

RESOLUTION NO. 2-09

A RESOLUTION REVISING RESOLUTION NO.8-05, RULES AND REGULATIONS FOR THE CONDUCT OF MEETINGS AND THE ORDER OF BUSINESS OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, SETTING SCHEDULED MEETING TIMES, PROCEDURES FOR PREPARATION OF AGENDAS, DISCLOSURE OF VOTING CONFLICTS, CONDUCT OF PUBLIC HEARINGS, PROVIDING FOR RESCINDING CONFLICTING RESOLUTIONS OR PORTIONS THEREOF; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Commission desires to make an agenda format revision, to delete item 6. Committee meeting Reports, as provided herein;

NOW, THEREFORE, BE IT RESOLVED BY THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, AS FOLLOWS:

SECTION 1 - OFFICERS/DUTIES:

- a. Officers: At the first regular meeting of the Commission in September of each year, the Commissioners shall elect a Chairman, Vice-Chairman, Secretary-Treasurer, and Assistant Secretary-Treasurer from its membership.
 - b. Chairman: The Chairman shall preside at all meetings and public hearings scheduled by the Commission. The Chairman shall appoint from the Commission any committees deemed desirable to investigate and render reports to the Commission regarding matters under the cognizance of or of interest to the Commission in the proper performance of its business.
- The General Manager/CEO or other designated employee, shall be empowered to sign, on behalf of the Commission, routine and recurring reports and documents requested and/or required by various governmental agencies.
- c. Vice-Chairman: The Vice-Chairman shall serve as Chairman in the absence of or due to disability of the Chairman. In the event of the absence, disability, resignation, removal by the City Commission, or death of the Chairman, the Vice-Chairman shall perform the latter's duties until such time as the Commission shall elect a new Chairman.
 - d. Secretary-Treasurer: The Secretary-Treasurer shall be the custodian of all records of the proceedings and actions of the Commission and of its official seal. The Secretary-Treasurer shall keep or cause to be kept appropriate minutes of all meetings, public hearings of the Commission and record all of its proceedings and shall attest to official documents of the Commission when required.
 - e. Assistant Secretary-Treasurer: The Assistant Secretary-Treasurer shall serve as Secretary-Treasurer and perform all the duties of the Secretary-Treasurer in the absence of or due to the disability, resignation, removal by the City Commission, or death of the Secretary-Treasurer. In the event of any of the foregoing, the Assistant Secretary-Treasurer shall perform the latter's duties until such time as the Commission shall elect a new Secretary-Treasurer.
 - f. Additional Duties: The Chairman, Vice-Chairman, Secretary-Treasurer and Asst. Secretary-Treasurer shall perform such other duties and functions as may from time to time be required by the Commission, its Enabling Act, or by its resolutions.

SECTION 2 - MEETINGS:

- a. **Regular Meetings:** The regular meetings of the Commission shall usually be held at 6:00 p.m. on the third Monday of each month at the offices of the Commission located at 200 Canal Street, New Smyrna Beach, Florida. When a regular meeting falls on, or immediately before or after, a legal holiday, the Commission may, at its discretion, reschedule such meeting to another convenient time. Also, the Commission may otherwise change the date and/or time of regular Utilities Commission meetings as it deems desirable for benefit to the public and itself.
- b. **Special Meetings:** Special meetings of the Commission shall be called by the Chairman, by the Secretary-Treasurer, or by the General Manager/CEO, or upon the written request of any three members of the Commission or by consensus of the Commissioners present at the time of scheduling of such meeting.
- c. **Workshop Meetings:** Workshop meetings may be scheduled by the Chairman, by the Secretary-Treasurer, or by the General Manager/CEO, or upon the request of any three members of the Commission for the purpose of enabling the Commission to study, investigate, receive briefings, reports, and to discuss subjects relevant to the purpose of such meeting, or other business of the Commission. In no event shall official action be taken by the Commission at any workshop meeting.
- d. **Notice of Regular, Special, or Workshop Meetings:** Notice of regular, special or workshop meetings of the Commission and the agenda for any such meeting shall be posted at least twenty-four hours prior thereto, and accessible to the public in the lobby of the Utilities Commission offices and posted on the U.C.'s web site. Also, notice thereof shall be furnished to the City for posting in the City Hall lobby. Local representatives of the news media shall be notified at least twenty-four hours prior to any such meeting.
- e. **Quorum and Procedure:** Any three members of the Commission shall constitute a quorum for the transaction of business. A majority vote of the Commissioners present shall be necessary to adopt or approve any official action of the Commission. The passage of all motions shall be taken by a voice vote and the result entered upon the minutes. In the absence of both the Chairman and Vice-Chairman, those Commissioners present constituting a quorum shall, by a majority vote, elect a presiding officer for such meeting. The order of voting shall rotate from meeting to meeting with the first Commissioner to vote being the Commissioner whose surname begins with the earliest letter in the alphabet. The other Commissioners will then vote in alphabetical order. The following meeting, the first Commissioner to vote shall be the Commissioner whose last name begins with the second earliest letter in the alphabet and the other Commissioners shall vote in the same order as before and such rotation shall continue until the first surname voter is repeated, etc..
- f. **Rules of Attendance:** All members of the Commission and designated employees shall attend all meetings and public hearings of the Commission unless prevented from doing so by reasonable cause. The absence of a Commissioner from three consecutive meetings (including two regular meetings) of the Commission or misses more than four regular Commission meetings in a calendar year shall cause the Utilities Commission to notify the City Commission of same.
- g. **Order of Business:** The order of business at all regular meetings of the Commission shall conform to the agenda prepared by the General Manager/CEO as provided in Section 2i. below.
- h. **Meetings and Records Open - Exception:** All meetings of the Commission shall be open to the public and all records thereof shall be public records, except as specifically exempted by law.

SECTION 2 - MEETINGS (cont.):

i. Agenda: An agenda shall be prepared by the General Manager/CEO or at his direction, listing all matters which shall be taken up by the Commission at any of its meetings. Any matter requested in writing and furnished by any Commissioner to the General Manager/CEO must be placed on the agenda. The agenda for a regular meeting scheduled will usually be prepared on the Monday before each regular scheduled meeting but in any event not less than twenty-four hours prior to the commencement of that or any other meeting. Subjects not specified on the agenda shall not be taken up at such meeting, except by consent of a majority of the members of the Commission present. The agenda for all regular Commission meetings shall conform generally to the following format:

ROLL CALL

1. Agenda Changes, Additions and Deletions
2. Approval of Consent Items (Minutes of previous meetings and any other business approved as recommended or accepted as appropriate without further comments. Items on the consent agenda are defined as of a routine nature that do not warrant detailed discussion or individual action by the Utilities Commission. Any member of the Commission may remove any item from the consent agenda simply by an oral request at the meeting. Removing an item from the consent agenda does not require a motion, second, or a vote; it would simply be a unilateral request of an individual Commissioner. All items remaining on the consent agenda, after each and every Commissioner has had the opportunity to remove items from same, shall be approved and adopted by a single motion, second and vote by the Commission without further discussion.)
3. Public Participation
4. General Manager's Report (Approval of Commissioner's Expenses, if any, will be considered under this item.)
5. Commission Counsel's Report
6. Old Business
7. New Business
8. Possible Other Business - Time for Commissioners

Anyone wishing to be scheduled to appear on the agenda for any meeting must make a request in writing to the Commission and explain in reasonable detail the subject and reason for such request. The Chairman may at his discretion rearrange the agenda to permit any such scheduled appearance to take place as early in the meeting as possible. Anyone so appearing must confine his or her discussion to the subject matter stated in the written request.

SECTION 3 - PUBLIC HEARINGS:

a. Notice of Public Hearings on Rates, Fees, and Charges: Unless otherwise provided by law no rates, fees, charges or improvement assessments, hereinafter referred to as rates, fees, and charges, shall be fixed until after public hearings at which the users of the facilities provided by the Utilities Commission and owners, tenants and occupants of properties served, or to be served thereby, and others interested shall have an opportunity to be heard concerning the proposed

SECTION 3 - PUBLIC HEARINGS (cont.):

rates, fees, and charges. The proposed changes to, or the fixing of rates, fees and charges may be read by title only or in full, at the preliminary hearing and again at the final hearing. Notice of the hour, date, and place of the preliminary and the final public hearings setting forth the intent to fix the schedule of rates, fees and charges shall be given by one publication in a newspaper of general circulation in the City of New Smyrna Beach, Florida, at least ten days before the date fixed in said notice for the preliminary hearing, which said hearing may be recessed from time to time to a date and time certain. Said notice shall advise that interested parties may appear and be heard at the public hearings and when and where they may inspect the proposed rates, fees and charges. The notice will be set in six-point type, set solid and under headlines in six-point type boldface, specifying the nature of the publication. Notice of the public hearing shall also be posted in the lobby of the Utilities Commission offices and notice thereof shall be furnished to the City for posting in the City Hall lobby. A copy of the adopted preliminary schedule of rates, fees and charges shall be kept on file with the recording secretary in the Utilities Commission office for inspection by interested parties. After the second public hearing, the preliminary schedule either as originally adopted or as modified or amended shall be finally adopted and put into effect and thereupon the resolution providing the rates, fees, and charges will be effective on the date specified.

b. Public Hearings on Miscellaneous Matters: Unless otherwise provided by law the Commission may conduct public hearings pertaining to matters other than changes in rates, fees, charges or improvement assessments by a single hearing which shall be final. The requirements on publication of notice shall otherwise be the same as set forth in 3a. above.

c. Appeals and Record of Proceedings: Pursuant to Section 286.0105 of the Florida Statutes or as otherwise provided by law, if an individual decides to appeal any decision made by the Utilities Commission, City of New Smyrna Beach, Florida, with respect to any matter considered at a meeting or hearing, that individual will need a record of the proceedings, and will need to ensure that a verbatim record of the proceedings is made. The transcription of such a verbatim will be provided an individual at a cost to be determined by the Utilities Commission in accordance with the full cost to prepare and reproduce such transcriptions and copies.

SECTION 4 - COMMISSIONERS' EXPENSES INCURRED IN CARRYING ON BUSINESS OF THE COMMISSION:

In addition to a member's salary, a Commissioner shall be paid necessary expenses incurred in carrying on and conducting the legitimate business of the Commission subject to the concurrence of this Commission. If time does not permit approval by the Utilities Commission prior to incurring such expenses appropriate to the proper conduct of the Commission, business expense approval after the fact must be made by the Commission.

SECTION 5 - PUBLIC PARTICIPATION:

a. Public Participation: Any person may attend Commission meetings, workshops and public hearings. In order for the Commission to conduct meetings and hearings in an orderly manner, however, normally no one will be recognized to speak before the Commission, unless authorized to speak by the Chairman, and if denied by the Chairman, any member of the Commission may insist that such person be heard. If such a challenge is made, the votes of the majority of the Commissioners present shall determine whether a person is or is not authorized to speak before the Commission.

b. Speaking time before the Commission: Reasonable time will be allowed to interested persons to speak when authorized to do so, as indicated in Section 5a. above, in support of or against any relevant matter when being considered by the Commission. The Chairman may, however, fix a reasonable time or equal time limitations for supporting and opposing parties to speak in order to preclude excessive or repetitious remarks.

SECTION 6 - DISCLOSURE OF VOTING CONFLICT:

Commissioners voting upon any measure in which they are aware of a personal, private, or professional interest to themselves, or which inures to their special private gain or the special private gain of any principal by whom the Commissioner is retained, shall announce prior to the vote that he or she has a voting conflict and shall within fifteen days after the vote occurs disclose the nature of his or her interest as a public record in a memorandum filed with the Commission recording secretary who shall incorporate the memorandum in the minutes of the meeting in which the vote was taken.

SECTION 7 - This resolution supersedes Resolution No. 8-05, and the same and all other Resolutions, or portions thereof, in conflict herewith are hereby superseded and rescinded.

SECTION 8 - This resolution shall be come effective immediately upon adoption by the Utilities Commission as provided by law.

THE ABOVE AND FOREGOING RESOLUTION was introduced at a regular meeting of the Utilities Commission, City of New Smyrna Beach, Florida, held January 26, 2009, by Commissioner Reynolds, who moved for its adoption, which motion was seconded by Commissioner Diesen, and upon roll call vote of the Commission was as follows:

CHAIRMAN	<u>Stalter Allen III</u>	<u>yes</u>
VICE CHAIRMAN	<u>William Q Hall</u>	<u>ye</u>
SECY.-TREAS.	<u>Walter Reynolds</u>	<u>yes</u>
ASST. SECY.-TREAS.	Osgar Zeller	ABSENT
COMMISSIONER	<u>Jeanette A. Wilson</u>	<u>yes</u>

APPROVED:
Stalter Allen III
CHAIRMAN

ATTEST:
Walter Reynolds
SECRETARY-TREASURER

S E A L

Approved as to Form and Correctness:

MLV. L
UTILITIES COMMISSION ATTORNEY