

**AGENDA ITEM 2-c**

**MINUTES OF A SPECIAL MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, MAY 22, 2006, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA**

Chairman Para then opened the Special U.C. Meeting with a pledge led by Commissioner Hall and all of the Commissioners present as follows:

Commissioner William E. Hall  
Chairman Kevin J. Para  
Commissioner William H. Reynolds  
Commissioner Richard L. Spangler  
Commissioner Jeanne K. Diesen

Others in attendance were as follows: R. Rodi, General Manager/ CEO; R. Montalvo, Director of Finance; R. Mitchum, Director of Electric Operations; T. Beyrle, Director of System Ops. & Generation; D. Hoover, Director of Water/Wastewater; J. White, Director of Engineering; B. Mudge, Director of Human Resources; E. Mahle, Public Relations Manager; J. Knowlton, Senior IT Technician; D. Simmons, Executive Asst./Recording Secretary; and additional U.C. personnel; Bill Preston, Interim U.C. Legal Counsel; City Commissioners Hathaway and Grasty; Melanie Stawicki-Azam, Reporter for the NEWS JOURNAL; Pete Slavin, Reporter for THE OBSERVER; Bill Rogers, Bob Tolley; Sally Mackay, Ken Taylor, and a few unidentified men and women; all members of the public.

(1) Discussion/Consideration of Water Authority of Volusia (WAV) Participation:

Mr. Rodi then proceeded with a PowerPoint presentation (copy attached) that he had prepared and stated what we're trying to accomplish tonight is look at what's brought us to this point from a standpoint of water needs and what alternatives there may be. In looking at the consumptive use permit I think this becomes important. Back in September we started talking about the impacts of what happens if we don't have an increase in our consumptive use permit, what's happening in regards to growth, and what's happening in regards to infrastructure. Over the last several months these results of studies of infrastructure have heightened the concern for future available water sources.

Mr. Rodi stated the documents I am showing in here are actually extractions from the WAV Master Plan or other WAV documents, but I thought this was very interesting. When you see the red colors here, what that means is those were modifications to the WAV Master Plan that were made in the last week before it was adopted. But what I find interesting here is here's that 8.33 again and the demand that was determined, I'm not quite sure by whom, shows that we should have enough to cover us. Now I think a reference point here is if you look at Port Orange and I'm assuming at this point this is pretty much a build out condition for them, you can see what their CUP allocation is at 8.97 and the demand is slightly higher than that. This footnote, down on the bottom, is

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going to become very important because it essentially says that St. Johns is not likely to grant any other CUP increase allocations.

Mr. Rodi stated this is from Mr. Hoover and I think what's interesting about this is, you see this column here which is a flow percentage change, you can see going back from 1996 through 2005, there's actually a reduction that's occurred on average, and it reflects not only conservation issues but the use of Bright Water and other initiatives that have been undertaken. What's also notable is if you look at the number of accounts and the changes that are occurring here, you can see plus 5%, plus 2%, plus 5%, plus 6%. So those are some pretty significant increases in accounts. Herein lies another issue with an account and how many people are tied to that account, is there one and a half persons per household, are there two, so depending upon that number, you can see that our population base here, this is the average number of accounts, if you multiply that times 1.5 or 1.75 or 2, you get very, very different numbers. Of course, the 22, 261 accounts relate to the U.C.'s service territory.

Mr. Rodi stated you've seen this chart before and one of the things we tried to do is get our arms around what's happening with the developments, how many potential new residential units could there be, and there's over 16,000 that are just represented here and more on the way.

Mr. Rodi stated this is going to be very difficult to see but when the U.C. applied for their CUP the consultant made a projection in this column here on population moving down through here, with a number 71,262 in the year 2020. This yellow marker shows that right in here in 2011 and 2012, we have exceeded that 8.33, so what this chart is showing, based upon these growth projections and right in here are some really hefty increases like 6% or 10% increases; that was one consultant. During our studies, again recently, we asked to take an aggressive view of growth and aggressive is defined to be 5% a year for these periods right in through here. The result again is right here in 2011 and 2012, our demand exceeds our capacity, that 8.33. So this past budget, CIP, we plugged in some \$43 million for a water plant to provide some alternate source of water because we're seeing these kinds of numbers and they're very dependent obviously on growth and consumption.

Mr. Rodi stated on this chart, I wanted to back up for just a minute, and for those of you who can't see this, it has a declining average of consumption per household. So in addition to the increase in population, you have a decrease in the actual usage, and this is implying continued use of a rate structure that encourages conservation which was just recently adopted by the Commission, includes conservation, includes the use of alternatives, like Bright Water and other types of water supply to supplement. We've been keeping track of this since I've arrived here and these numbers really can't be reliable but they're an indicator of what's happening. These are actual new UC housing unit starts, and when you start to compare the numbers you can see that for the first four

(1) Discussion/Consideration of Water Authority of Volusia (WAV) Participation (cont.):

months here, there's been a considerable drop off over the previous year. Now, we do know that there are areas like Venetian Bay out there still fully underway and KB Homes and there are others so there's activity but we have seen a downturn in the market and you have to pay attention to that from a standpoint of when you time alternate water needs. So that's what we're trying to keep an eye on.

Mr. Rodi stated looking at WAV as the potential provider of water, there was an adoption of this portfolio number 8, and since the adoption this brackish water RO plant, which was to be located southwest of Edgewater is no longer in the picture. If you look at this chart it shows a fresh water wellfield with 7 MG per day scheduled to come on line in 2020 and additionally 4 MG in 2025. The surface water plant, the St Johns River Plant, starts to produce water in 2010 with 8 MG and then it eventually ends up at 19 MG and this RO plant in Northeast Volusia is Ormond Beach and it's a co-locate, so its right next to the existing Ormond plant as I'm understanding it. He stated I'm no WAV expert by any means but I'm trying to provide some references here.

Mr. Rodi stated this reference here again in red becomes very critical. He stated 11 million of the 35 million gallons per day, that came from this chart, is the central wellfield. Now this caution says this is something that may not likely happen but it's in there, and that raises a question about how reliable the Central Volusia Wellfield will be. It just raises the question and that is a very, very legitimate statement. This just reflects some of the costs associated to those years for each of those plants.

Mr. Rodi stated this chart shows potential raw water interconnects listed but not specified and I'll show you a little bit more in a chart but again this particular plant is taken out of the mix. Down here under the new fresh water wellfields, under portfolio no. 8, 35% of it will go to the western deficit and 65% to the eastern deficit. Down here is the east raw water interconnect. I'm not quite sure what that means but to me raw water means maybe something that's been processed from an RO plant or maybe the St. Johns Plant, it has no minerals in it, just a raw water source that will be shipped around. But again this shows east raw water interconnect and any of the interconnects to the raw water are at individual members' expense.

Mr. Rodi stated what's important about this, this shows a couple of things, one is the existing wellfields in Volusia County and this red area designates a priority water resource caution and these are based upon 20 year expected rainfalls. Very recently, and we were told this just probably a week ago, that the new survey has removed, at least for the New Smyrna Beach area, this water resource caution priority. What that may mean is that some of the limitations may not be there but when you look at the results we've experienced over the last several months here with the lack of rain, predicting out 20 years becomes very difficult, especially when you're trying to look at weather for next week. These become important to consider but this little green spot here is the proposed WAV Central Wellfield as best as we can place it. This location here is our western most

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wellfield, so it's very close. Remember, this is going to pull when its finished, 11 million gallons a day. He stated to Mr. Hoover, and we were peaking here, during the fires at 7 million?

Mr. Hoover stated just under.

Mr. Rodi stated this is again a representation of the Central Wellfield and this is a transmission main pipeline that is raw water. One end terminates, and this is what I'm assuming the eastern interconnect, to a Port Orange water treatment plant. There's a water treatment plant to be built here and of course the other terminus is over here and I don't recall the name of that plant whether its in Deland or not. What's important again about this is that in looking at the capacity, this large plant being so near our western most wellfields, the expectation is that with that kind of withdrawal rate it may have an impact on those western most wellfields. He stated Mr. Hoover was sharing with me earlier that during the 1982 drought Glencoe was our only source and of course the static levels in those wells dropped very dramatically. Over the last several months we've had a similar experience with one of the wells out on S.R. 44 where it's within a foot of an all time low.

Mr. Hoover stated that whole wellfield, the western wellfield that would be adjacent to the Central Volusia wellfield, is only one foot higher in level than its historic lows since it went on line about ten years ago.

Mr. Rodi interjected 1994 I think. He stated so when you start to look at this could there be interconnections, well yes, there's the opportunity for something to be here but there aren't those kinds of interconnections indicated.

Mr. Rodi stated this becomes a really significant chart and the source of this was Tom Missimer who was in the audience during the Joint Meeting we had. One of the things that is very critical here is you can see this line, it actually separates the aquifer. He stated so the idea of relieving drawing out of the aquifer over here really raises a question about whether or not it has any value over here on the eastern side. When we looked at this and then we looked at the wellfield itself and the way water flows into this and the recharge, this is very strategically placed if we've got it in the right place and we think we do, but this was us.

Mr. Rodi stated there's another consideration here and this is the RAMP, and this goes back to, I think the date on this is 2002 and this obviously predates WAV but it's a part of the program. What I noticed about this, this little symbol here, which you see located here, are recharge areas. They're intentionally designed to try and take reuse water and other water sources to help recharge this aquifer. If you think about that dividing line and look at it here, I find it interesting that there's a lot of these over here and I don't see too many over here, unless that's what those are. For a future state, and that's what these

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lines represent, we have one new pond that's very nearing completion but these are yet additional locations that were thought of then.

Mr. Rodi stated so what's the take away that Missimer was conveying to us. First of all the current water use by New Smyrna Beach doesn't impact the flow of water to Volusia Blue Springs which is a big deal and there's a ground water divide that clearly separates the two basins. I think that becomes a significant consideration.

Mr. Rodi stated this is up here just to have a reminder of some of our previous discussions about generation and what we are trying to do with developing generation sources. Part of what we were attempting to do was to look at some co-product, some water co-product that might be a part of the generation process. Now, Black & Veatch, and the U.C. went out for an RSQ on our water strategy that I will get to in a minute, just to put up again, but Black & Veatch indicated they have a patented natural gas fired generator. It puts out 100 MW's and it will deliver 11 MG's of potable water a day, it is raw water, its not mineralized or anything. That in of itself is a very significant amount. Of course it's also very expensive.

Mr. Rodi stated in looking at the water supply strategy part of what we were talking about and these were presented again during our joint CIP meeting, it's looking at a source that would be drought tolerant and then be able to provide potable water supply as well as to help us with recharge. Part of the thinking was to harvest water when there's adequate rainfall on all that property we have out there, to draw off reuse water or for recharge purposes for the aquifer, and in trying to assess this, one of the sources that we started to look at were deep saline aquifer wells.

Mr. Rodi stated so what I tried to do was to look through what are the pros and cons. One of the things that often happens with larger organizations is that there is a source of knowledge that is developed when you have those larger organizations, depth of resource. In this case here, that should be an advantage long term. Larger is often better with electrical generation projects but when you start to get into these very, very large alternate water plants, they don't seem to perform and they don't seem to have the economy of scale as opposed to smaller units. WAV's likely to obtain better funding for grants and bonding rates even though its unproven in the market place because of its size and the coalition of the number of cities that are with it. However there's no institutional knowledge to implement the plan, plans are always about execution. So this item here, despite claims that the aquifer is relieved by the St. Johns River Plant, the aquifer's recharge is actually split. So it really raises a question about what that really means and it also means that the proposed Central Wellfield Plant will help Western Volusia and potentially have this stress on the East Volusia aquifer.

Mr. Rodi stated the proposed transmission main has the potential to provide raw water in 2020 but again no one will know the exact build out rates but we're many years prior to

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that point. So WAV doesn't appear as though its capable of meeting the 2011, 2012 time frame or be flexible enough for short term notice. What I mean by that is I heard the statement well if you discover that you need it, tell us, and then if we can't do it, you can do something about it. By then it's like walking out in the traffic and you see a truck, do I have time to move. It's not likely that you can get through fourteen different points of view in order to have that accomplished.

Mr. Rodi stated WAV funding costs are likely to exceed local solution costs with no equity ownership. There's 40 years of mandatory pass through payments and bonding restrictions and other obligations, notwithstanding U.C. Charter issues.

Mr. Rodi stated on the U.C.'s side of this, there is institutional knowledge to execute plans in providing well based water and treatment. There is no internal knowledge or experience for the technologies expected to be employed although we would anticipate using proven technology. Let me tell you something it's real simple, we're talking about going very deep, 1,200 foot wells, if we can have the intake portion, you have one intake and one exhaust if you would think of it that way, if we don't have to go so deep with the intake and get to better water to process, then the costs go down. But it's about \$450,000, \$500,000 per 18" hole, just to give you some idea, and there's a lot of risk with that. So we know about wells but we don't know about extracting water from that depth. The other thing that we were told is some recent tests show that perhaps that deep saline water doesn't quite have the amount of chloride in it that had been previously thought by a considerable amount, so that's sort of a positive statement. But the point of all of this is there's greater risk and we would expect that there would be additional regulatory oversight and scrutiny. Part of that is if you step out and become a pioneer in one fashion or another you're likely to have to answer for some things than if you were just towing in line.

Mr. Rodi stated this strategy anticipates modular, flexible, and right-sized units for the U.C. requirements and will require the same as the WAV thing, disinfected, mineralizing, filtering and mixing in order to mix it with our existing well supplies. What am I talking about there, you have the two deep wells, you pull the water out, you run it through a standardized, like RO membrane plant that's designed for that and you size it for what you need. If you need a half a million gallons or a million gallon unit you plug it in and we would do all of this west of I-95 and when it looks like we need another one, we'll plug another one in. At some point when you get enough of these you may need to have some redundancy so that you can maintain and go through that but its not meant to be any more complicated because one of the things we're dealing with is we don't have an excess of money to throw at this thing. The other part of it is we can't determine the timing very well so there needs to be some set up work, some studying, you know what are the alternatives, how risky is it to poke a hole in the ground 1,200 ft. west of I-95 because we already have a deep brine well that's over here at Smith Street, and there were some caverns that were down there and some unexpected things. As you head west,

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we're being told that the formations are more homogeneous and so there's not quite as much risk, but we don't know those things.

Mr. Rodi stated one important element here is that the assets are owned and controlled by the citizens of New Smyrna Beach. It isn't that we're giving our money to somebody else and don't have any say about it. I mentioned this about the funding is very limited but bond rates should be favorable when we're going after alternative water supplies and these available funds for the water plant are competing with investment needed for existing infrastructure and growth related temporary investment. What's that mean? If we have to put in the pipelines for everything going out west, water lines, sewer lines, reuse lines, electrical facilities, what's going to happen is not all the developers are going to do this at the same time so we're working through the ERU units, and Counselor Preston has been very effective in trying to get this addendum so we have this middle ground but if we're going to spend x amount of dollars out there we may not have x amount of dollars coming in to pay for it. So that's what I mean by its temporary so when that next element comes in, the next subdivision, yes they'll pay, but the timing is off and it competes for those dollars because you don't want to put a smaller size in there. Just like we heard why did you put in a 12" line and not a 16" line, you deal with those kinds of issues, you want to go with the economy of scale if you can get it.

Mr. Rodi stated we have here the potential here to partner with private or other public firms and combine water and power needs in the same project, so there is that avenue because you have the control. I think that might be an advantage depending upon how you want to take it. Since the water need is growth driven, because we're talking about the future, we're talking about people to be coming, the pace can be adjusted or stopped. That's always an alternative so I wanted to present that.

Mr. Rodi stated that's the end of my presentation. He commented it's 6:30, and Commissioner Diesen gave him 30 minutes.

Chairman Para commented Mr. Rodi had done very well and asked if he would mind a series of questions at this point.

Commissioner Spangler stated it's hard to know exactly where to begin, I'm trying to just see the big picture. I understand several things seem to be pretty clear, number one is if we need water by the year 2011 or 2012, it isn't going to come from WAV. They're going to be later down the road, so we're going to have a problem right then and there. I also understand that depending on the rainfall and whether we have a drought or we don't have a drought, our CUP, number 1, it's my understanding if we have a serious drought our CUP will actually be reduced, is that true?

Mr. Rodi answered it could be reduced, yes.

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Commissioner Spangler stated so we have an adequate CUP until the year 2011 depending on our growth rate and the number of new customers but we're in a position right now where if we have a drought they can cut our CUP and then we may not have enough water for what we already have here. That's not an extremely likely possibility but it's a very definite possibility. So we have water now, we'll have water at least until 2011 under worst circumstances provided that we don't have a drought. If we do have a drought then we could be short of water tomorrow, except the drought has to go a little longer so that part of it seems to be pretty clear to me. WAV is not going to provide our water in time if we have anything like the build out that we have applications coming into town for so I'm suspicious of that and then there's the other issue of they're going to be drilling water and sending it to West Volusia right next to our wellfields, well that can't help either. So just for an initial comment, I don't like any of that.

Commissioner Reynolds stated basically it seems to me that we have two plans that are competing for limited resources. One of which is supporting WAV, paying our share, two, planning for this period where we may have a problem. It seems to me that we have to assure that our plan, whatever we decide on, will provide the City Commissioners with some confidence that if we decide to recommend going it with ourselves and perhaps with our neighbors at Port Orange and south, that they feel assured that they're not letting the citizens of this City go down the tube, as we hope we won't let that happen. Therefore since it's hard to get a handle on what the WAV's final costs are for that, do you have any feelings that if they were to generate these plants out in the future, what impact that will have on our ability to take care of the period, not only during this possible shortfall but also since we'll be paying WAV a fee, I call it a tax, for the water we produce and give to our citizens, is there going to be an ability to do that.

Mr. Rodi stated I can't obviously speak for them, all I know is what I see but the scheduled need seems to be for western Volusia and if you look at the one chart of the summary of CUP allowances you will also see that the County is severely deficient. Now they listed us to 2025 and our CUP only goes to 2020 but they just extended it to 2025. The river plant on the St. Johns is the first plant on line and that was in 2010. Depending upon start-up issues and costs generally with a new organization, if this was an experienced organization it would be more predictable and they could scale that. They're obviously scaling to provide an initial water source and then adding additional sources. There are some unknowns, one of the things is the DEP was raising questions about the St. Johns River and reducing the permitted oxygen that is there which according to some is going to pollute the river even more, meaning that one of the effects of fertilizer or what have you is to reduce the oxygen content so you can throw more fertilizer in there. Those kinds of issues going forward remain ill defined so my hope would be you could scale up the size of that plant but then you have to build the transmission main to get it to us and others. He asked Mr. White if he remembered the name of the Edgewater Subdivision that someone just made us aware of last week, it was a large subdivision.

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Mr. White stated he couldn't remember the name, there's a meeting scheduled early in June to review its ERI. It's a development of regional impact, over 8,000 acres in New Smyrna and Edgewater, and a major undertaking.

Mr. Rodi stated that subdivision will partially impact us and that wasn't even on our radar screen. Why I even bring it up, is if you look at Edgewater's CUP, if I'm recalling numbers, like 2 1/2, and you get that kind of a subdivision increase, and depending upon other impacts for development that just really aren't known right now, it's not just us scaling, others would have to also. So I really don't know how to answer the question definitively and all I could think about was that Port Orange is very progressive, they've done, I think some wonderful things, and there's a great synergy among the three cities to work together and take advantage of whatever we collectively could take advantage of. It seems as if there would be more ability to be flexible in scale at that level but then again I can't answer directly.

Commissioner Reynolds stated my other concern is regardless of whether WAV or we plan for the future, one of the experts from WAV stated that approximately 20% of the aquifer usage is going to agriculture and it seems to me that no one has a handle on that other than St. Johns because they do test those wells and they do restrict flows with that in mind it seems that we in worse case situations do have to think about membrane plants to augment what we already have, and that could be as early as you mentioned, maybe 2007, 2008, 2009.

Mr. Rodi stated it's a proven technology and it's something within our institutional knowledge to adapt what we know and transfer the knowledge to this.

Commissioner Diesen stated I don't have any questions, I have some comments, but I'll save them until you get all your questions on the table. I watched what happened the other night and I listened to it very carefully and it seems to me that we are far better off being in charge of our own destiny and working with our neighbors to the north and south than we are to go into another level of government that has not been tried out and doesn't really know where they're going yet.

Chairman Para confirmed Commissioner Hall didn't have any questions and then stated he had a few. He stated not to get into the comments, which we may want to take another round to go through that, but the intent of Senate Bill 444, and I did some research and I talked to Mr. Preston, and I'm not quoting him by the way, just my take on it, and you mentioned it in your presentation. An association, and that's what I guess we're talking about, not to name any neighbors because there haven't been any formal discussions, but there could be theoretically an association that could be formed that would in its intent or at its very core meet the needs found in Senate Bill 444 and 360, is that a correct assumption.

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Mr. Rodi stated that would be my assumption.

Chairman Para stated okay, and that would allow for this more loosely held group of people that could define themselves. The funding issues found in this legislation, there appears to be some opportunities, do you think an association, and I'm trying not to push the envelope here, but would an association formed like that and there would be some definition to it, could that qualify for some funding in this bill.

Mr. Rodi stated it would seem like it would but you know as well as I do, you get into that arena and it doesn't mean is.

Chairman Para stated all right, that's all the questions I have, now we'll go with comments.

Commissioner Spangler stated I'm still trying to get a clear picture of what our alternative is to just turning the whole thing to WAV. From what I've heard WAV is not going to do us a lot of good too quickly, WAV is going to do other people some immediate good with new wellfields but we're all at some point going to exhaust the capability of the wellfields and we're all at some point going to have to do reverse osmosis and water mining and things like that. The very same things that we've been discussing doing for ourselves are the things that WAV is discussing doing but we're discussing doing them right now and WAV is discussing doing them in the future and it's going to cost both of us about the same, particularly in the water generation but we're going to pay them a surcharge on top of what it would already cost us. So it looks to me like it's more expensive for us to go to WAV, we're talking about the same technology as they are but we're talking about them now as opposed to later so I don't see any advantage for us period.

Commissioner Reynolds stated we were handed a sheet which shows costs of WAV through I guess up to date and it appears that the administrative costs, expenses, etc., and special studies, will amount at the end of FY2006 to about \$3,876,000. Which if you divide by 14 communities doesn't appear to be significant but this is before anything is built, this is just paying people administrative charges and some studies. I would think if we could take our share of that amount of money, with our in-house capability and with expert consultants here that we might be able to focus better on our own needs here and represent the citizens of New Smyrna Beach and our other customers in a way that retains control of resources, financial resources, that I'm sure all of us as ratepayers would be appreciative of having that overview, not only by the Commission here but by the City Commission.

Commissioner Diesen stated I would like to second everything he just said. Plus to me there's a greater issue here. It's the legality of whether or not we can be put into WAV without a referendum of the people who own the assets of this Utilities Commission and

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that can be a part of our discussion either tonight or perhaps we can send it on to the City Commission, but that's a fundamental issue whether or not the Charter of the City of New Smyrna Beach has been violated.

Commissioner Hall stated I said at the Special Meeting that I was not prepared to make a decision, and that Special Meeting was last Wednesday. I am not ready, I'm not sure which way to go. Sitting on the Planning and Zoning Board I remember asking the question one night after we had approved about 9,000 units, did the City staff contact the Utilities staff about resources and did we have enough resources, that is electricity and water, etc., and the answer to that was a resounding yes. Now I'm hearing that we don't, so I'm beginning to think where the heck are we. In an ideal world we probably need both but there isn't much evidence for either one in my opinion at this point. I think there's too many unknowns, we don't know what Mother Nature's going to do, we don't know if we dig down if we're going to hit water, even if we had a lot of rainfall, and so I don't want to say I'm confused but I certainly am hesitant to pull out until I've had a chance to really study it and I have just not had that chance.

Chairman Para stated just a few comments myself. I agree with Commissioner Diesen that there's some serious questions about Charter issues, that certainly have to do with the sovereignty of the Utilities Commission, its charge, its requirement to provide these services and I don't know that we can here, I believe we cannot here distribute or divest ourselves, I should say the community, of these assets without there being a referendum, without the peoples' voice being heard. This is a significant change to make to the overall complexion of this agency, a serious portion of it. I asked some very serious questions of those folks (WAV), many of you in the audience were there that night. I was not satisfactorily answered with regards to the questions, legalities, and all the rest. I have done some research on my own and as I mentioned earlier, read the Senate Bill, I'm not a lawyer but from a plain persons perspective it clearly provides ample room for there to be alternatives to WAV and in response to Commissioner Spangler's question, and it's a good question, if we don't do WAV, what do we do. I think the privilege of the opportunity exists for us to work with our neighbors and develop a plan that is utility oriented. You see WAV to me by its very premise, and I'm not beating those folks up, but it's a political solution for a utility problem. We need a utility solution for a utility problem, and we need to bring utility people together on the same page, the same location, and work through that. So from that standpoint I'm really very much against our participation in WAV, if we have to finish up a contract or something so be it, but I'm not interested in us participating in it. There are opportunities as Commissioner Reynolds mentioned in plans for the future. There's opportunities here with the experience you have to draw from, a proven experience pool, skill set, that we can draw from here and believe that folks in Volusia County would be served well in allowing us to work with local communities. Again in reading the bill I didn't see any preclusion from us participating with cities that aren't in an immediate proximity of us on some of these research projects. So again I think that what we can propose an association that

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would be in essence a friendly footrace with the folks from WAV, an alternative. I like alternatives, I come from a free enterprise background. If one person produces the only mousetrap it's going to be a pretty lousy mousetrap, and I think that we can provide something that would be a good alternative, we've got those kind of folks here. He stated so with that I'll turn it over to you all and see if there is some sort of motion we would like to make so that we can have further discussion.

Commissioner Reynolds stated I make a motion that we recommend to the City that at this time we withdraw ourselves from WAV and press on with the Utilities Commission's plan to satisfy our customers with the limited resources that we presently have.

Commissioner Diesen seconded this motion.

Mr. Bill Rogers asked to speak and address the Commission. He stated I would like to ask one important question, you talk about withdrawing from WAV, you've never actually participated in WAV so therefore I think that your motion should be you don't want to be a part of WAV rather than withdraw from WAV. I think the other is you accepted WAV in the beginning and now you want out, you've never been a part of it.

Chairman Para stated that's a valid point.

Commissioner Reynolds asked if he could comment on that.

Chairman Para stated yes and added to Mr. Taylor if he wanted to make his way to the podium we can have some more public comment.

Commissioner Reynolds stated I appreciate what you said and I guess maybe I was not clear, what I'm saying is I'll make a recommendation that the City Commission withdraw themselves from WAV which they have already voted to become a member of WAV.

Chairman Para then stated we'll get some comments from Mr. Taylor.

Mr. Ken Taylor stated I thought I only had a few minutes but I think you have several things you need to deal with so I'm just going to go ahead with my prepared text because I have these bf's which some of you folks might understand and I don't want to miss anything.

Mr. Taylor stated Mr. Chairman and Commissioners you are embarking on a dangerous journey as you discuss participation in WAV. Be sure you are aware of what you are undertaking and why you have arrived at this point and what questions you will answer. Will you vote to pay the current bill afforded to you from the City Manager emanating from WAV, which I think really set this stuff off. Resulting from decisions in which you

(1) Discussion/Consideration of Water Authority of Volusia (WAV) Participation (cont.):

had no input, and what about the next one they send you. If yes, you should ask why he sent it to the U.C., did he do it at his own volition or was he guided by the New Smyrna Beach voting representative. Mr. Rogers alluded to that just a minute ago. Will you pay the next annual fee invoice when it is issued, you did so last year. Will you recommend to your overseers, the City Commission, that they withdraw from the WAV with the other disillusioned cities and as we know there are several. Or will you agree to participate in WAV with Mr. Rodi attending the Manager's Meetings, Mr. White attending the Technical Meetings, and the Chairman attending the Board of Director's Meetings while not having a vote in the proceedings. The Mayor made a good suggestion last week, he advised that in order for the Utilities Commission to have a vote, Utilities Commissioners must be elected, what a concept. A majority of the previous Utilities Commissioners were fired for expressing such thoughts so keep that in mind. And finally what about the WAV tax district that the County passed, the City Commission must vote to participate before New Smyrna Beach taxpayers can be included. Will you also recommend that the City Commission vote no to this proposition, this might be construed as a political activity and also might be taken to task, but I would certainly consider it. Remember Commissioner Hall's admonition last week the City Commission can remove you at their whim and they will. My advice is to thine ownself be true, stand by your principles. Get out of WAV, don't spend another nickel on it, good luck and do the right thing.

Chairman Para confirmed there was no further public participation and then stated Commissioner Reynolds had made a gesture that possibly he wanted to amend his motion.

Commissioner Reynolds stated let me clarify my thought, thanks to Mr. Rogers. I think we as Commissioners of the Utilities Commission, which are suppose to provide the City the best technical knowledge that we have through our Director here, recommends that the City withdraw their participation from WAV so that the Utilities Commission can use those resources and funds to implement the plan that has been provided to the City Commission.

Chairman Para stated okay if we put brackets, are you going to withdraw your motion, amend your motion, what would you like to do?

Commissioner Reynolds stated I would say it would be an amendment.

Chairman Para stated so to put brackets around it, you're amending the language to recommend to the City that the City withdraw itself from WAV, is that correct?

Commissioner Reynolds stated that's correct.

Chairman Para asked is there a second to that amendment.

(1) Discussion/Consideration of Water Authority of Volusia (WAV) Participation (cont.):

Commissioner Diesen stated I seconded it the first time and I'll second it the second time.

Mr. Preston state you might want to restate the first motion before you amend it.

Chairman Para asked the recording secretary to read it back, then added or would it be easier to have Commissioner Reynolds read it back, because I don't remember it verbatim.

Ms. Simmons stated I don't have it verbatim, but the motion was to recommend the withdrawal from WAV, and the U.C. has the limited resources to satisfy our needs.

Chairman Para stated okay, the premise was you were saying that we would withdraw and that's when Mr. Rogers said you all are not in WAV.

Commissioner Reynolds then stated let me withdraw the first motion.

Chairman Para asked if there's a withdrawal of the second.

Commissioner Diesen stated I second his withdrawal of the first motion.

Commissioner Reynolds stated I make a motion that we the Utilities Commission, who represent the technical expertise of the City, by being the Commissioners here and listening to our Director, recommend that the City Commission withdraw from WAV and permit the Utilities Commission to implement the plan that we presently have provided the City. Commissioner Diesen seconded this motion and the motion passed with a majority of the Commissioners voting yes, Commissioner Hall voted no.

Commissioner Hall stated in view of the fact that I do not think I have enough information ahead of time to make an informed decision, I'm going to vote no.

Chairman Para stated now we have Possible Other Business.

Commissioner Diesen stated before you do that I think there's another question that we need to ask. I would like for this Commission to entertain the idea that maybe we should ask the City Commission to jointly get an AG's (Attorney General) opinion on the Charter issue that's at the heart of this question. Whether or not the City had the right to change the City Charter without a referendum because that's exactly what going into WAV did and I think that's a question that has to be answered. By voting to give away certain assets and rights of the Utilities Commission of the City of New Smyrna Beach, has not the Commission violated its own Charter according to Florida Statutes 166.021, 166.031, Chapter 67.1754, and I would like that to go forward, if this Commission would like to see that happen, and ask the City Commission to jointly request the AG's opinion on that issue.

(1) Discussion/Consideration of Water Authority of Volusia (WAV) Participation (cont.):

Chairman Para stated okay, would you like to put that in the form of a motion so that we can send it over that way, paraphrase.

Commissioner Diesen stated I make a motion that we ask the City to join us in requesting an AG's opinion on whether or not the City has violated its own Charter. Commissioner Spangler seconded the motion and the motion passed unanimously on a roll call vote.

Chairman Para stated just to be sure, do we have any other discussion, comments about this issue.

Commissioner Spangler asked about that particular issue?

Chairman Para stated related to this or others.

Commissioner Spangler there's another issue that's related to it to a certain extent. I sense that the City Commission is thinking about a moratorium. A moratorium addresses our ability to provide infrastructure and how quickly we can provide it and I think there's a sense that maybe the applications have overwhelmed our ability to service them. It's not just our ability, I think probably there are other considerations. I don't think that anybody feels like they really had a handle on this 15,000 or 20,000 applications that we've had. I think that maybe the City Commission is looking for us to say what we feel about whether or not they need to just slow this down and have a look. Do we feel that we're able to service the applications that they are approving in a timely manner or should we just come out and publicly say to them it's going to be a while before you can have all the infrastructure that you need. I understand we have the ability to distribute electrical power but its not my understanding that we have the ability to distribute adequate water in a timely manner for all of these things. Somewhere along the line I think these developers expect us to be able to provide that so we may be sending the wrong signals to them if we don't make some comment, and then let the City Commission determine what they want to do about it. Do we want to make any statement about whether or not we think a moratorium would help us get in line with the demands that are made on us or do we not want to discuss that.

Commissioner Diesen stated I think one of the issues about that would be at what point does the new development adversely impact the current customer and that's kind of where we have to look before we send any information over and I don't know that we're prepared to make that kind of a statement. Maybe we are, I don't know, we would have to ask staff about that, but I think isn't that kind of where you're going, how far can we go without impacting our current customer base adversely.

Commissioner Spangler stated I don't think it is our intent to put any of the burden of new growth on our current customers but we have our own things to deal with relative to our own customers and whether or not we can finance in the short term both what we

(1) Discussion/Consideration of Water Authority of Volusia (WAV) Participation (cont.):

need to do for the people that already live here, and what we need to do to keep water particularly flowing west of town. I don't know that we have the ability to do that at this time and it takes a little time to get ready. We're working on it, we now know what our needs are, but we don't really know yet how we're going to provide for those new homes, we don't know how many are going to come on line, but it would be embarrassing to everybody if one day we failed a fire pressure water test out there and they had a couple hundred homes or fifty or sixty homes sold and we couldn't provide utilities. I don't see where we as a utilities are in a position to say to the City Commission or to Development Services, yes, it's no problem, we're going to be able to bring that infrastructure on line just as fast as you need it. I think that the optimistic comments that Commissioner Hall heard about our water supply probably didn't come from Mr. Hoover or this side of the street, they probably came from somewhere else. I don't know that, I just question, I don't know how or where the communication link lies or where the responsibility lies but I don't sense that we're able to provide the infrastructure potentially as fast as its being approved. Maybe all of the developers know that and maybe they're willing to wait until we can get the funding and get the things in line or maybe they don't know that, but I think the City Commission needs to think about that.

Commissioner Hall stated I think the very fact that we're discussing it, I see two City Commissioners sitting in the audience, and if they don't take that back to the City Commission they would be remiss in their duties. I don't think we have to say anything else about it, I think we've made ourselves clear that we're concerned about it. And I would hope to see an article in the papers after the next City Commission meeting that the City Commissioner has discussed this subject.

Chairman Para asked if anyone else would like to comment. He stated my comment would be simply that we still are in mid-stream with lots of good information that we're paying a lot of money for and I think it would be premature to lay it down, I think that's the hesitation that you had, are we ready, I'm not. I'm a student of history and I know in 1928 the predictions in America for growth were different than in 1929. The future's a funny thing, it's a fuzzy thing you can't really get a hold of. Again, I would prefer to get more information before saying anything that would put a chilling effect on the free enterprise system. He then asked if there were any other comments, there being none, he went on to other business.

(2) Possible Other Business – Time for Commissioners:

Mr. Rodi stated at our last Regular U.C. Meeting we were discussing the need for public hearings with regard to the ERU addendum concept and I thought we should probably discuss timing on that and I think you have a schedule for the regular meetings there in front of you.

Commissioner Diesen stated we also have a meeting on the 31<sup>st</sup>, right.

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

Mr. Rodi answered yes, it's a budget meeting.

Commissioner Hall stated we do have a special called meeting on May 31<sup>st</sup>, can we discuss it then?

Mr. Rodi stated if that's your pleasure.

Commissioner Hall stated that's next Tuesday.

Mr. Rodi answered Wednesday.

Commissioner Diesen stated this is where the Developers come and have their input for the public hearing correct.

Mr. Rodi answered yes.

Commissioner Hall stated that would be my suggestion and if there's any material that this Commission needs, if we could have it before hand.

Mr. Rodi stated sure.

Commissioner Hall stated I think that might help and no criticism intended. I know information comes in sometimes at a very late date and you can't get it out. What you can get out, it would be nice to have it.

Mr. Rodi stated I will ask Jim White to provide a summary of the three zone concept and get that to you so you at least have some reference points, it will still take a little explanation.

Commissioner Diesen stated we need two hearings.

Mr. Preston stated yes, two hearings, and I will need to verify but I think we need a ten day notice period.

Mr. Rodi stated right, that's why I was hesitating about the 31<sup>st</sup>, I don't think we have enough time to get the notice in.

Mr. Preston stated so the 31<sup>st</sup> might be too soon, it's either a seven or ten day period, I don't have the statute in front of me, but I believe it is ten days.

Commissioner Spangler stated are we going to have developer participation in this ERU concept where they're going to tell us that it's another unexpected expense and that they've signed development agreements and now we're tacking something on the back end of it; are we going to have that kind of conversation too.

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

Mr. Rodi stated I would expect that.

Commissioner Spangler stated so there will be some people here.

Mr. Rodi stated I would expect so and asked Mr. White from his conversations with them so far would you expect that.

Mr. White indicated yes.

Mr. Rodi stated I think we will hear a variety of reasons why any individual shouldn't pay.

Commissioner Spangler stated that was an excellent letter we got on our email from the Deland man, and added I have a whole epistemology for him.

Mr. Rodi stated so from a hearing standpoint then, we're at the next two regular U.C. meetings, if I'm understanding this correctly, which would be June 19<sup>th</sup> and July 17<sup>th</sup>.

Commissioner Spangler then asked what's going to happen on the 31<sup>st</sup> relative to that.

Mr. Rodi stated the focus of that meeting is budget, strictly budget as it stands and other business.

Commissioner Diesen commented we need to meet our June 1 deadline.

Commissioner Reynolds stated because this meeting with the developers may last quite awhile, should we have a special meeting on that one.

Chairman Para stated yes, either that or time it into the June 19<sup>th</sup> meeting, I think it's going to be a lot to stick into the budget thing, unless you have any objections.

Commissioner Diesen commented we can't do it on the 31<sup>st</sup>, not enough time.

Chairman Para stated if that's the case and it looks like probably, so rather than going back through this fire drill, why don't we set it for June 19<sup>th</sup> meeting just put it on the agenda then.

Commissioner Diesen stated so that delays it for how much longer. I'm talking about until after the second hearing, before we can think about moving forward, that's another consideration, we're talking sixty days.

Commissioner Reynolds stated it seems to me that this is going to be a pretty long process, both first and second reading. I hate to say it but it seems to me to devote two

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

meetings to that specially would be better than to try to get normal business going and then do this too.

Chairman Para stated so you don't want to do this on the 19<sup>th</sup>?

Commissioner Reynolds stated I'm just recommending for this particular aspect that we have a special meeting for the first and second hearing.

Commissioner Diesen commented for the reading of the addendum. She stated I'm not happy about doing that but I think you're right because if the calls and things I've gotten are any indication we might be here a little while.

Chairman Para stated just for my 20% here, I will be out of town on the 7<sup>th</sup> through the 16<sup>th</sup>. So if it's a special meeting, if you want to do it that Thursday on the 22<sup>nd</sup> that would be good.

Commissioner Spangler commented that would be good for me.

Chairman Para stated okay so you want to call the ERU meeting on the 22<sup>nd</sup> at 6:00 p.m.

Ms. Simmons indicated she would need to review the DeBerry Room calendar for scheduling.

Chairman Para stated why don't we just leave it with you and let you work things out for us.

Mr. Rodi asked if the Commission would have a second preferred date and that way we could schedule both of them. If the 22<sup>nd</sup> works, then what would be the next alternative date.

Chairman Para stated the 21<sup>st</sup> or 22<sup>nd</sup>.

Commissioner Diesen stated and then we need a second hearing date.

Chairman Para commented the second one could be the same way, the 19<sup>th</sup> or the 20<sup>th</sup> of July.

Commissioner Spangler commented sounds good.

Chairman Para then requested Mrs. Simmons to firm that up for them.

Commissioner Diesen asked if that was alright, does it have to happen sooner?

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

Mr. Rodi stated it depends upon who you're speaking with so I tend to think that should work unless we hear differently. Just like I think we heard some interesting comments from the developer who was at the last regular meeting, he articulated some very bright thoughts.

Mr. Preston stated to further answer your question, if you recall at the last meeting there was authority granted to enter into agreements with developers regarding either Letters of Credit or some sort of guaranteed financing should this addendum pass. So in theory it shouldn't slow developer agreements.

Commissioner Diesen thanked Mr. Preston for reminding her of that.

Chairman Para then asked if there was any other business from the other Commissioners. He then stated I wanted to bring something up, last year I attended the FMEA Conference, found it very informative, and I'd like to go again this year. It's in Florida and certainly extend the invitation to any of you that wanted to join or participate.

Chairman Para asked if Mrs. Simmons knew when the conference was.

Mrs. Simmons indicated information had been placed on the dias in front of each Commissioner. She stated July 18<sup>th</sup> – 20<sup>th</sup>, which conflicts with the second hearing date.

Chairman Para then asked the Commission if they wanted to consider a different date for the second public hearing, an earlier week, like the week prior.

Commissioner Spangler commented he would be gone that week.

Commissioner Reynolds questioned about perhaps the 18<sup>th</sup>.

Mrs. Simmons stated registration for the conference commences on the 18<sup>th</sup>.

Chairman Para stated perhaps the second reading could be done on the 17<sup>th</sup>, the same day as the regular UC meeting, would that be a little bit less significant. Maybe that would save us from having another whole meeting.

Commissioner Diesen commented perhaps we can do it at 5:00, have the hearing from 5:00 to 6:00.

Chairman Para stated that's a good idea and said we'll leave a lot of latitude to Mrs. Simmons who's good at scheduling us all.

Chairman Para then asked if there was anything else, if there was anyone in the public who would like to participate.

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

Mr. Bill Rogers stated when you made your motion to recommend to the City Commission that they did not participate in WAV, you didn't take yourselves out of the picture. Therefore if the City Commission decides to stay in WAV basically the Utilities Commission is staying in WAV also. I think you should have specifically said that you do not want to participate in WAV along with the motion that you made.

Commissioner Diesen stated well, the AG's opinion going to have a lot to do with that.

Mr. Rogers stated you're going to have to come back down and revisit the issue as to whether you're going to be a part of WAV if the Commission decides they're going to stay.

Chairman Para commented let's just do it this way and this might help. Commissioner Spangler do you want to be in WAV?

Commissioner Spangler stated no, and I think the message that we're trying to send is we don't want any part of it and how did we get involved in it in the first place. Let them answer how they tried to get us involved in it, we don't want to be involved in it, and we won't be unless somebody else drags us.

Commissioner Diesen interjected and we're not in it, we're not in it now.

Chairman Para stated we're looking for quick short statements, Commissioner Reynolds.

Commissioner Reynolds stated I think it's the City Commission's duty to make that decision and I think it's the City Commission's duty to determine whether they go to the AG.

Commissioner Diesen stated yes, we're not in it.

Commissioner Reynolds stated I want to stay out of the politics and just bring up the matters of support.

Commissioner Diesen stated as far as I'm concerned we're not in it and I think we're looking out for the best interests of the citizens of the City and I think we've done that tonight.

Commissioner Hall stated I think we need to stay out of politics, so I agree with Commissioner Reynolds.

Chairman Para stated and I would say, as I said that night, I don't think that we ever were in it and I don't think this City would be, its residents and citizens that it would be beneficial for them. I'm against it and will continue to vote against it.

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

Commissioner Diesen then made a motion to adjourn.

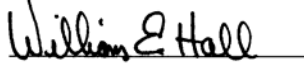
There being no further business to come before the Commission, Chairman Para adjourned this Special Meeting which closed at 7:15 p.m.

APPROVED:



CHAIRMAN

ATTEST:



SECRETARY-TREASURER

These minutes were formally approved by the Utilities Commission at their  
June 19, 2006 meeting.