent the process. I know you don't want to say that but if you don't say that what possible reason could we have for jeopardizing the case and releasing this.

Mr. Tolley stated I can say that, I don't have a problem saying that, yes, that's exactly what I'm going to do. I'm not going to tell you who, what, when, where, or how, but I can tell you it will be in somebody's hands in the highest authority within 72 hours I'd say max.

Chairman Para stated I jumped off too quick here but my agreement is that there has to be a point by which we as a public body say, because we're owned by the public and everything we have is public, so at some point in time if you have another governmental agency that either by omission or commission is not engaged, then we need to sort of close the file on it. In my thinking the last thing that we need to do would be just to vet this thing get it out in the open and be done with it one way or the other and that way the citizens such as yourself who believe the responsible thing to do would be to do something else with it, can do as you please but at least we have concluded one of the last elements of this responsibility and that is to make all these findings public that are permissible to make public. So I guess I turn to counsel and say at what point, Mr. Tolley does ask a good question, at what point do we say, do we wait six years, do we wait six more months, what do we do?

Mr. Preston stated the issue is somewhat complex in the matter of the records that have been gathered to this point and the use of those records, whatever they may be, most of which are of public record anyway. The boxes and boxes of items that have been collected are open to the public, have been open to the public, and actually have been viewed by members of the public. So there's not really the question of how long do we wait until we reveal any of the records that we have here at the Utilities Commission, they're available at any time. So in that case any member of the public can make its own investigation, do its own determination, and if there is resource available to that individual to go further with it, they are certainly welcome to do so.

Chairman Para stated well I don't understand, Mr. Tolley had asked the question earlier, said that he made the request and you said that...

Mr. Preston stated but the issue is not one so much of records, it's of the determined strategy that we have developed as the Utilities Commission in presentation to the Federal authorities as to the materials that they have in their hands to make their determination as to what to do with this case. And to simplify that, that's my letter.

Chairman Para stated that's kind of where I was wanting to get to.

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

Commissioner Diesen stated to Mr. Preston so you, wait a minute, so if we say go ahead and release the letter you're "cool" with that?

Mr. Preston stated I am, it's exempt from public records but not protected so if that's your decision at this point.

Commissioner Diesen commented so if we say let it rip you'll say suits me, I don't care. Okay, I'll make a motion that we let it go.

Chairman Para asked if there was a second.

Commissioner Hall seconded this motion and it passed unanimously on a roll call vote.

Commissioner Diesen added and send us all a copy.

Mr. Preston stated I can do that.

Commissioner Hall stated I'm sorry, I've got to say something, you talk about turtles, if we thought the FDLE and the State Attorney's office was slow, in today's world with Homeland Security and a Congress that doesn't know which way to go, frontward, backwards, sideways or whatever.

Commissioner Diesen interjected careful.

Commissioner Hall commented I'm a radical moderate so that's okay. I've had this discussion with Mr. Tolley once and I sure hope he's right that the Federal government's going to get moving but again based on some experiences particularly with other types of complaints, it is forever before you get anything and many times it is dropped, they just go along with whatever the State Attorney has said.

Commissioner Diesen stated so we're not causing any harm or damage.

Commissioner Hall stated but I don't want people to get their hopes up that some punishment for whatever is going to come out of this. I know a lot of people who would like to see some people behind bars and ...

Commissioner Diesen stated gee, we made a jump from getting the letter out to going...

Commissioner Hall stated I'm not going to comment on it because it is at the Federal level but again, my experience in other arenas on these types of things has been not good.

Commissioner Spangler stated well there are people in this room who have more confidence than we do and we have now given the paper to them; now let's see what they can do.

Chairman Para stated I'm all for closing it up and that's what we did.

(6) Committee Meeting Reports

There were no committee meeting reports at this point in time.

(7) Old Business

(7-a) Review of Developer Contributions to Utility Infrastructure – Schedule of Public Hearings:

Mr. White addressed the Commission and stated this is a revisit of what we did this time last year, in that we set up a system by which we passed the costs of developing infrastructure for new growth to the developers and that has become known as the ERU fee or the infrastructure fee, and various other acronyms. He commented the developers have some names for it.

Commissioner Diesen interjected don't go there.

Mr. White stated that's the material we're dealing with, the enabling resolution that you passed and the stated statute it was based on and permitted it, that requires an annual review and that is what this will do. We've engaged a professional financial services company to review the cost estimates amongst these and in the past years there has been some changes in the way that one segment of the three zones is going to deal with infrastructure projects. This is a request that we hold public hearings to inform the public and educate anyone that wishes to know about it and reset the system for the next year going forward.

Chairman Para stated okay, so we'll be having two meetings Mr. White, two public meetings and they will be on July 16th and August 20th.

Mr. White and Mr. Rodi both commented those are the regular U.C. meetings.

Chairman Para stated all right and then we'll discuss it, that will be part of the discussion then.

Mr. White stated yes and you will be provided with data, numbers, information, that you can discuss, cuss...

Chairman Para thanked Mr. White and asked if there were any further questions.

Commissioner Spangler made a motion authorizing the scheduling of two public hearings for the annual review of the developer contributions to utility infrastructure, for discussion and approval of any changes, revisions, etc., as a result of said review, on July 16, 2007 and August 20, 2007, preliminary and final respectively, at 6:00 p.m. prior to the regular U.C. meetings on those dates. Commissioner Allen seconded this motion and it passed unanimously on a roll call vote.

(8) New Business

(8-a) Update/Revision of Pole Attachment Agreement and Pole Attachment Fees – Scheduling of Public Hearings:

Mr. White addressed the Commission and stated in the past we've had a kind of standard pole attachment agreement that we used primarily with BellSouth and Bright House and as I believe are the only signatories, the only utilities using it. I don't know how it was arrived at, it's not too relevant I don't think but it was developed some time in past decades and it apparently served well. But it doesn't serve well anymore and we've met with new regulations that require pole inspections, hardening, raises the costs of doing business, and requires that we do business differently. That we do a structural analysis of poles before new users attach to them, that we build to new standards, new standard will be construction Grade B, and in certain cases we do extreme wind analysis and the fact that somebody else attaches to the pole affects how they perform in the wind, and some other issues. We've reviewed that agreement, we've drafted a proposal, we'll bring that to you, and it incorporates a new calculation of the attachment fee which is a new number and it's about double what the old number is since the old number is as old as it is. We'll have to have a variation of that in our quiver going forward to deal with new companies that are requesting to attach on our poles and there seems to be a lot more of them now. But we're getting requests for our pole attachment agreement and we don't actually have one to submit and we, at this point, would like to set up hearings again so that we can review and inform everyone and establish a new pole attachment agreement.

Chairman Para then confirmed there were no questions and asked if there was a motion.

Commissioner Allen made a motion authorizing the scheduling of two public hearings regarding the revision of the U.C.'s pole attachment fees on July 16, 2007 and August 20, 2007, preliminary and final respectively, at 6:00 p.m. prior to the regular U.C. meetings on those dates. Commissioner Spangler seconded this motion and it passed unanimously on a roll call vote.

Chairman Para then thanked Mr. White and added I appreciate your hard work.

Commissioner Diesen stated may I ask a quick question, what happens when we put everything under ground in the next six months, just kidding of course, but what happens to the pole attachments.

Chairman Para stated they go underground with us, right?

Mr. Rodi stated except in some cases the poles will remain unless those who have attached get off those poles. Mr. Mitchum routinely has this problem where an auto will break a pole and we've transferred all of the electrical scheme and the pole will sit for a year and we're trying to convince the other parties who are attached to get off that pole. Well with undergrounding, unless its mandated that all go underground, then you can still have the situation with the above ground wires and below ground wires.

Commissioner Diesen commented then we have pole sitters.

Chairman Para stated as a follow up to that can't we pass a policy decision that says that we cut their wires and remove our pole after 30 or 60 days.

(8-a) Update/Revision of Pole Attachment Agreement and Pole Attachment Fees – Scheduling of Public Hearings (cont.):

Mr. Rodi stated that's part of what has to be in the agreement is the understanding when a party does not perform, it's a contract, and so that's all part and parcel of having a new agreement. We're slowly working our way through a lot of these issues.

Chairman Para stated good, I like that a lot.

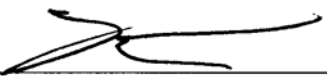
(9) Possible Other Business – Time for Commissioners:

Commissioner Spangler stated I just wanted to say that I'm pleased to see we have a seminar next Monday and that we've done some preliminary paperwork that will go along with that and I hope we have a lot of interest in it.

Chairman Para stated I think it's extraordinary, Ms. Mahle you've done a great job, you and all the rest of the members of your team, it's refreshing and I will not begin to expand on that.

There being no further business to come before the Commission, Commissioner Diesen made a motion adjourn and Chairman Para closed the regular U.C. meeting at 7:30 p.m.

APPROVED:



CHAIRMAN

ATTEST:



SECRETARY-TREASURER

These minutes were formally approved by the Utilities Commission at their July 16,
2007 meeting.