

## **AGENDA ITEM 2-b**

MINUTES OF A FINAL PUBLIC HEARING, TWO PRELIMINARY PUBLIC HEARINGS, AND A REGULAR MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, JULY 16, 2007, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

Chairman Para stated before we officially start the meeting we have a Pastor on our Commission and I would like to ask him to pray. Commissioner Allen proceeded with the invocation.

Chairman Para then requested Commissioner Spangler to lead in the Pledge of Allegiance.

Chairman Para then stated before we get to our agenda we'll start with the items for the public hearings.

(1) Final Public Hearing RE: Revision of Existing and Addition of New Reclaimed Water Capacity Fees:

Chairman Para opened the final 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. A majority of the Commissioners were present as follows:

Chairman Kevin J. Para  
Commissioner Richard L. Spangler  
Commissioner Walter Allen III  
Commissioner Jeanne K. Diesen  
Commissioner William E. Hall (ABSENT – Out of Town)

Others in attendance were as follows: R. Rodi, General Manager/ CEO; L. Klinkenberg, Director of Finance; R. Mitchum, Director of Electric Operations; 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; J. O'Brien, Materials Manager; C. Roberts, Budget Supervisor/Controller; D. Wood, Billing & Collections Supervisor; J. Santrock, Asst. Billing & Collections Supervisor; D. Zorge, Customer Service Supervisor; D. Simmons, Executive Asst./Recording Secretary; and a couple of other U.C. employees; B. Preston, Interim U.C. Legal Counsel; Melanie Stawicki-Azam, Reporter for the NEWS JOURNAL (came in later); Tammy Dickerson and one unidentified woman; Sally Mackay; Bill Rogers; Dale Williams (came in later) and Bob Bullard (came in later); all members of the public.

Chairman Para then requested Mr. Preston to read the notice of public hearing and proposed resolution.

Mr. Preston stated for the record this final 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.

(1) Final 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 final public hearing at 6:02 p.m.

(2) Preliminary Public Hearing RE: Annual Review of Developer Contributions to Utility Infrastructure:

Chairman Para then opened the preliminary public hearing regarding the Annual Review of Developer Contributions to Utility Infrastructure, and requested a roll call to be taken. The majority of the Commissioners and attendees as shown in the final public hearing were still in attendance.

Chairman Para 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 June 18, 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.

Chairman Para then asked if there were any comments for or opposed to the Annual Review of Developer Contributions to Utility Infrastructure. There being no comments, Chairman Para closed this preliminary public hearing at 6:04 p.m.

(3) Preliminary Public Hearing RE: the Update/Revision of Pole Attachment Fees (and Associated Pole Attachment Agreement):

Chairman Para then opened the preliminary public hearing regarding the Update/Revision of Pole Attachment Fees (also updating associated pole attachment agreement, public hearing requirement for fees), and requested a roll call to be taken. The majority of the Commissioners and attendees as shown in the final public hearing were still in attendance.

Chairman Para 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 June 18, 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.

(3) Preliminary Public Hearing RE: the Update/Revision of Pole Attachment Fees (and Associated Pole Attachment Agreement) (cont.):

Chairman Para then asked if there were any comments for or opposed to the Update/Revision of Pole Attachment Fees (and associated pole attachment agreement).

Commissioner Spangler stated I have a comment, a typo, exhibit C Notice of Abandonment, you're talking about under the terms of Article 9. Actually Article 9 is about maintenance, and Article 10 is about abandonment, the two are on page nine.

Chairman Para confirmed there were no further comments and added I trust that will get corrected by the time we see it again. Chairman Para then closed this preliminary public hearing at 6:06 p.m.

REGULAR U.C. MEETING:

Chairman Para then requested a roll call to be taken to open the Regular U.C. Meeting, the majority of the Commissioners and attendees as shown in the final public hearing were still in attendance.

(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 Allen made a motion to approve the consent items as follows: item 2-a. Minutes of Preliminary Public Hearing and Regular UC Meeting Held 6-18-07, and item 2-b. Minutes of Special UC Meeting and Executive Session Held 6-26-07, approve both as submitted; item 2-c. Developer's Agreement and Addendum – New Smyrna Beach Fire Station #52, approve as submitted and authorize GM/CEO to execute; and item 2-d. Bid No. 14-07 – Cable for Central Stores, approve and award purchase order no. PON0007013 in the amount of \$128,497.00 to Gresco/Capstone Utility Supply, the low responsive and responsible bidder. Commissioner Spangler seconded this motion and it passed unanimously on a roll call vote.

(3) Public Participation:

(3-a) Request to Appear – Dale Williams – Backbilling:

Chairman Para confirmed Mr. Williams nor a representative was present at this point in time. He confirmed there were no others who wanted to be recognized for public participation and then closed public participation.

(4) General Manager's Report

(4-a) Financial Status May 2007:

Ms. Klinkenberg stated for the month ending May 2007 our change in net assets is \$773,000 for the combined system. Our forecast reports reflect the \$226,000 favorable balance for the month.

(4-a) Financial Status May 2007 (cont.):

She stated in your agenda package you'll notice the graph, I left one on your chairs there, there was a problem when it imported into Word, that's just a properly formatted version. She stated and then Commissioner Allen noticed that it said seven months instead of eight. She then asked if there were any questions.

Chairman Para stated I guess not, good job, and then went on to the next item.

(4-b) Topics for Joint Workshop Meeting:

Mr. Rodi stated as you know there's been a continuing partial dialogue on topics for a joint workshop meeting and we have one that has been scheduled as a joint workshop for the 29<sup>th</sup> of August. Part of the previous discussion related to the topics of that joint meeting and I know that at our last scheduled workshop meeting on June 19<sup>th</sup> at the Brannon Center, there was discussion about a number of items that I think Commissioner Richenberg had summarized and you had previously received that listing. The purpose of putting it on the agenda is to have the wishes of this Commission if there are specific topics that should be conveyed to the City.

Mr. Rodi stated in Commissioner Hall's absence he had asked that he had two items that he would like, depending upon how you would capture his item it would be one or two items. One is the way in which the input into the agenda occurs as a topical item and then the second would be that he would like to have the agenda a week ahead of time. So I think if the one item is a topic that relates to how the agenda is developed, it would flow into the timing of the release of the agenda. So those are the two comments he had asked that I convey.

Commissioner Diesen stated is this also going to be about the budget?

Mr. Rodi stated I don't know, of course the topics relate to obviously what each Commission would put on. We normally would have two public hearings with regards to our budget as the method in which it would be discussed.

Commissioner Diesen stated but if the budget is a topic that's likely going to be probably longer than 30 minutes so it's a little bit difficult, so what are we going to do just throw them all in a hat and pull it out and say okay here are five.

Mr. Rodi stated the only thing I can do is if there's a topic, we have one or two from Commissioner Hall, that I can put on a list that it is the Utilities Commission's intent to have these items on the agenda in some fashion. And that's all this aspect of the meeting is about, it's just for discussion, if you have items, in the past there were some, I don't know if those would continue.

Commissioner Diesen stated well I'd like to see us discuss set times for the two Commissions to meet, like quarterly, for instance the third Thursday or the fourth so many months, named and date and set. So that we don't continually have this discussion and then we all know in advance as we do with all the other boards and it's there and it happens; so if you would add that to the list.

(4-b) Topics for Joint Workshop Meeting (cont.):

Mr. Rodi stated pre-scheduled, okay.

Commissioner Spangler stated I think that probably goes into the way in which these agendas are made, from my review it seems like they're always at the last minute and they're always a surprise. It wouldn't surprise me this time if the budget discussion got tacked on to the front of this meeting too so I think that would be a good idea to schedule it four times a year and have that agenda at least a week out in advance.

Commissioner Diesen stated and we'll all know for the whole year what that schedule is and there's no question about are you going to be here or you're not going to be here.

Commissioner Spangler stated right, absolutely. The other thing, the only other comment I had for a topic for that workshop is there's a little bit of confusion about how we arrive at our infrastructure fees and the confusion is I guess because it's very complicated and I was thinking maybe we ought to think about a simple way to explain it. Is there anyone up here that can explain it simply, I mean to me it's we take everything that we're going to have to have and divide it up by the number of people who will benefit. Now that's a little simple but I've heard some discussion about you know how do you guys arrive at that, like it's an arbitrary figure. I don't think it is, I just think it's pretty complicated to explain. So maybe we might think about whether we want to give a simple explanation for that at the workshop.

Commissioner Diesen then asked is there a real simple way to do it Mr. Rodi?

Mr. Rodi stated it depends upon what your reference question is, if it's just a simple question. If it's one that is meant to accomplish some other objective then you can't ever explain it. It's been explained publicly many times.

Commissioner Diesen stated I've watched Jim White up there and explain it over and over and over until I almost had it memorized; but that's a good thought Commissioner.

Chairman Para then asked the other Commissioners if there were any further items on the agenda. He then stated I just have one, you know we've started, like any time when you have two entities you start with a conversation where you're at. We began the discussion with the issue of a Green Policy, several months almost a year ago and we've never really arrived at an official by-, I hate to use the word bi-partisan but bi-Commission, let's put it that way. For both Commissions officially adopt a policy and say this is our policy, we're in agreement, rather than designing by default or designing by piece meal. And I think we've received significant infill now that R.W. Beck is finished with their process to the point that we can continue having a meaningful discussion. But I think it ought to bubble up from both sides of the street because the implication here, as we've discussed through Commissioner Spangler and his report, is that there is equal responsibility or opportunity for the City on their side through incentives to create an atmosphere that is conducive to renewables and that kind of Green Building and a Green Building Code to come forth and we can come along side of that. And companion to that is the discussion of the infrastructures because I think the two of them are linked. Again I would like to see us focus a very meaningful portion of that conversation around that issue because that's a

(4-b) Topics for Joint Workshop Meeting (cont.):

very positive thing or it can, it has the potential to be very positive and it is long term, long range. So I think we're really at a great point and again there's time to get down in the weeds and discuss basement issues but there's also time to get on the 30<sup>th</sup> floor and look out and see what's ten years out and discuss, also with our Planning and Zoning counterparts and other advisory boards in this community, what can be done to look at the whole community, get us all on one page, all locked step, thinking in terms of this as an official designate of both Commissions and all parts of the community speaking with one voice that this is the direction that we're going to go. Now, all that to say I'd like to discuss it then.

Mr. Rodi stated thank you and added I think that the Executive Orders that Governor Crist just signed, and you today I know have not had time to get to your email but all five Executive Orders are there that he's issued. They're pretty far reaching in their first initial impact so I think there will be, by disposal of those Executive Orders at each step of the government structure, some discussion will come from that.

Chairman Para stated and I think our timing is good to launch into that, we've been pro-active in those conversations some time ago. He then asked if there were further agenda items; seeing none he stated we'll pass on to the next item.

Chairman Para then stated Mr. Williams, I see you're present, we passed public participation but at the end of the meeting if it's not objectionable to my colleagues we'll allow you to speak then if that's okay.

Mr. Williams stated thank you.

Chairman Para then stated that goes for anyone else in the audience that would like to address the Commission, if I open it back up for one, it's open to anyone else. With that we'll go to the Commission Counsel's Report.

(5) Commission Counsel's Report

Mr. Preston stated I have no report.

(6) Committee Meeting Reports

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

(7) Old Business

(7-a) Request for Additional Information on Retirement Plans & QDRO's / Tammy Dickerson Request – Staff Response:

Ms. Perez addressed the Commission and stated what I did is I met with Jack Ascherl who is our representative for The Principal and asked him a multitude of questions that you had brought up from before. He did the research and what he basically came up with was out of approximately

(7-a) Request for Additional Information on Retirement Plans & QDRO's / Tammy Dickerson  
Request – Staff Response (cont.):

300 municipal plans out there 80% of them allowed the capacity of a QDRO being paid out for an alternate payee in a divorce or some other settlement issue with an alternate payee. And I think you have an attachment there, there's an IRS document attached, and I was able today to also get a sample from The Principal of language that they utilize when they allow for the payout of a QDRO, so it's a sample but it's here, I just got it about an hour ago. So that was where we started, any questions.

Chairman Para stated very good investigative work and good information. Let's start with Commissioner Diesen, you're the one that somewhat championed this and brought it back here. Do you have any comments, and wishes, and possible motions there Commissioner Diesen?

Commissioner Diesen stated well I was satisfied with all the investigative work you did, I thought you did an excellent job, and I will refrain from making a motion at the moment until we can all discuss it. But I think the percent you said that allows this is 80%.

Ms. Perez confirmed 80%.

Commissioner Diesen stated and that was in here. She then asked what is the down side to this?

Ms. Perez stated I conferred with Finance to see if there would be any problem on the financial end, I conferred with Mr. Ascherl and based on the fact that we're defined contribution/money purchase plan, there really isn't, we couldn't come up with anything. I don't know if you've since but there really wasn't and the plan it's in the packet, it's 12 years old, or we haven't reviewed it in 12 years and things have changed quite a bit.

Mr. Rodi stated I'd like to interject if I may, the down side is more than just the financial aspect. The original reason why this was put in is to protect a person so that they will have at retirement income. That was the fundamental of the plan and it would remain that way even under the proposal as you see it here. What's meaningful about it, and this is why it's a policy issue, if you have a person and as we all know as we go through life, you have some extreme challenges at different times in your life. You may have a very ill relative, you may have death in the family, there's always a pressing need for money and that's why the law was set up basically for people not to be able to cash it in and even after on your own 401 you can at a certain time cash it in early but there are severe penalties. That's the whole philosophy here, what we have is we as the U.C. are caught in a personal situation and the specific does not apply directly to an employee but it does apply to someone who was an important part of the family at that time. So it's a way to separate and some companies do it because frankly they just don't want to be burdened with looking out for that individual since that person is not an employee so they get rid of the liability aspect of it and they look at it in a very matter of fact way from a financial standpoint. If they don't have to keep it up, then they do that. He stated I just wanted to say that this was not an arbitrary implementation to begin with, what we're caught in is something that's a policy aspect.

Commissioner Diesen stated just because if this were to move forward so that this individual would be allowed to do this, that doesn't set precedent for the employees who are a part of this.

(7-a) Request for Additional Information on Retirement Plans & QDRO's / Tammy Dickerson  
Request – Staff Response (cont.):

Mr. Rodi stated no, it's still, as I'm understanding this, it's still means that an employee who does not have a QDRO like in this situation assessed against him or her for their retirement to be given to the other party, even though they may be divorced, it would not apply. It only applies when the court issues it. Did I understand that correctly, Counselor?

Mr. Preston stated and just to clarify it, it only applies to the non-employee party to a QDRO agreement in this particular case. So it in essence takes the benefits that were afforded to the employee, divides those benefits as directed by the court, and then the non-employee beneficiary of those benefits may withdraw those into their own account. So I believe the answer to your question is no, it does not affect current existing employees or their provisions in the plan.

Ms. Klinkenberg stated may I ask something too, we have two plans for retirement, we have the 457 plan and then the 401K and then with the people who do not have the 401K have the FRS (Florida State Retirement). The 457 plan does have a provision in it for hardship if your salary goes down a certain amount, if there's a death in the family, there's a lot of different hardship rules that they can get funds out of, it's just this one that doesn't have that provision in it.

Mr. Rodi stated and in that case the employee contributes some of their own funding.

Commissioner Diesen stated yes and in the FRS you can't take it out because you don't contribute.

Mr. Rodi then stated and this is totally U.C. contributions, this plan.

Chairman Para then asked if there were further comments from the Commissioners.

Commissioner Spangler stated well, I wasn't going to say this but I will, really we're asked to pass some kind of a policy or a judgment on something that should have taken place without coming here. If some of the assets that were distributed in the divorce agreement weren't liquid then the attorney should have advised people at that point so I think to a certain extent Mr. Dickerson gambled, or his attorney gambled on us bending because he knew the terms of that asset that he put forth in the agreement. So here we are, we're going to have to clear up a flaw in that agreement or at least we'll clear it up if we recommend that we make this exception. But I don't think this is an exception though, the exception is we haven't had any of these agreements come to the Utilities in the 12 years, which is amazing, so I think as long as this is restricted to non-employees I personally don't have a problem with releasing this.

Chairman Para stated very good.

Mr. Preston stated may I just clarify also your comments, the change, should a change be made by you tonight, would not be an exception in this one particular case. It would be a broad brush policy...

Commissioner Spangler interjected to all non-employees.

(7-a) Request for Additional Information on Retirement Plans & QDRO's / Tammy Dickerson  
Request – Staff Response (cont.):

Mr. Preston continued, to all non-employees through this kind of distribution, QDRO or otherwise.

Commissioner Spangler stated well the principal would be the same every single time it happens.

Mr. Preston stated exactly.

Commissioner Allen stated I come back to the research that was done, it was very well done. Item four as the research was done talks about as they talked to different attorneys, most divorce attorneys said that retirement assets are not divided. You look and you think about this situation and if we put this in the policy, there isn't any disadvantage, you know it's going to be split, it's going to be negotiated, it opens the opportunity so that if people go into a divorce situation, it opens the opportunity to say well I want to go ahead and go into these funds and let's split them off. But there is a big hurt down the road when somebody puts away and plans for retirement and then you dissolve half of that or a portion of that and if it's not there and someone's ten years out and they take those funds and they do with them as they please and they don't reinvest them.

Commissioner Diesen stated but the employee is still protected and in this case...

Commissioner Allen stated yes, with a portion. If you look at assets when you go into situations that folks get into and they look at alternative assets rather than attaching to retirement assets.

Commissioner Diesen stated well the way I look at it, Tammy Dickerson has her own retirement plan with the City, okay she, I think, got caught in this, I don't think it was a good situation all the way around and I doubt seriously that she was aware of what was happening. Or her attorney didn't probably state it up front, like you know you're getting it, you can have it, but it's not for 30 years down the road or whatever; thank you very much. But that's not our issue, I think our issue is to look at this and see. It's never happened in 12 years is that correct?

Ms. Perez stated I don't know if there's ever been a QDRO, there may have been and it was just not, we couldn't pay it out. I don't know the past history but we have not paid out on a QDRO.

Commissioner Diesen stated and current statistics tell us that 80% are doing this now so I'll make the motion that we go ahead with the policy that allows Ms. Dickerson to access this. (To approve a policy change to permit the U.C.'s 401K, The Principal Retirement Defined Contribution Plan, to allow court ordered (i.e., QDRO's) pay outs for alternate payees – non-employees.)

Chairman Para stated I would like a couple of quick comments before we get to that. I see this as an opportunity to offer our employees, we recognize divorce as a part of our culture, we might not like the facts but it's necessarily a part of our culture today. I really do think that this policy change, take Ms. Dickerson out of the equation right now and just say from a standpoint of helping our employees when you have a very tenuous situation. I have no problems in saying I had one in my life, it's very difficult to divide things up and it's not always really simple and you

(7-a) Request for Additional Information on Retirement Plans & QDRO's / Tammy Dickerson  
Request – Staff Response (cont.):

don't always understand things. So a little bit more flexibility for our people I think is a good thing and I support it heartedly.

Mr. Rodi stated I don't think it's working that way if I just understood your comment. This proposal does not allow employees who are divorced and the judge does not rule upon their retirement plan to go in and say I want to cash this out now. What it says is if the judge says as a part of the dissolution of assets that's the spouse's retirement is now transferred to the former spouse as if it were his or her own, then that person has the right to cash it out.

Chairman Para stated right, in essence it still helps that family get through a very difficult situation because both of them have an opportunity to divide up.

Commissioner Allen interjected momentarily.

Chairman Para all right there's a motion on the table, is there a second?

Commissioner Spangler stated yes, I'll second that.

Chairman Para stated all right, there being no further discussion, call the roll.

Commissioner Diesen's previous motion then passed with a majority of the Commissioners voting yes, Commissioner Allen voted no.

Mr. Preston requested a clarification on the motion please.

Mrs. Simmons stated Commissioner Diesen made a motion to pass the policy that allows Ms. Dickerson to access her funds.

Commissioner Diesen interjected to change.

Mrs. Simmons added to change the policy for non-employees.

Commissioner Spangler stated Mr. Rodi clarified that I think.

Mr. Preston stated do you want as a Commission to limit this change in policy to Ms. Dickerson or have it be a policy that is written into the plan which is probably necessary actually even for Ms. Dickerson.

Mr. Rodi stated yes.

Commissioner Diesen stated yes, the language covers her request but not retroactive to her request is it I think.

Chairman Para stated right, we're making a policy change.

(7-a) Request for Additional Information on Retirement Plans & QDRO's / Tammy Dickerson  
Request – Staff Response (cont.):

Mr. Preston stated so, all right I may misunderstand what your motion actually reads but I have heard it simply to apply to Ms. Dickerson rather than as a policy change to our retirement plan.

Mrs. Simmons commented no, Commissioner Diesen stated a policy change.

Mr. Preston stated all right, then I apologize.

(7-b) Reclaimed Water Capacity Fees – Proposed Resolution No. 4-07:

Chairman Para then commented to Mr. White good evening and we understand that you explain very clearly infrastructure issues; but not tonight.

Mr. White addressed the Commission and stated I'd like to try that again but maybe some time later.

Chairman Para stated you can do that at our joint meeting, we'll have you show off.

Mr. White then stated this item is the direct descendant of public hearing number one that we just went over at the head of the meeting. This clears up an anomaly in the assessment of capacity fees for reclaimed water and the anomaly was the reclaimed water was linked to an equivalent residential unit count on a project for the use of the irrigation water in which case the use was at a commercial or a non-building, non-structural development. Two of those came up whereby there was a multi-family development in one case, the amount of reclaim actually needed was comparable to one residential lawn or two but the reclaim capacity fees would have been assessed on some 100 units which was an obvious anomaly for lack of a better term, it wasn't consistent with the application of the rest of the capacity fees. In that case the difference in the two situations would have been one case would have been \$67,000 approximately and the other case \$500 or \$1,000.

Mr. White stated the other portion of this brings up to date the capacity fees for reclaimed water through the recommendations made this time last year in our rate and fees study done by Black & Veatch which recommended that the capacity fee be raised to \$970, the equivalent residential unit and 5/8 by 3/4 meter. So the summary is that the reclaimed capacity fees for commercial and for multi-family be scheduled just on meter size rather than an interpretation of equivalent residential units for commercial, for non-structural such as medians, landscapes, golf courses, and applications where there are no residential units to equate to. He then asked any questions?

Commissioner Spangler stated well the obvious question, is this anomaly number one or are you pretty happy that this is probably the weakest point in the whole system and it's okay.

Mr. White stated this clears up, straightens up, adjusts a real glaring inequity in that reclaimed capacity fees whereas someone with a golf course with a 6" meter, someone with a multi-family apartment building with just a very small need for reclaimed, and a private homeowner would pay the largest and only capacity fee, which was a real glaring inequity.

(7-b) Reclaimed Water Capacity Fees – Proposed Resolution No. 4-07 (cont.):

Commissioner Spangler stated we'll take your word for that because that's the way it sounds.

Mr. White stated in that case the golf course paid no capacity fee, the median landscaping pays no capacity fee because it doesn't have any residential units, the apartment needing very little water paid 100 capacity fees, and the homeowner paid one. Pretty inconsistent but that is how we've had to apply that, this does not make provision for retroactive adjustments to which there have been some other of these in the past. In one development for example we have maybe 40 or 50 2" meters that have been requested, obtained, connected without capacity fees because there were no residential units at all.

Commissioner Spangler stated so Mr. Preston does that mean that we're not opening the door for people who have already paid to come back and say they shouldn't have.

Mr. Preston answered not by the resolution.

Commissioner Spangler reiterated not by the resolution?

Mr. Preston stated correct, there is potential for claim for inequity everyday.

Mr. White stated the effective date is September 1<sup>st</sup> on this resolution.

Chairman Para then confirmed there were no further questions of Mr. White and thanked Mr. White, well stated.

Commissioner Diesen stated do we need a motion.

Chairman Para stated please make one.

Commissioner Spangler made a motion to approve the resolution regarding reclaimed water capacity fees as submitted. Commissioner Allen seconded this motion and it passed unanimously on a roll call vote. This resolution was numbered 4-07 and will become effective September 1, 2007.

(8) New Business

(8-a) Customer Service Policy Review - Additions to Guidelines for Customer Deposits:

Chairman Para stated Commissioner Diesen brought it to my attention prior to the meeting's commencement that Commissioner Hall was the one that asked that this be placed on the agenda. In light of his absence I think it would probably be advisable that we table this until the next meeting unless staff would like to proceed with a presentation or if other Commissioners would not like to do that.

Commissioner Spangler stated somebody put a lot of work into this, it'd be a shame that Commissioner Hall's not here.

(8-a) Customer Service Policy Review - Additions to Guidelines for Customer Deposits (cont.):

Chairman Para stated yes, well, is it something that can keep, I don't know if it's got a sale by date, so.

Mrs. Klinkenberg stated I don't see any problem waiting.

Chairman Para stated so without objections.

Commissioner Diesen added we hope he'll be here.

Chairman Para stated he'll be here, he deserves a rest, and I'm leaving the end of this week. Mr. Preston, Counselor Preston, is that okay that we do this?

Mr. Preston stated you can withdraw that and place it on the next agenda.

Chairman Para stated okay, thank you Mr. Preston.

(8-b) Section 125 Cafeteria Plan and Flexible Spending Account (FSA) - Update/Adoption of New Plans:

Chairman Para stated the title of this item and the two Directors listed. He confirmed that he was stating Ms. Perez' name properly.

Ms. Klinkenberg confirmed with Ms. Perez that she would start on this item. Ms. Klinkenberg stated back in December, I gave you some history there, but back in December we started doing a critical review of controls throughout the company and this is one of the major ones that was a glaring problem. Our flexible spending account, our Section 125 had no controls. Basically an employee could have went to Wal-Mart and purchased beer on a flexible spending account, it wasn't happening, we verified that but we did take control over it, we implemented a reimbursement plan instead. But that still leaves the judgment call to U.C. employees if it's a qualifying expense or not. Our Section 125 plan that is in place was created in the early 1980's, revised one time in the 1990's, and IRS code is very, very ambiguous, changes constantly. It's difficult to get a handle around what really qualifies and what doesn't. Our new broker, Met-Life, for our benefits has recommended this company called Ceridian. They've been around since 1992, I believe, doing this kind of thing. They have a standard Section 125 written that qualifies and meets IRS guidelines that we could implement at a very minimal cost, no attorneys, and no tax accountants involved. She commented sorry Mr. Preston. They also have the flexible spending account that's part of that, where we can get the employees back with the credit card again at a minimal cost. It enhances the benefits for the employee and I said in here it eliminates liability, you can't completely eliminate, but it will extremely reduce the liability to the U.C. These people are experts in the field, they have the software, they have the programs to monitor and control this. I recommend that we go with them, let them take on that responsibility while enhancing our employees' benefits.

Chairman Para stated I can't compliment or agree with you more because plug and play is always the right way. He stated to Mr. Rodi I think the first week you were here you and I had

(8-b) Section 125 Cafeteria Plan and Flexible Spending Account (FSA) - Update/Adoption of New Plans (cont.):

an opportunity to meet and that was the first thing you had said to me, Kevin we have some serious holes here. So I know you have been working at this and my compliments to you and your professionalism and your staff. We have a good company and good people, but good companies and good people need good policy and that's what you've got here, so I compliment and look forward to a motion.

Commissioner Spangler stated well I like that we even negotiated the cost down considerably.

Ms. Klinkenberg stated that's one of the benefits of having a broker, he did all of that, he negotiated everything and he came to us with these reduced prices. I mean it wasn't like he gave us the high ones and we said no way.

Commissioner Spangler stated it sounds to me like people who know what they're talking about think this is a really good idea, so I'll make a motion that we approve this – a motion approving the abandonment of our current Section 125 Plan and approve the adoption of the Ceridian's Section 125 Cafeteria Plan and Flexible Spending Account (FSA) plan. Commissioner Allen seconded this motion and it passed unanimously on a roll call vote.

(3-a) Request to Appear – Dale Williams – Backbilling (cont.):

Chairman Para stated at this time, if there are no objections, I would like to open the floor back up and Mr. Williams would you like to make a presentation. He added after Mr. Williams has made his presentation, if anyone else would like to be recognized to address the Commission, you may do so.

Mr. Williams distributed a hand out to the Commissioners depicting his bill dates, amounts, usage, and average monthly usage. He commented this was just so you can follow along with my attempted logic. Mr. Williams then addressed the Commission and stated as you folks probably know I own Williams Furniture and Design Center and we have service by the Utilities Commission, New Smyrna Beach. Last year, evidently at some point, our meter failed to be read, one of the many meters that we have at that location which is a simple oversight most of the time. I want to point out that what you have in front of you is a history on that meter. We own a lot of meters, my comptroller pays bills for quite a few different meters at different locations around New Smyrna, as well as some Florida Power and Light meters south and north of us. But she failed to notice out of the approximate average bill around \$5,000 a month for that location that we had not been billed starting in June for an irrigation meter. We had started construction on an addition to the parking lot and a wall retaining system in the back. It was necessary for us to relocate a lot of meters to some of the rental buildings as well as Williams Furniture Design. Those meters were relocated in conjunction with our contractors, site contractor, plumbers, and the U.C.'s people. They all worked together to relocate those meters and had to have almost immediate reconnections for the Doctor's offices and other things, and all that went well.

Mr. Williams stated at some point they dropped reading the meter, I can't tell you why, but I can

(3-a) Request to Appear – Dale Williams – Backbilling (cont.):

tell you that I did, I think you have copies of the letter I received saying that we're \$10,000 plus in arrears for an irrigation meter. The funny thing about that construction was that the meter was disconnected from the system for five months out of the ten and a half or eleven months that you see here. So for seven months on one meter, we're being billed now for three million gallons worth of irrigation water, not three million and one gallon, so keep in mind that it's three million gallons. I talked to my engineer, my general contractor, my site contractor, they said that if they attempted to stop a meter at exactly three million gallons that they didn't think that they could actually do that. By the time you start to shut off the flow you made, you'd be short or long, it's kind of like a gas pump, it's hard to do.

Mr. Williams stated so the point is that there's some logic missing here. You can see our use, by month, both before and after they read the meter. While we were on temporary irrigation using the water retention pond and a pump, there was nothing even connected to the meter. I've been told by Customer Service, they have a policy, the U.C. says that if a meter is failed to be read and you go back and read 100 years later, then somebody gets a bill for whatever the difference on the meter is. I don't understand how it occurred, but it's not logical, there's no physical logic to it. They've been out, checked the meter, and now we've had it reconnected with a new system. After we finished the new parking lot and retaining wall system, you couldn't physically connect to it during that period of time because the retaining wall had to be built. We also had to pump the water retention pond down.

Mr. Williams stated I've heard a lot of theories from Customer Service that well maybe it was just running and irrigating the ground. He stated I think Commissioner Spangler has had a lot of experience with construction and realizes that if you ran three million gallons of irrigation water on a bank leading down into your water retention pond that most of your water retention pond would be down there. So the next theory I heard was that they used it to mix the concrete for the construction project. Only problem is that they're pre-cast blocks that are set in place with a crane and weren't mixed on site. There is no concrete pours in the whole construction project, it's permeate block system backfilled with gravel and retaining fence.

Mr. Williams stated so in the whole thing all I can tell you is that I've gotten a bill for \$10,000. I wasn't able to dispute it because we weren't billed. I was given no knowledge that we were spending \$1,400 a month on a single meter because it's in arrears. You understand my problem with it.

Chairman Para stated well anytime you get a bill that's expensive you want to know where it comes from, that's understandable Mr. Williams. If you're done we'll let Ms. Klinkenberg go ahead and give the U.C.'s version.

Ms. Klinkenberg stated as Mr. Williams said it is our policy to backbill once we know that there was consumption on the meter. It was staff error that the meter "fell off" the account. At Mr. Williams' request I believe or someone from Williams Furniture, we were requested to go move the meter and we did. And somehow there was a disconnect and it did not get relayed back to Customer Service that it was put back in the ground at the same time, so it never showed up back up on the customer's account. Then when we did find it, because we do periodic reviews of

(3-a) Request to Appear – Dale Williams – Backbilling (cont.):

different areas and when we do find it we are required to go back and backbill for it. We did do a meter test, we removed the meter tested it and it tested 100% across the board that it was registering flow. When we have flow and consumption we are required to backbill so that's what we proceeded to do. I do have some documentation that shows the date we pulled the meter and the slip from the meter tech that actually, from the Water Department that took it out, that was in May. I have a time card that shows that an employee was back out there checking in October and it shows almost two million gallon usage. And we didn't catch it again at that point, the information wasn't relayed still. And then in March of 2007, another time card where they were sent back out to check the whole shopping center again and it shows the additional usage on that one. There were different readings on all the different times, the flow was there.

Chairman Para stated are we certain that the serial numbers match and that the right meter that got disconnected is that actual meter.

Ms. Klinkenberg stated yes, I have the meter numbers on the one that was removed and the meter that is in existence there right now was the same one up until we pulled it to test.

Chairman Para stated right and Mr. Williams assertion that it's three million gallons just happens to be what we billed correct.

Ms. Klinkenberg stated when we do the billing I think its kilogallon, right, so there is a rounding issue but I can show him the definite.

Chairman Para commented well I pulled up to the front of my house one afternoon and at the backside of my house it was 299,000 miles on my mini-van and as I eased ahead it came to 300,000 miles so people play the numbers everyday, that doesn't bother me. I've heard testimony before from Mr. Hoover at previous meetings that meters don't lie. They've been around a lot of years and if that's the meter then that water went through to your project and that is your responsibility to pay for that water.

Mr. Rodi stated Mr. Williams just made a point and I need to clarify it because we use our terminology and it sort of gets lost. As I'm understanding the fact pattern in this, there were two meters that were being relocated, a water meter and a reuse (irrigation) meter.

Mr. Williams stated I think there was a total of four meters, some of them are just standard meters for tenant space for potable water, this was the only irrigation meter.

Mr. Rodi stated right and the meter was moved and then reconnected for irrigation supply, so it wasn't, that's the point I want to get at.

Mr. Williams stated no, it was moved and not reconnected, to your system it was but not to ours.

Mr. Rodi stated understand, but what I'm trying to explain is within our own system once this meter was removed from its physical location to another physical location, it was first removed from the information system so it didn't exist. What should have happened is when it was

(3-a) Request to Appear – Dale Williams – Backbilling (cont.):

reconnected that same meter needed to be put back into the information system so that it would bill. Because meter readers would continue to go to the location, look at it, look at it, check things, but if that serial number and data was not recorded in our information system it didn't exist. So even though whenever it was reconnected there's flow that occurred but the information system never saw it and our employees did not pick up on it until late in the game. What I was trying to do was to address whether it was reconnected and then how could we have continued to supply water and not bill; that's all I was poking at. He addressed staff from Customers Service in attendance, did I describe that accurately? They visually indicated yes.

Mr. Williams stated see my problem with it is just logic. You meet with the civil engineer you hired, you meet with the site engineer you've hired, the general contractor; it's only a small project. He said you go guys, did you notice any soft spots in the ground, was there any erosion, and as the site contractor and the civil engineer pointed out if there had been a leak and a major washout somebody would have billed me for it, they wouldn't have fixed it, it was a cost plus job; if there was a mistake I pay for it. As Hardee Construction and the other people I had on site came forward I said did you see any problems with the water. See if you had billed me for \$1,400 when it was due on that day, on that month, not ten months later times \$1,400, I would have come forward and said hey there's a problem. But when you go back in arrears, you read the first letter I got, it didn't even tell me which meter, it didn't tell me what it was for other than the fact that we failed to read some meters, you owe us \$10,000. I think it's a strange way to do business. I mean I do work for the U.C., if I call you up and say hey, that project we did for you guys last year, we were a little short. Let me send you a letter and tell you where I mis-bid it so that you can pay me. There was no warning and there's no logic. If there was a logical path to me spending three million gallons of irrigation water, I'd be the first one to say hey this is stupid and write the check.

Chairman Para stated well I have a problem with logic going the other way, the meter doesn't lie and if the meter's been tested, bench tested. We just look down a pipe Mr. Williams, we don't look past the pipe, we don't understand, people aren't here to testify tonight, all I'm saying is we look down a pipe and if three million gallons ran down that pipe, we have to charge somebody for that; that's my logic. From what I'm hearing from staff three million gallons ran down our pipe, is that not the case?

Ms. Klinkenberg stated yes.

Mr. Williams stated that's the indication, the only problem is the logic behind it. Look at all the months that they...

Chairman Para stated depending on logic, I'm saying our meter is.

Mr. Williams stated it's kind of like saying you can't see water boil, because every month they read the meter, we've got an average of 1.42 units but when they don't read the meter it goes up three times, and then right back to normal as soon as they start reading the meter.

Chairman Para stated to Mr. Williams on behalf of the Utilities Commission I'll apologize for us

(3-a) Request to Appear – Dale Williams – Backbilling (cont.):

not billing you for that period of time and the unfriendly nature when we give you a bill for what we sent you, but having said that your official apology has now been officially sent to you, we would ask you to pay the bill because it's due.

Mr. Williams stated so I have to take it the next step as a dispute or that logic does not prevail.

Chairman Para stated again you've got your version of logic and we've got ours.

Commissioner Spangler stated one thing that we didn't touch on here, as a public utility are we allowed to not bill for something that's metered, isn't there a law?

Mr. Williams stated I think Mr. Preston is going to have to answer that.

Mr. Preston stated to Commissioner Spangler no, you're actually required by law, any backbilling is required by law and there is no discretion.

Commissioner Spangler stated okay, so first thing that you won't like is that we have to bill you something by law. Then the only thing that's left is how are we going to figure out what we're going to bill you and apparently I don't see any gallonage numbers anywhere in all of this, I just see dollar amounts.

Mr. Williams stated on that breakdown I gave you, those are the meter readings in gallons to the right in red.

Commissioner Spangler stated 8172 and all that.

Mr. Williams stated and down here is a breakdown of our average units are 143.95 units, except when you do not read the meter and it triples.

Commissioner Spangler stated so April, May and June of this year we jumped from 8,000 to 12,000, that's just the numbers on the meters right?

Mr. Williams stated right and of course it was disconnected for five months with temporary irrigation from the water retention pond.

Commissioner Spangler stated so if it was connected what made it run.

Mr. Williams stated nobody including the people who were on site working everyday have any idea so that's why I'm here, it doesn't make a lot of sense. If you know the facility, if you come out and look where the meter is, if it leaked a tenth of that it would wash out the whole side of the bank.

Mr. Rodi stated clarification, question, are you disputing at this point the water and wastewater bills also?

(3-a) Request to Appear – Dale Williams – Backbilling (cont.):

Mr. Williams stated no, they're in line and are normal. The only meter that is abnormal is this one, and it's only abnormal when it fails to be read. You can look at a history since 2,000 and this is the only meter that has an abnormal usage and it only has an abnormal usage when you fail to read it.

Mr. Rodi stated well but the reason why I ask is I'm of the understanding that there was zero consumption on water so therefore there was no wastewater charge either for this same period of time along with the irrigation meter; that's why I'm asking the question.

Mr. Williams stated no, we're not disputing the fact that they failed to read two meters, I think I've got a breakdown, in fact you've been supplied one by email of which meters they failed to read, there were two involved I believe plus some standard service charges were failed to bill, \$50 or \$60 a month. It's just this one meter's odd three million exact gallons, if you look at the numbers on the meter, it jumped three million gallons in that period of time.

Chairman Para stated and during the same period of time there was construction at your site.

Mr. Williams stated yes.

Chairman Para stated this is the same thing we had with the other folks that came before us.

Commissioner Spangler interjected a month or two ago.

Chairman Para stated I mean you're sitting and giving testimony that sounds eerily the same that we had from another group that came in here, right down the line Mr. Williams.

Mr. Williams stated can you strike them with lightning, I don't know but I've talked to everybody out there that's on it.

Chairman Para stated I just think it's ironic there's construction out there and there's a significant increase. If you can prove that the meter was bad or statistically and you talk numbers, if you can prove an anomaly in a meter statistically, which Mr. Hoover what's the chances of that.

Mr. Hoover stated I'm not sure what the size of the meter is or, I know the relative flow rates from the different sizes of meters. What size was it?

Ms. Klinkenberg stated it was a 1 ½ inch Mr. Hoover.

Mr. Williams reiterated it was a 1 ½ inch meter.

Mr. Hoover stated okay they can put out quite bit of water, probably about 15 to 20 gpm's, that would be about 10,000 gallons a day ... (unintelligible, not at microphone).

Mr. Williams asked would that create some physical damage?

(3-a) Request to Appear – Dale Williams – Backbilling (cont.):

Mr. Hoover stated you would notice it.

Mr. Williams stated well it's mounted on a sidewalk on a bank, it's going into a water retention pond that has a retaining wall. So I know from cutting the lines, you cut a 1 1/2" line, you better get it shut off or else you're going to have a lot of dirt moving downhill in a hurry. The plain and simple fact is whether we have a method to address it or not, is that something is up. We didn't utilize the water, we would have utilized about the same amount that we had for the years previous and the readings after, the only reason that we're using less water now is that when we re-permitted the work, because of Volusia County's new requirements we have a rain gauge on our sprinkler system so our use will actually go down a little bit over time now depending on whether we have droughts or rainy season. It's a matter of logic and I understand that you guys have a job to do, you say pay the bill, fine.

Mr. Williams stated I will want to point out to you that this is, since I've been here in business since 1985, this is the fifth time that I've been in front of you. I want to give you just, and I know that some of you weren't on the board for these other ones, but I want you to understand how I get my I guess you say angst towards these situations. In 1999 I came before this board of Commissioners, I said hey, we've got a problem with the main transmission line in front of my store. We were under construction, we were putting in a turn lane, the turn lane was required by the City and DOT to improve traffic to Hidden Pines Boulevard. When we started cutting into the DOT right-of-way we found that the main transmission line for potable water was only 16" below the surface, they're not safe, a 24" force main, at 16" below the surface. So rather than pave over it we made everyone aware of it. The as built drawings showed it to be 54" below the surface. Well they stopped our project and said you can't go on unless you rebury our line and we don't have any money in the budget to do it. That cost approximately \$40,000 from our private funds but it was either that or stop construction of the store so we did that. In 1999 my request for repayment of that cost, even though it should not have been mine, was denied. I wanted to build a new store, the water line wasn't quite where it was suppose to be, and that's your problem. In 2000 I came and I said we're getting ready to open our new store and I've had meetings with Ron Vaden and I've got an impact fee of \$35,000 for six bathrooms. Ron Vaden came and gave testimony that money needed to be paid for six bathrooms so that we could improve our infrastructure as we developed west; the Commission voted and I wrote the check. As we know it didn't quite worked out that way, me and Winn Dixie and all the other businesses.

Chairman Para stated Mr. Williams.

Mr. Williams stated I just have two more, 2004...

Commissioner Spangler stated we don't want to bargain and reward now for penalizing you in the past, I get your point. What I want to know is if a 1 1/2" pipe, wide open, throws out 10,000 gallons a day and you've been billed 300,000 a month, that's wide open 30 days.

Mr. Williams stated exactly.

Commissioner Spangler stated now how could that be, either that thing was wide open all day

(3-a) Request to Appear – Dale Williams – Backbilling (cont.):

every day for ten months or it wasn't, that's the way the numbers speak to me and I don't have an answer for that.

Mr. Williams stated it was disconnected for five out of those ten months, could not have possibly been connected to any one system.

Commissioner Spangler stated if that's the case then we couldn't possibly have run 300,000 gallons a month, so the most we could have run is five months at 10,000 gallons a day and that would be half of the usage. So I'm a little confused at that point, the meter obviously is working but something in these numbers is not working for me.

Mr. Williams stated either that or I don't know.

Commissioner Spangler stated Mr. Hoover, can you address that, am I wrong?

Mr. Hoover stated it's possible for five months if the main was wide open 24 hours a day. Now we did have a situation about six or seven years ago behind Kmart where we found a broken 2" main right out there in a retention pond, probably about an acre and a half. Nobody noticed that for quite some time because it was an unmetered line but that gave me an example of a time that a line was open but nobody saw it. It's possible for that, but it's pretty unique.

Commissioner Spangler stated but you follow my drift though, if a 1 1/2" pipe, will throw out 10,000 a day, I think that's 300,000 gallons a month.

Mr. Hoover stated no, it's 20,000, I redid my ...

Commissioner Spangler stated then it would be 600,000 gallons.

Mr. Hoover stated but for a full day, 24 hours, would be 20,000.

Commissioner Spangler stated okay in reality what we're saying is that for ten months it ran wide open at least 12 hours a day.

Mr. Williams interjected even though it was only connected for seven out of the five.

Commissioner Spangler stated and then we have to go back to almost wide open all the time. That doesn't make any sense to me, that's all I'm saying.

Mr. Williams stated see Commissioner Spangler, you and I are in construction, I've known you a long time, it just didn't happen. These guys are on a cost plus contract, fixing a problem only increases their profit margin, if there was a problem.

Commissioner Spangler stated I can't comment on that, I know we have to collect money from you but I think that we probably have to look at these numbers that we're billing and compare them to actual physical possibility. If you can show or we can agree that five months it was

(3-a) Request to Appear – Dale Williams – Backbilling (cont.):

disconnected, then we're talking about how much water can flow in the additional five months and is it the number of gallons that you're being charged for. If it's not physically possible then we need to adjust that. If it is physically possible, then by law we have to say the meter tested out and that's the procedure we have to follow. I'm just looking for a way around that meter thing and I don't think it's possible in five months to run that much water through a 1 1/2" pipe.

Mr. Williams stated I'll be honest with you...

Commissioner Spangler continued by saying I think somebody who's expert needs to tell me that anyway and I'll leave that up to Mr. Hoover and we can talk about it some other time.

Mr. Williams stated we'll talk about it at another time but the bottom line is that it is possible, I had my civil engineer that permitted the project and he said yes, if you run it for the seven months practically 24 hours a day.

Commissioner Spangler stated it's possible.

Mr. Williams stated it's possible to run that amount of water through there. Of course what you're failing to miss too is that your people were there, they were reading the other meters, they're all in a line. No one noticed a leak, no one reported a leak, something about your bookkeeping system left an anomaly in the billing process. But it's not like there wasn't anyone there checking on the other meters that are all in a line that would have said hey we've got a bad leak over here.

Commissioner Spangler commented well for \$5.00 we could flip you for it. He then stated I think this is serious and I'll have to hear what my other Commissioners say. We hear these complaints all the time and I have not heard one yet where the meter was faulty and we are required by law to charge and the evidence is that the meter was turning, but in this case I really question whether a meter could run wide open for that period of time and not cause some noticeable damage. So I'm not...

Mr. Williams stated anyone who would like to come out and look at the meter location who understands the physical capabilities of what water would do if you ran it like that, I'd be glad to show them, the U.C. guys can show you. There's been no explanation but also there's been people who said we can't tell you where that water would have gone. So that's why I'm here, it just makes sense for me to come and tell you that it doesn't seem right.

Commissioner Spangler stated well I'd be willing to talk to Mr. Hoover and our engineers about it a little bit before I would recommend that you pay it but I'm only one vote here.

Ms. Klinkenberg stated if I could add something here, during that five month period that he says it wasn't connected which I'm sure he's not lying about, but there was flow of 1.7 million gallons of water during that five months.

Commissioner Spangler stated to a disconnected meter?

(3-a) Request to Appear – Dale Williams – Backbilling (cont.):

Chairman Para stated yes, just because the meter's not connected to a system doesn't mean that somebody else can't hook up and use it. Again, we are either consistent with our policy or are not. We told these people last time if it goes down the pipe through the meter, I'm not going to play Sherlock Holmes and go out there and try to figure out what happened on the other side. Public policy-wise I can't do that as a Commissioner. So I say unless Mr. Hoover gives me testimony or Ms. Klinkenberg, or Mr. Rodi does, that there's something that could have occurred to that meter and that pipe, I have to. Mr. Williams, personally I like you, I don't want to be like I'm being hard here but as a Commissioner I've got this hat on tonight and I have to defend and protect the assets of this Commission and if it goes through our pipe, whether I like you or not, you have to pay for it. Unfortunately we can argue back and forth logic, but physically if it could, as Commissioner Spangler said, if it can run through the pipe in that period of time and you've even acknowledged that it could, then we've got to bill you for it. I'm sorry I wish that it could be another way.

Commissioner Spangler commented someone may have stolen that water and now you're going to have to pay for it, we don't know that either.

Chairman Para stated there's a bunch of different ways it could have happened.

Mr. Williams stated if you'd like to come out and see the nice camera system that's 360 degrees around my store, on the exterior and the interior. It's just not logical that someone would come and bolt onto that one meter that's buried in the ground that is not temporarily connected and suck three million gallons of water out, it's not even potable water supposedly.

Commissioner Spangler stated it's not likely anyway, I'll go that far.

Chairman Para then asked if there was further discussion for Commissioners.

Mr. Williams stated I appreciate it gentlemen, ladies.

Chairman Para stated thank you Mr. Williams.

Mr. Williams stated so I guess I'll hear from Mr. Rodi, when you guys make a final decision.

Commissioner Spangler stated we're going to talk and maybe vote right now.

Mr. Williams stated this is not about the money, believe it or not, you see what I spend in the community. It's that when I run into these things and I've been in front of the City Commission and logic does not necessarily prevail there either, and I will tell you...

Chairman Para stated well, I guess I'd have to take issue with you, what you're saying is we're not logical people. I'm a logical person.

Mr. Williams stated no, the system's not always logical.

(3-a) Request to Appear – Dale Williams – Backbilling (cont.):

Chairman Para stated and I've been in construction for almost 20 some years Mr. Williams, and I know how much water can run through a pipe, and I'm all done hearing that logic. All right. logic says that if this meter works and the water runs through it, then you pay for it; that's all I've got to say.

Mr. Williams stated I appreciate it.

Chairman Para stated thank you, all right up here, is there a motion or anything.

Commissioner Diesen stated it doesn't require it.

Chairman Para stated all right, next item possible time for Commissioners.

(9) Possible Other Business – Time for Commissioners:

Commissioner Allen stated the tree.

Mr. Rodi stated we sent a second request to the City Manager, along with our application fee, and asked that it be put on the agenda for a decision on removal; so that's where it stands.

Chairman Para then stated I never closed public participation, I apologize, Mr. Bullard.

Mr. Bullard addressed the Commission and stated I would just like a short staff report if we could on where things stand with our renewable energy solicitation.

Mr. Rodi stated we're on the street with it. We have a deadline on the 18<sup>th</sup> for those persons who intend to make proposals, those are due to R.W. Beck, then on August 1<sup>st</sup> is the next deadline. So we have a time schedule that we're following and so far I couldn't give you detail about how many people are interested or whatever because it has not closed as far as the number of interested parties.

Mr. Bullard stated I thought the closure of expression of interest was prior to this date.

Mr. Rodi explained there was an initial date of July 3<sup>rd</sup> and there apparently were a number of potential requestors who asked for an extension, so then an extension was granted.

Mr. Bullard stated and that's to the 18<sup>th</sup>.

Mr. Rodi stated to the 18<sup>th</sup>, yes.

Mr. Bullard stated would you expect after the 18<sup>th</sup>, within a week or so or a few days thereafter, you might have a list of those who are expressing interest.

Mr. Rodi stated I would expect that there would be some kind of a list that R.W. Beck will have.

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

Commissioner Diesen commented they'll post it on the website won't they.

Mr. Rodi stated I don't know exactly what they intend to do with that list because the next phase are qualifications for those individuals. So I procedurally will have to step through how we're going to manage that. There's a whole flurry of RFP's out there right now as Mr. Bullard, I'm sure, is very much aware and everyone is sort of trying to keep track of who's submitting for which one.

Chairman Para commented who's doing what.

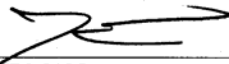
Mr. Bullard then thanked Mr. Rodi for that update.

Chairman Para asked if there was any further public participation, there being none he closed public participation.

There being no further business to come before the Commission, Chairman Para then stated we'll stand for adjournment without objection. Chairman Para closed the regular U.C. meeting at 7:15 p.m.

APPROVED:

ATTEST:

  
\_\_\_\_\_  
CHAIRMAN

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

These minutes were formally approved by the Utilities Commission at their August 20,  
2007 meeting.