

**AGENDA ITEM 2-c**

**MINUTES OF A REGULAR MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, JUNE 21, 2010, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA**

Chairman Allen opened the Regular Meeting of the Utilities Commission with an invocation and Commissioner Hall led in the pledge of allegiance. He then requested for a roll call to be taken. A majority of the Commissioners were in attendance as follows:

Commissioner Oscar Zeller (ABSENT – Out of State)  
Chairman Walter Allen III  
Commissioner Jeanne K. Diesen  
Commissioner William E. Hall  
Commissioner William H. Reynolds

Others in attendance were as follows: R. Mitchum, Acting/Interim General Manager/CEO; T. Beyrle, Director of System Ops. & Generation; J. White, Director of Engineering; P. Di Chiara, Director of H.R.; D. Hoover, Director of Water Resources; R. Lemoine, Director of I.T; B. Bilinski, Controller/Budget Supervisor; D. Wood, Customer Service Manager; D. Zorge, Customer Service Supervisor; B. Keehn, Administrative Support Specialist; D. Simmons, Exec. Adm. Offices Mgr./Recording Secretary; W. Preston, U.C. Legal Counsel; B. Sanderson, Independent Contractor/Consultant; C. Lingenfelter, Chief Planner; and William Biedenbach, Bob Tolley, both members of the public.

(1) Agenda Changes, Additions and Deletions:

Chairman Allen stated okay, are there any agenda changes, additions, or deletions this evening. He confirmed and stated there appears to be none.

(2) Approval of Consent Items:

Chairman Allen then moved on to item 2, the approval of the consent items, with four items on the consent agenda.

Commissioner Diesen made a motion to approve the consent items: item 2-a. Minutes of Regular U.C. Meeting held 5-10-10 and item 2-b. Minutes of Special U.C. Meeting Held 5-14-10, approve both as submitted; item 2-c. Independent Contractor Agreement – Junior System Analyst, ratification and approval of services of, and an Independent Contractor Agreement by and between Michelle Milligan and the Utilities Commission from May 24, 2010 through November 28, 2010, estimated at a total cost of \$21,200, and authorization for the Interim General Manager/CEO to execute on behalf of the UC; item 2-d. Hurricane Preparedness – Warehouse Stock Items, no action requested or required, information item only.

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

(3) Public Participation:

Chairman Allen then stated the next is item 3, public participation, and asked if there was any general public that want to participate.

Mr. Tolley addressed the Commission and stated Bob Tolley, 803 Fairway. I first want to thank the Commission for getting the power turned on as quick as you guys did the other night, the wife just started to break out in a sweat from fanning us with the palm fronds so she appreciated that. The other thing I wanted to tell you folks was I got a call from Henry at NSB.news and he was throwing a hissy fit the other night because he couldn't find out as fast as he wanted to find out how many people were out of power so it started out as just a simple conversation and it just expanded from there. So I just wanted to I guess recommend that if you see him in the window don't answer it, if you do answer it just ask him to go to operations because it turned out to be a stink fest for no reason all weekend long, just because he couldn't get an answer in five minutes. Outside of that, real great job, added you look great there boss, see you later.

(4) General Manager's Report (Interim R. Mitchum)

(4-a) Financial Status – May 2010:

Chairman Allen then confirmed there was no further public participation. He stated seeing no others, we'll move on to the General Manager's Report, Financial status.

Ms. Klinkenberg addressed the Commission and stated good evening, for the month ending May 2010 our change in net assets was a loss of \$529,000 for the combined system. The majority of this loss was due to enQuesta which I'll explain in a little bit. If we hadn't taken the loss on enQuesta we would have only had a net loss of just over \$200, so operationally we're in pretty good shape. And our forecast reports reflect that our year to date balance is favorable, budgeted actual of \$611,000, that shows that we're right on track with where we should be for this time of year. Our balance of the fuel and purchased power cost adjustment is an over recovery of \$1.8 million and as you know as of June 1<sup>st</sup> our fuel and purchased power cost adjustment went down. That will start being reflected in our June financial statements.

Ms. Klinkenberg stated a little bit about enQuesta, I know you all know a lot about enQuesta, but the reason we had to take the loss so that you understand is we abandoned it and it has no useful life for the Utilities Commission. It needed to stay in place in exactly the way it is in order to have the four years required back information on customers because as Resolution No. 28-78\* (\*no free service in resolution and additionally the approved backbilling policy) says that we go back and credit the customers if it's our mistake for four years and we backbill for one year if it's our mistake; so we need to keep that information intact. Due to the platform being so different from the IBM platform that we're on now, we couldn't convert everything that was in there. We were able to convert reads but we could not bring over the dollar balances on everybody's account and all the different pieces and parts that it in. So it has to be there, our I.T. Department's

(4-a) Financial Status – May 2010 (cont.):

tried to take it and bring it inside our network and it seems like any little move we try and make to the system brings the whole system down. So we haven't been able to do that and we haven't been able to use any of the pieces and parts that we planned on using because if you touch one server it brings the whole network down on the enQuesta part. So in order to have the historical information that we're required to have we have to keep it but it really has no value to us since we can't use it so we were either going to take the hit this month or during the audit they would have required us to take a hit for the loss. So we had to expense the whole \$528,000 of the implementation and that's what hits our profit and loss statements for the month. She then offered to answer any questions.

Commissioner Diesen stated and we didn't know that until when?

Ms. Klinkenberg stated didn't know that we were going to have to take the hit for it.

Commissioner Diesen answered right.

Ms. Klinkenberg stated no, we knew we were going to have to, we were waiting to take the hit for it until we settled everything with Harris and S&S. I think it was about a month ago that Counselor Preston negotiated the settlement with them. So we have to wait for that in order to finalize everything and then it takes us awhile to go through all the details of that project to make sure there wasn't something that we're using. We were very careful in going through it and making sure we were only expensing the true cost that went with the implementation.

Chairman Allen then recognized Commissioner Hall.

Commissioner Hall asked are we absolutely certain that's going to work from now on out.

Ms. Klinkenberg stated I guess as certain...

Commissioner Hall interjected absolutely is not, are we certain it's going to work.

Ms. Klinkenberg stated as long as we don't touch it, it seems to be fine. And I think in the agreement, enQuesta, they're not maintaining it but they are going to keep it operational for us to get historical data.

Mr. Preston stated that's correct, and that was the primary negotiating point, was allowing us to access the data through their software since we couldn't do it through the new platform for the period of time that we need, while at the same time protecting their copyrights. And we do have that access which is good, turned out to be very good that we can in fact do that. The mechanics of it, logistics, I'm not familiar with whether or not how effective it will be to access that data. It's available to access and if we have to deal with the hardware issues because of the software each time it may be something that

(4-a) Financial Status – May 2010 (cont.):

is a burden but it doesn't seem to be at this point. We should be able to access the available data and other than that it will sit dormant until necessary.

Ms. Klinkenberg stated and we haven't had any issues accessing the data, we use it on a regular basis to go into and check the data. It's fine and we're using it currently, only for historic information, no current information is in there.

Commissioner Hall stated I have one final question.

Chairman Allen stated yes.

Commissioner Hall stated I know that every month the financial statement is different for various reasons and when we compare year to year it's going to be the same way depending on, again, various reasons. But could you give us, in your opinion, where do we stand financially as an organization, are we in very good shape, good shape, average shape, below average, or are we failing.

Ms. Klinkenberg stated considering where we were five years ago, when I came to the Utilities Commission, I would say we're in very good shape. When I got here, and up until a couple of years ago, we were spending more than we were taking in on just our operations. So if you look at it from a point of view for a for profit company, our profit margin was negative across the board. Electric made money but they were the only ones that were making anything and we were, every single month, spending a lot more than we were actually collecting. At this point if you look at, I do the profit margins, other than the Internet Division, we're turning, if you want to call it a profit, on all Divisions across the board operationally; so that's important.

Commissioner Hall stated and who was CEO when you came on board.

Ms. Klinkenberg stated Genny Turano was CEO when I first started, I started here in March of 2005 and Robert Rodi took the seat in July of 2005.

Commissioner Hall stated and you worked under ...

Ms. Klinkenberg stated I worked under Roberto Montalvo.

Commissioner Hall stated okay.

Ms. Klinkenberg continued I was the Accountant, then the Chief Accountant.

Commissioner Diesen stated a lot of this expense started, a lot of this the money that we were losing was getting out of telecom wasn't it.

(4-a) Financial Status – May 2010 (cont.):

Ms. Klinkenberg stated yes ma'am, way back when we used to have the Rate Stabilization Fund which I'm sure you all remember. And when I got here one of the things I couldn't understand was how we could have a negative cash in a Rate Stabilization Fund. Telecom had eaten every bit of the money that was sitting in there so the Rate Stabilization Fund was actually negative, I think it was around \$6 million. That's suppose to be something like a reserve but it was negative and all of that came from Telecom. But that, as you know, we suspended that a couple of years back and we no longer have a reserve of any type. And now if we have overages or shortages we take care of those with our unrestricted R&R Fund, so any additional funds that are available at the end of the year we reinvest into the infrastructure at the Utilities Commission.

Commissioner Diesen stated well that Rate Stabilization Fund wasn't sovereign either, I mean it was being, it was a "slush" fund, excuse my french.

Ms. Klinkenberg stated yes, they weren't using it appropriately, but you know we're allowed to have one but it's up to the Commission if you'd ever want to reinstitute it. I'm comfortable just reinvesting into our infrastructure, I mean that's where we need the most help anyway. And our 28-78 (Resolution No.) allows us to do that so we just put the funds there and then you know our water plant, wastewater plant, get help when they need it, and so does the electric system.

Commissioner Diesen stated I think the inherent danger if you have one of those funds, I know aren't required by accounting procedures, but I think the inherent danger is when we would get an excess knowing that we're going to have a minus down the road, some people look at that and go okay you're just trying to withhold funds from being transferred to the City when in fact that's not the case, so I think we're just better off handling it probably the way we are; that's my opinion.

Ms. Klinkenberg stated right, I agree. That was our recommendation when we suspended the Rate Stabilization Fund. She stated so if you have no other questions about enQuesta, I'd like to give you a little more info. I just wanted to let you know you've been asking about a Statement of Cash Flows for quite some time and we're ready to introduce that in our next month's financials. You will see a Statement of Cash Flows, and I think you'll see, because it's your typical Statement of Cash Flows, it will have your income from operations, income from investing, and your income from financing, so you're going to see our operational cash flow and that will be included in June's financial statements for you. And I think that's all I have unless you have other questions. Yes, Commissioner Reynolds.

Chairman Allen then stated any questions.

Ms. Klinkenberg then stated no.

(4-a) Financial Status – May 2010 (cont.):

Chairman Allen confirmed there were no further questions, and added thank you to Ms. Klinkenberg.

(5) Commission Counsel's Report

Chairman Allen stated we'll move on to our Commission Counsel's report, Mr. Preston.

(5-a) Easement Deed for Multi-Use Trail Project – City of New Smyrna Beach:

Mr. Preston stated I have two items tonight, one of which is on the agenda and it involves the trail, the Multi-Use Project that we had considered at the end of last year. At that time the consideration was for an easement to be granted to both the City and the County for the trail. Since that time, is presented in the summary, the County has decided not to take part in this trail project so the City is assuming and moving forward with the entire project including that property which we own over County property. That raised some concerns for liability in terms of response to the County-owned property by City officials. And also the assumption of liability issues that I wanted to, and did address, with the City Attorney on several occasions and negotiated with him the agreement that you have before you now. And I'm satisfied with this agreement inasmuch as the agreement itself deals with liability, maintenance, and response time issues, as does the representations made by the City Attorney to me regarding coverages for liability. The Port Orange issue that I think was attached to the agenda was somewhat distinguishable from our issue but certainly raised liability issues and questions over our property. But I feel confident with the insurance coverage and with the terminology in the easement as it stands now that it's a good product, not just one to accept, but a good product for the Multi-Use Trail.

Mr. Preston stated so that's one item, and that one I will want action taken if you want to do that now, for approval of the easement. He added and Chad (Lingenfelter) is here tonight if you have any questions regarding the City's input and involvement.

Chairman Allen stated we need a motion.

Commissioner Diesen stated so move.

Commissioner Reynolds stated second.

Chairman Allen then requested Commissioner Diesen to read the motion.

Commissioner Diesen stated I move that we approve the proposed easement deed as submitted between the Utilities Commission and the City of New Smyrna Beach, for the City of NSB Multi-Use Trail Project – Phase 1 ( Approx. 2.2 miles, extending from Sugarmill Drive/Glencoe Geiger Cemetery to the Volusia County Fire Station located on Pioneer Trail) to be located in the U.C.'s transmission corridor, and authorization for the General Manager/CEO to execute on behalf of the Utilities Commission.

(5-a) Easement Deed for Multi-Use Trail Project – City of New Smyrna Beach (cont.):

Commissioner Reynolds seconded the motion and it passed unanimously on a roll call vote.

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

Mr. Preston stated the second item I have is an information item and it involves the handout to you, the handout is an NDA, a Non-Disclosure Agreement that has been negotiated by and between myself and Mr. Dordick the attorney for Sol Terrah project. You recall their presentation, I think it's been three months now since their presentation, and this is the first step in allowing both entities to move forward both in sharing of necessary information needs and so forth. He stated our discussions and negotiations have been quite favorable, and this would be an agreement that has been approved by them already, I have received their signed document back and they're just awaiting our signature.

Chairman Allen stated okay, anybody have any questions.

Commissioner Reynolds stated this is just for information since we have voted to enter into this right Mr. Preston.

Mr. Preston stated correct, I just wanted to keep you informed since it has been several months since there has been any word, primarily been back and forth with some negotiations.

Commissioner Hall stated but that agreement was, had it stated that we added said to investigate, am I right.

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

Commissioner Hall stated the motion was amended to say to investigate the possibility of...

Mr. Preston stated that's correct and this is the first step in doing so, exactly.

Commissioner Hall stated the second is talk to me about how this fits in with the Public Sunshine Law.

Mr. Preston stated well, that's part of the complexity in the negotiations with an agreement with a private entity like this, is the difference that the Sunshine Law does in fact make with confidentiality of information, and in reading through the agreement you will see that there are provisions specifically tailored to the Sunshine Agreement. He stated as far as the Utilities Commission is concerned, as far as any information that we receive which may be deemed to be public, may be released.

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

Commissioner Hall stated and you're going to bring this back at the next meeting for a vote, or you said this is just for information.

Mr. Preston stated this is just for information only, there's been approval, it's just a matter of signature at this point.

Chairman Allen stated basically this begins the process to help provide confidentiality and special information that maybe of a patent type for them so that their pertinent information is not disclosed. He stated you can't communicate without this, that is the reason for it.

Mr. Preston stated correct.

Mr. Preston stated and other than that, just my opinion for what it's worth, it has appeared that the transition has gone quite smoothly over the past month or so, two months, from my perspective at least. He stated so that's shedding a little light on that, so I appreciate Mr. Mitchum moving forward.

Chairman Allen then thanked Mr. Preston for his report.

(6) Old Business:

Chairman Allen commented there were no old business items to consider.

(7) New Business

(7-a) General and Continuing Engineering Services:

Chairman Allen then stated as we move on to new business, item 7-a, general and continuing engineering services, Mr. White.

Mr. White addressed the Commission and stated good evening. He stated these contract forms are basically a recreation of a periodic continuing services contract we maintain for certain consultants. He stated they're renewed on a four-year cycle on a four-year term for the obvious reasons. He stated they really are, basically the terms and conditions for which we do small engineering analyses, projects, tasks, and things like that with consultants so that we comply with the law. There are no actual services or funds or scopes within these, these are the forms of the contracts basically, the terms and conditions by which future tasks, if there be some, would be conducted. He then asked if there were any questions.

Chairman Allen asked the Commission if there were any questions.

Commissioner Reynolds stated just to refresh up here, when you did evaluation of the

(7-a) General and Continuing Engineering Services (cont.):

proposals, did you basically look at them for conformance to your RFP. Secondly, their ability to financially support the operation or what were your criteria.

Mr. White stated yes, that is correct. He stated the actual criteria and the actual forms were reviewed by the committee. I was not on the committee this time, we had a committee of three, and they each filled out a form, reviewed the submittal of each firm, and filled out a form of several criteria of each firm. Those were scored, you can look at those in the Purchasing Department, they have the actually forms.

Commissioner Reynolds stated yes, I was just interested in the process, have those no selectees been notified.

Mr. White stated yes, as far as I know everyone has been notified.

Chairman Allen stated it appears that it was a good size task to undertake with 41...

Mr. White stated yes, that's kind of the main reason why I wasn't on the committee this year.

Commissioner Diesen stated how do you select your committee members.

Mr. White stated we have a list of criteria which we consider valuable such as experience of the firm...

Commissioner Diesen stated no, I'm sorry, I said how did you select the committee members.

Mr. White stated I kind of pulled them out of my hat, I first asked for volunteers and then made appointments.

Commissioner Diesen stated I see.

Mr. White stated the members, if you'd like the names, they were one person from Systems Operations and two from Engineering. He stated all three engineers.

Commissioner Diesen stated okay, so it was a command volunteer.

Mr. White stated kind of, yes.

Commissioner Diesen stated gotcha.

Mr. White stated not everybody wanted to read 40 books over their weekend.

Commissioner Reynolds stated and I assume that all of this contract information here, on

(7-a) General and Continuing Engineering Services (cont.):

that agenda item 7-a, is the same as it has been.

Mr. White stated same words; the author is sitting next to you over there.

Commissioner Reynolds stated okay.

Mr. Preston stated so I obviously approve the agreements.

Commissioner Diesen stated I don't have the list that we used before, are there any new folks in here.

Mr. White stated I think there all new except one.

Commissioner Diesen stated well, I see Quentin L Hampton Associates.

Mr. White stated yes, Quentin Hampton did real well, it usually is a complete turnover, all the rest are new.

Commissioner Diesen stated okay.

Commissioner Reynolds made a motion to approve the selection of the seven firms as submitted and shown above, and authorization for the Interim General Manager/CEO to execute the attached agreements with these said firms (Ardaman & Associates., Inc. – Cocoa – Geotechnical; Daniel W. Cory Surveyor, Inc. – New Smyrna Beach – Surveying; Downes Associates., Inc. – Fort Myers – Electrical; Environmental Consulting & Technology, Inc. – New Smyrna Beach – Civil; Quentin L. Hampton Associates – Port Orange – Civil; Schweizer Waldroff Architects, Inc. – New Smyrna Beach – Architectural; and Fred Wilson & Associates, Inc. – Jacksonville – Electrical. (These will replace the existing continuing contracts executed in 2006, involve no expenditure of funds at this time, and are for a four year duration.) Commissioner Hall seconded the motion and it passed unanimously on a roll call vote.

Chairman Allen thanked Mr. White and stated no other new business, on to possible other business.

(8) Possible Other Business – Time for Commissioners:

Mr. Preston stated I have one other item if I may, that I forgot to bring up at my time. He stated and that is the Economic Development Advisory Board and to bring you up-to-date and to maybe make a recommendation. He stated I have come full circle in my recommendation regarding the member, ex officio member from the Utilities Commission as to having a voice. He stated I am of the opinion that this member should not have a vote or a voice, certainly on behalf of the Utilities Commission without the opportunity as we discussed at the last meeting to gain agreement from the entire

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

Commission. The representations and the negotiations with the City Attorney in regards to the participation on the board answered some of the questions and issues that I had. For example, the innocuous one of the time served versus the possibility of the member not being a member and the item of potential conflict of interest by serving on that board and serving on this board, and making decisions which is simply an advisory board. I understand but still that board will make recommendations to the City. So I had concern about some potential conflicts of interest and I wanted to resolve those and do so in a way, and I believe that you have been copied with my emails, do so within the flavor if your will, what you gave me at our last meeting that you wanted to respond to the City and not knee jerk negative response but to seek resolution in a way that we can contribute to this City advisory board that's advantageous to everyone involved, City, ratepayers, and citizens.

Mr. Preston stated so I have approached this with that in mind and I did not hear back from Mr. Gummey, I had forwarded him the email on Friday that you received on Friday. So I don't have a response where he has indicated that he would be willing to modify the resolution to have the member from the Utilities Commission serve in the same capacity as the other two non-voting members, I believe that he will, but did not get that recommendation before tonight's meeting. He stated they, that board, advisory board, have meetings scheduled for June 29, 2010, which is next Tuesday. He stated again, hating to hold them up in anyway, what I would consider recommending, if that's definitive enough, is that we nominate and appoint someone to serve on that advisory board contingent upon the resolution of these outstanding issues.

Commissioner Reynolds stated Mr. Preston I recall, I don't know if the City's changed it, but they had an ordinance where someone could not serve on two advisory boards at the same time. He stated so it seems to me that if we were a voting member we would be serving on two boards, the way the City classifies serving here on the Utilities Commission.

Mr. Preston stated no, not by the fact that you're serving as a Utilities Commissioner does that count as serving on a City board.

Commissioner Reynolds stated well, I had to resign on one of the advisory boards before I could be appointed here.

Mr. Preston stated well, I would suggest then that we can go back to the City and suggest that because of that we can't serve on the board, however I would also argue not having been a part of that process that the Utilities Commission is not of the City, so that technically we could both be a Commissioner on the Utilities Commission, though appointed by the City members I understand, City Commissioner, but I won't get into that argument now.

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

Commissioner Reynolds stated I agree, I was just going over, you know, to see if there was a technical aspect.

Commissioner Diesen stated because we all had to resign, (Commissioner Reynolds) and I had to resign from planning and zoning, and you did too (Commissioner Hall).

Commissioner Hall stated yes.

Mr. Preston stated and then there is the question and or argument is this advisory board administrative or simply advisory, which it's indicated to be advisory, what that may mean as far as differentiation between an administrative board or not, I don't know.

Commissioner Reynolds stated well, regardless of whether we vote or not vote, I certainly agree that one of us should be on that so that we are number one, keeping track of what's going on and we don't have a surprise that hits us. He stated it sort of keeps us in and we can't quote information either by the staff here, coming over or whatever.

Mr. Preston stated and if you want to designate somebody and have me research whether or not there would be a violation of the City ordinance I could do that as well.

Commissioner Diesen stated could we temporarily have somebody go to the 29<sup>th</sup> meeting.

Mr. Preston stated if you recommend that, I would certainly suggest that to the City.

Commissioner Diesen stated and then after things are resolved that might, would that be a job the Chairman could do.

Chairman Allen stated I've got a commitment Tuesday already.

Commissioner Diesen stated at the same time I'm assuming.

Chairman Allen stated well my commitment is 12:00 p.m., I've got a meeting on Daytona at noon time, so I don't know what time that is for.

Mr. Preston stated I don't know the time, do you know the time Mrs. Simmons, I thought it was an afternoon or evening meeting, but I really don't have that with me, it's on the website by the way, when you go on the City's website, and you go to the City Commission.

Commissioner Hall then asked is the Advisory Board going to meet monthly.

Mr. Preston stated monthly, at least monthly.

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

Commissioner Hall stated I'll volunteer to go Wednesday if somebody will send me an email to remind me.

Mr. Preston commented if you go Wednesday, you'll miss the meeting.

Commissioner Hall stated I withdraw, I'll be glad to go.

Mr. Preston stated I'd appreciate that.

Mr. Hall stated as long as it is not between the hours of 4:00 p.m. and 6:00 p.m. Tuesday.

Commissioner Diesen stated get off the golf course, I think it is.

Commissioner Hall stated that's when I'm working out, I'm just kidding, I can rearrange that.

Mr. Preston stated I think it's important that no matter who goes, that we go with the statement to the City, that especially this next Tuesday meeting, that the voice is not the voice of the Commissioners of the Utilities Commission, that there is no vote at this point for the member, ex officio member from the Utilities Commission.

Commissioner Diesen stated in that letter from Counselor Gummey, didn't he say that that this would be one of five voting members, this person would be, and that they would be voting as an individual as opposed to for the Commission, which was his interpretation of what it would be.

Mr. Preston stated you're exactly, yes, he did say that. He stated two issues raised by that statement, one he was responding to my statement to him that an ex officio is not necessarily a nonvoting member, he is a voting member and he was confirming that, with the fact that it's a voting member and at that point that was where I was in regards to the position. Secondly, that's where the conflict of interest issue was sparked with me, you know you can't serve in both capacities. He stated so my turn around letter to him last Friday was more directed to where I am now in regards to both of those positions and I haven't heard a response from him. He stated I can't see where that would be an issue but I haven't heard a response from him.

Commissioner Diesen stated do we need a motion to send him.

Commissioner Hall stated I like how you put that, send me.

Chairman Allen stated I think we pretty much have a consensus, Mr. Preston we don't need a motion...

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

Mr. Preston stated no, you don't need a motion.

Commissioner Hall stated a consensus is fine with me.

Chairman Allen stated there's a consensus to send Commissioner Hall at this time, okay we appreciate that.

Chairman Allen then asked Commissioner Hall if he had any additional comments.

Commissioner Hall stated no sir.

Chairman Allen then asked Commissioner Reynolds for any comments.

Commissioner Reynolds stated two items, I got to thinking that the power agreement the five-year contract we signed, Mr. Beyrle, is it two more years remaining on that agreement.

Mr. Beyrle stated with Progress Energy.

Commissioner Reynolds stated yes.

Mr. Beyrle stated it's through 2013, the end of 2013.

Commissioner Reynolds stated so we've got three more years.

Mr. Beyrle answered yes.

Commissioner Reynolds stated the reason this came up in my mind is we're looking for alternative power sources. One, do we all think, staff thinks, that by that time 2013 would we have our solar ponds out there or something else, a biodegradable plant. He stated the reason I bring this up, if it looks like those things may slip, the new technology, is there any options to that contract that can be executed or would we have to go in with a whole new negotiation.

Mr. Beyrle stated there are no options written in that would allow us to extend, that would just be a request to negotiate an extension.

Commissioner Reynolds stated okay, so you could negotiate an extension, and what I'm thinking three years from now only God knows what the power situation will be, you know at that time, and I'm wondering if it's worth going ahead and negotiating an option at this time where we've got low prices, if that's feasible.

Mr. Beyrle stated well, going forward we're always talking about what's coming out in the future with Progress Energy and Florida Power and Light and some of the larger

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

companies, so I don't know if we should extend it right now necessarily, until we see where our horizon's going to be, that's probably the best option going forward.

Mr. Beyrle added Sol Terrah is a small 1.5 MW pilot program, but somebody like Horizon, that may meet our needs beyond 2013, but we talk to them a lot about different options, for some peaking contracts or other things we're looking at, but I can certainly discuss, see where they're at as far as the chances of extending that if we need to.

Commissioner Reynolds stated would it be possible maybe not every month, but once a quarter sort of fill us in the status of all that, just make me feel, to sleep better at night.

Mr., Beyrle stated sure.

Commissioner Reynolds started second point I had ...

Chairman Allen interjected while we're on that subject, one of things about really kind of jumping the gun and look at trying to look at negotiating and maneuvering that contract, you don't want to go to soon, as you have a couple things in the pipe working, because a lot of times if you jump too soon, I've seen it in the past, you kill yourself because you jumped into a contract that really hurt you and what you're trying to do, so. He added and basically when you look at those contracts, when we come within like 12 months, and I think if you actually talk to them right now they really would not talk to you much about dollars, because it's too far out.

Commissioner Reynolds stated yes, I guess I'm looking at to see how we're going to come together with theses alternate resources.

Chairman Allen stated see what happens is if you go in and you start negotiating right now, they'll actually negotiate again in 2011, with a new contract. He stated they're not going to sit here and negotiate, looking out saying well, when you come to 2013 this is what the price is going to be.

Commissioner Reynolds stated that's why I wondered about the options.

Chairman Allen stated you know it's good and I think Mr. Beyrle is right on top of it to be aware knowing that that's coming up. He stated but we know that these others that are working and as we work toward that it's, so, to be kept abreast as to what's happening with the two projects, is a good idea, we would appreciate to have those updates.

Mr. Beyrle stated and also I know Progress Energy, they've lost a couple of their wholesale customers, Bartow and there was one other one that's possibly leaving them, so unless the loads increase dramatically over the next few years in Florida I don't see a problem with extending that or even getting a better deal with someone else, because there should be plenty of wholesale power out there in 2013 and beyond.

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

Commissioner Reynolds stated thanks a lot, I appreciate that.

Commissioner Reynolds stated second item, I brought up last time, about taking a look to see whether the U.C. feels it's feasible to take a look at natural gas operations and since we, I'm going to make a suggestion, a motion that we consider that in the next agenda item and I have a suggestion since we have a consultant contract with Mr. Rodi that he may be the perfect person to take a look at that since in my discussions with Mr. Rodi he was well aware that it was a possibility, and it was some pros and cons about us doing that. I think he would be a good guy to do so, Mr. Chairman how, should I make a motion for that or...

Chairman Allen stated I think so, if that's your desire.

Commissioner Reynolds stated well, I make a motion that we appoint Mr. Rodi as a consultant to review our Charter and the feasibility and profitability of us assuming natural gas operations in our area of operations.

Chairman Allen stated okay, do we have a second.

Commissioner Diesen stated assuming, or do you want to look at all of the possibilities don't you.

Commissioner Reynolds stated I do because number one I take a look at is as it's a utility, it's going to be a growing utility, it's something that our businesses and commercial operations, vehicle-wise and everything else, are going to be flowing toward natural gas, and it just something that we should take a look at for the community.

Commissioner Diesen stated so you kind of want him to do a little study, quick and dirty or whatever.

Commissioner Diesen seconded the motion and the motion then passed unanimously on a roll call vote.

Commissioner Diesen then stated I just want to make it, want to clarify an issue when we appointed Mr. Mitchum. It was the understanding that he has full power and authority to do everything and that his salary was being negotiated or something was being done about that, I wanted to make sure that's happening.

Mr. Preston stated that is in the works, I'm in the process of pulling together a contract for him for you.

Commissioner Diesen stated you answered my question, thank you very much.

Chairman Allen stated okay, I have no comments other than....

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

Commissioner Reynolds then stated I had a call Sunday from Mr. Frederick, Henry, regarding the power outages we had, and of course he couldn't get in touch with the person in operations because the person was very busy directing crews around and the automated message which I referred him to told him where the outages were but he was more interested in the number of homes. It just brought to mind, I mentioned to Mr. Mitchum, that it wouldn't be bad for us to provide a quote, orientation period, for the news media. If they would to go to operations center, one to see how complex it is, two to see how it operates particularly if we have an emergency like that, I think it would be good from our perspective to give these folks a chance to take a look at our operations.

Commissioner Diesen stated it would be interesting to make the offer and see if they take you up.

Chairman Allen stated the interesting thing with all the phone calls and you know it's after hours, it's very obvious what caused the outage. It wasn't like it was a major black out across the country, you know you looked outside and there were 5,000 lighting strikes in a matter of a few minutes. And the important thing is those who were in the area where the outage was, and I was in the area, and I think Commissioner Hall might have been in the area.

Commissioner Hall interjected my wife was.

Chairman Allen stated so with the outage, you know you basically know what it is, the outage actually wasn't long compared to what they had to do to restore power. And anybody who's been around here a long time knows when you have those severe electrical storms come in, and especially, I believe there was probably a micro-burst or a down-burst at that time because I think the winds around my home were probably close to 50 mph for a little bit and it was really putting down some water. So you just kind of chill out and know it's going to get restored, if you've been around electric anytime, and you see it relay three times, you know it locked out, and then all of a sudden you see somebody tried it and it locked out again, you know there's a major problem. He stated and the Commission has always responded fairly well to the news media in a given time. He stated normally we respond to all, you can know basically how many people you have on a feeder but that can change depending upon if there was some switching done in the field for maintenance so to just be able to try to get a hold of somebody that's in a control center, they may not have the actual numbers because of the switching that goes on. He stated a lot of times in situations like Thursday night, the next day is more than ample when you have a feeder and isolated outages. He stated it's not like you've lost half your system or something, you have a feeder go out, basically close to 3,000 customers, that's not uncommon especially if you've got wires down and then to get it back up.

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

Chairman Allen stated I know a lot of people want immediate response and they feel that it's inadequate today when they call that somebody doesn't jump to their response and start throwing numbers out to them, but I just have a concern that at the whim that we just start throwing numbers because a lot of times, especially in the past that I've worked, I've found that those things come back to haunt you. So I think it's important for us, as we go through that process, and there is a process, that as those guys are working and they work through, in a hurricane situation and things like that, as we prepare for those and the important thing to know, and as the media needs to understand along with governmental agencies, that the Utilities Commission just does not wait for the last minute to say well we need to prepare for a hurricane. In the years that I've been around the Utilities Commission they're prepared everyday because everyday you can have a situation, and so it's important for the people to know and understand that people are ready, we have the material here, we gear up in advance for hurricane season, and so we're prepared for those times. He stated it's not just at the whim and so often that comes out, are you prepared, well we're prepared 24 hours a day because you can't just wait to get prepared, you have to be there, so I think it's important for us to understand that.

Commissioner Reynolds stated well, I think we know that, you certainly know that, everybody here knows that, but so the news media understands that I think we need to consider the fact that educating is not a bad deal.

Chairman Allen stated yes, okay, any other questions or comments.

Chairman Allen asked if Mr. Mitchum had any comments.

Mr. Mitchum stated none here.

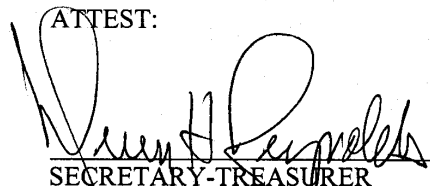
Chairman Allen stated okay, with no other business let us adjourn.

There being no further business to come before the Commission, Chairman Allen adjourned the meeting. The Regular U.C. meeting closed at 6:47 p.m.

APPROVED:

  
CHAIRMAN

ATTEST:

  
SECRETARY-TREASURER

These minutes were formally approved by the Utilities Commission at their July 19, 2010 meeting.