

AGENDA ITEM 2-a

MINUTES OF A SPECIAL MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD WEDNESDAY, MAY 31, 2006, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

Chairman Para then opened the Special U.C. Meeting with the Pledge of Allegiance led by Commissioner Diesen and a majority of the Commissioners were present as follows:

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

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; R. Skog, Interim Director of I.T.; E. Mahle, Public Relations Manager; M. Mines, T&D Superintendent; L. Klinkenberg, Chief Accountant; K. Connor, Materials Manager; J. Knowlton, Senior IT Technician; J. Lutz, Call Center Tech., Level II; D. Simmons, Executive Asst./Recording Secretary; and additional U.C. personnel; Bill Preston, Interim U.C. Legal Counsel; Pete Slavin, Reporter for THE OBSERVER; and Bob Tolley, a member of the public.

(1) Presentation and Consideration of U.C.'s Budget – FY2007:

Chairman Para asked Mr. Rodi if we have a presentation.

Mr. Rodi stated yes, and the format we would like to use is that Mr. Montalvo will give some overview on the combined and then deal with some specifics in each of the respective utilities, and then as we move into some of the Director categories, if you have specific questions we'll address them as we go through with staff, and then we'll go from that point to the next item when we finish.

Chairman Para stated while Mr. Montalvo is making his way to give the presentation I will give him a compliment. I found the report to be exceedingly user friendly and I very much enjoyed looking through it. He commented I didn't nod off quite as often as I normally do when I read these kinds of documents. He stated to Mr. Montalvo excellent work to you and your team.

Mr. Montalvo stated this is not only me, it's a team effort, all the Directors and my staff have been involved with the budget. We have been looking to see how we could present the budget in a better way so everyone can understand and it would be easy to read. We made the promise to the Commission that we were going to change the format and Mr.

(1) Presentation and Consideration of U.C.'s Budget – FY2007 (cont.):

Rodi was always asking us to comply with that. He stated I am very glad you like the format and I believe from now on we will be able to continue expanding and improving the budget document more and more every year.

Mr. Montalvo stated when you look at the budget for the year 2007, you need to take into consideration a few key factors, they are very, very important. The revenue projections that we are using are coming from the Black and Veatch Rate Study. Those are the rates that were approved by the Commission at the last meeting and those are the revenue projections we are using at this present time. In addition to that, we are including the 3.5% General Wage Increase (GWI) in all the salaries of the Commission. When we tried to compare with fiscal year 2005 and the actual numbers, we had to estimate the Capital Improvements Plan because this is the first budget in the history of the Commission that we combined, not just only the operation and maintenance, but we combined the Renewal and Replacement, regular fund, and in addition we combined the Restricted R&R fund. He stated in other words when you are seeing this budget you are seeing the whole picture of the Utilities Commission and before we had only certain parts of that.

Mr. Montalvo stated for comparison purposes the 2006 budget excludes the revenue projections and expenses that related to the Telecommunications Division. This is important because otherwise we are abandoning this Division and we would lose track if we put these numbers together there. The fiscal year 2007 budget is not taking into consideration any additional costs associated with the abandonment of the telecommunications. We have been discussing this a lot and at this present time, in reality, we don't know what we are going to be facing. We know that probably, yes, we are going to be facing additional costs but we don't have any idea of the amounts, and that means it is something we need to take into consideration.

Mr. Montalvo stated in addition to that the 2007 Capital Improvement Plan incorporates the projects proposed by the consultants. All the consultants that have presented to you and recommended projects, they have been incorporated into the system. The 2007 budget includes a new source of revenue that at this present time Mr. White and his Department is working on that, called the infrastructure fees or CDD. That is something we probably are going to have public hearings on, that particular subject, but we tried to incorporate and estimate how much revenue we can obtain from that source.

Commissioner Hall stated I have a question, does the projected budget include the rate increase that goes into effect in June?

Mr. Montalvo answered yes.

Commissioner Hall stated okay, and what factor, what percentage did you use. He commented what did we approve, I've forgotten, 4% or 5%?

(1) Presentation and Consideration of U.C.'s Budget – FY2007 (cont.):

Mr. Rodi stated overall a little bit more than 5% for everything.

Commissioner Diesen commented about 5.2%.

Mr. Montalvo stated that's correct.

Commissioner Hall stated so it would be 5% for four months.

Mr. Montalvo stated the combined system, the total revenue projections for the fiscal year 2007 is \$55.7 million, the total expenses for the Commission is projected to be \$43.3 million, and the transfers of the combined system, in order to for us to be able to balance the budget, is composed of different sources. The first one is, we are bringing \$1.4 million from system funds available to cover projects on 2007. There is one particular project in the Electric Department and one particular project in the Water Department that we are bringing in \$1.4 million. In addition to that it is projected for us to collect on capacity fees \$4 million. The new infrastructure fees that we are projecting are about \$4 million also. In order for us to balance the budget we have to take a loan, we have so many projects that we have to complete that the revenue sources are limited and that means we have to go and borrow money, in the way of a loan or a bond issue, and it will be around \$15 million.

Mr. Montalvo stated we have transferred out to pay the system debt service about \$5.2 million. The State Revolving Loan, this is for us to pay for the Wastewater Plant is \$1.2 million. The FMPA Pooled Loan is \$1.8 million. The total Renewal and Replacement Fund projects, including the Restricted Fund, projects, will be close to \$25.1 million. The required payment or transfer to the City will be \$3.3 million. In order for us to balance the budget we need to bring from the Rate Stabilization Fund about \$108,000 due to the Internet Division that we have at this present time. The loss there is something that we need to be watching very closely, to take any determination on that if we want to continue that in the future or not.

Mr. Montalvo stated the combined system, the source of funds in percentages, 67% will be for direct sales, 2% for other operating revenue, 2% for existing funds available, 5% of the source will be for capacity fees, 5% will be for infrastructure fees, and 19% for the bond proceeds. You can see the majority of the money of the source is coming from the revenue of the Commission on the combined system.

Mr. Montalvo stated the different uses of funds on the combined system for operations and maintenance expenses of the Commission is 13%, salary and benefits and those benefits include social security, workman compensation, retirement, all the benefits associated with salaries, is 13%, and the fuel and purchase power cost is 28%. He stated that's a significant amount of money we have to pay just for fuel and purchase power.

(1) Presentation and Consideration of U.C.'s Budget – FY2007 (cont.):

To pay the system debt service is about 10%, and you can see the total capital projects will be 32% and the payment to the City is 4%. He stated in reality we transfer 6% to the City but when we see the combined uses of funds it's just only 4% because we don't need to transfer the 6% on all the revenues.

Mr. Montalvo stated when you see the combined operating and maintenance expense, we are going to pay 43...

Commissioner Reynolds stated just so I understand that, what you're saying, rather than 6% versus 4%, since we've already paid that amount of money on funds that we put in the reserves that you're supplementing the budget, that's why it's dropped to 4%?

Mr. Montalvo stated the resolution (sic Charter) calls just only for the 6% on the revenue that are from the rates structures. This means for example the capacity fees that we collect we don't transfer the 6% to the City, just only the ones with the rate structure on the electric, water and wastewater. He then continued with the budget presentation by stating on the combined operating and maintenance expense, we are going to pay \$43.3 million. Fuel and purchase power represent 51% of those dollars, that's a very significant amount. The operation and maintenance expense is 25% and the salary and benefits 24%.

Mr. Montalvo stated on the Electric, the total revenue that is projected is \$41 million, the total expenses \$34 million, and the different transfers will be \$6.8 million. The Electric sources of funds, just only for the Electric, the direct sales represent 78%, the bond proceeds that we are assigning is 17%, and the other are minor, just 1% for infrastructure fees, 2% of the funds available will be transferred, and 2% for other operating revenue.

Mr. Montalvo stated when we look at the uses of funds on the Electric we see that the operation and maintenance expense is 24%, but the fuel and purchase power cost, just only for the electric, represents 43% of the expenditures. The system debt service represents 5%, the capital projects is 20%, the FMPA Pooled Loan is 3%, and the payment to the City is 5%.

Mr. Montalvo stated when we move to the Water system, it is going to produce revenue of \$6.8 million, the total expenditure will be \$4.6 million, and the total transfers, the net transfer, will be \$2.2 million. The Water sources of funds on the revenue, the direct sales, is 40%, other operating revenue 2%, existing funds available 2%, infrastructure fees 12%, the capacity fees 12%, and the bond proceeds are 32%. The reason being for this is when we move to the uses of funds on the Water we can see that 60% of the amount that we are going to produce on the water will be used for capital projects. There is 1% to pay for the Pooled Loan on the FMPA, 2% to the City, operation and maintenance is 28%, and the system debt service payments is 9%. The Water has a significant impact on all these capital projects that we have to do. He stated these

(1) Presentation and Consideration of U.C.'s Budget – FY2007 (cont.):

projects are very important and will be serving us for a long time, it's an investment that we are doing in the infrastructure that we have right now.

Commissioner Reynolds stated a question, back to the other chart for a second, on water source of funds, what would be the ideal pie structure under normal conditions? It would seem to me that the direct sales should be a larger proportion.

Mr. Montalvo stated that's correct.

Commissioner Reynolds stated so in other words what we want to work toward is having the direct sales being a larger portion of that pie once we get our capital improvements underway.

Mr. Montalvo stated that's correct, it is supposed to be in that way.

Commissioner Reynolds stated what would you say would be direct sales, 60%, 50%?

Mr. Rodi interjected it will start to parallel the Electric system. He stated what we're seeing here is that the infrastructure for water and wastewater has lagged behind and secondly it has not acquired as many customers in the service area as readily as electric. I think what's happened is the infrastructure investment in electric has occurred sooner, this is now moving forward, and once the capacity fees and all of the infrastructure fees and the infrastructure is built, then that would represent the transition to the same as the Electric system.

Commissioner Hall stated just out of curiosity, how does this compare to the previous two or three years, the direct sales, the 40%, has it been lower or higher?

Commissioner Diesen commented here it is, on this chart.

Mr. Montalvo stated we have a situation here, in order for us to compare we have a very important component of the whole thing, it is the capital projects. In the past when we looked at those numbers we included just only the regular Renewal and Replacement Fund. We put trucks and services but it was only a minor amount of the whole component, and that means when we incorporate those components, you can see the picture in that way.

Mr. Rodi stated to Commissioner Hall, if you look at the sales numbers for 2005, 2006, and 2007, and look at the Water, Wastewater and Bright Water, it shows that they've been relatively flat and in recent years there's been more of a transition to capacity fees and there hasn't been that much in the way of sales growth. If indeed these subdivisions all go through, then we'll see a substantial increase in those sales numbers because they'll represent housing units. What seems to have occurred is water system customers were added, there weren't as many wastewater customers, and the growth patterns weren't

(1) Presentation and Consideration of U.C.'s Budget – FY2007 (cont.):

very strong except for maybe the last couple of years. So it's reflecting the growth trend that is also reflecting all of the increase in development that's been forecasted.

Commissioner Hall then stated how do we build condominiums, individually?

Mr. Rodi commented up. I think what's happened is all of that has been on the beachside for the most part so what we've seen is not really the same kind of water use for the condominiums as you would see in the residential.

Commissioner Hall stated but our population has grown, correct?

Mr. Rodi stated yes, and the numbers of accounts have grown.

Commissioner Hall interjected but just not where we want them to grow.

Mr. Rodi stated I think what's happened is, as I'm recalling some of the numbers on water growth, it was like 5%, 2%, 6%, for the last three years, and a lot of those were existing accounts that moved from wells and septic systems, but a number of those were also beachside condos. He then commented to Mr. Hoover, if I'm not correct, make it right.

Mr. Hoover stated the last two years were 5% and 6% and over the ten year period was about 3.3% growth in accounts.

Mr. Montalvo then stated on the wastewater for fiscal year 2007 we are predicting revenues for \$7.5 million, operating and maintenance expenses of \$4.2 million, and the net transfer of about \$3.3 million. The wastewater sources of funds, in terms of percentages on the sales you see 61%, other operating revenue 1%, the infrastructure fees 13%, and the capacity fees 17%, and bond proceeds around 8%. On the wastewater uses of funds the operation and maintenance expense are around 35%, the system debt service payment is 10%, the State Revolving Loan, that's the loan we took to build the Wastewater Treatment Plant, is 11%, the capital projects 39%, FMPA Pooled Loan 1%, and the payment to the City will be around 4%.

Mr. Montalvo stated the next one is the Internet. In this particular area we are doing our best to guess how much money we are going to spend. The revenue that we are projecting is around \$300,000, the expenses are close to \$400,000, that means that we have a deficit and we need to be watching that area very closely.

Mr. Montalvo stated on the number of employees of the Commission, right now we are projecting to have 193 positions. The positions are divided by Executive 11 positions, Information Technology 10 positions, and Administration 5 positions. On the Internet we have 7 positions right now but those positions are going to be helping us on the exiting of the Telecommunication Division. On the Electric 52 positions, Water 31 positions,

(1) Presentation and Consideration of U.C.'s Budget – FY2007 (cont.):

Wastewater 26 positions, Engineering 14, and the Finance Department is 37 positions. He stated the Finance Department includes Accounting, Purchasing, Warehouse, Customer Services, and the Meter Readers.

Mr. Montalvo stated if you make reference to the budget, from page 30 in the budget, to page 50, we included a description of each of the Divisions and the budget amount for each of the expenditures that we have there. He stated we now open the floor, if you have any questions within that particular area.

Commissioner Hall stated we're adding positions in most of the Departments except one, Telecommunications. What's the total compared to when we had a full Telecommunications Department?

Mr. Montalvo stated when we had the full Telecommunications Department we had 218 positions, we're keeping only 7 positions there and we are transferring 4 positions to the Customer Service Area, and then the final number for 2007 is 193 positions.

Commissioner Hall asked can you translate that into a dollar amount.

Mr. Rodi stated if you look at page 51, I was trying to anticipate some of your questions. Behind that is the organizational counts by section and then on page 54 is the comparison of 2006 versus 2007 numbers so you can see the differences as to where there were adds in each of the Divisions and where there were reductions. I don't remember what page the salaries are listed here, I thought there was a page for that too. He then stated it's just a pie chart I'm recalling. He stated I don't know what the net sum difference is, obviously the cost is going down but what we've been trying to do in each of the other Divisions, like Electric, Water, and Wastewater, is add a few positions every year if the growth stays. Part of a previous presentation was the transition of "Baby Boomers" into retirement and we said that we would try to anticipate some of those and also the growth rather than waiting to see what would happen in the last few years, so that's the pattern we're in.

Commissioner Hall stated I don't want staff to get the wrong idea from this Commissioner, because I am a satisfied customer and have been for a number of years, but the questions I am asking are the questions I've gotten asked all the time.

Mr. Rodi commented they're very legitimate, thank you.

Commissioner Hall then added and sometimes I didn't have the answers.

Chairman Para asked are we fair and balanced and capable of retaining our personnel because we're competitive in the marketplace with our values of compensation?

Mr. Rodi answered in some areas we are, in other areas where there are extreme skill

(1) Presentation and Consideration of U.C.'s Budget – FY2007 (cont.):

sets, for example, Mr. Mitchum was telling me he's out trying to find qualified linemen, and normally they're difficult to find, and what we find in trying to attract them here, we have a relatively good benefit package but we're losing some of the younger recruits we've had to neighbors because they have a dollar wage rate higher than what we can pay. So we're up against a couple of very difficult things and part of what we're trying to address is to start recruiting out of the high schools, maybe we can do some things with DBCC to start a career path for some of the more difficult positions. Mr. Hoover in the water area, most people don't understand how technically complex water and wastewater is, it's extremely difficult. Of course the people there who have their operating licenses pass some very rigorous testing in order to hold those positions so that if we aren't able to get enough people in the queue and we did this in this budget, we put a couple of UE I's in there so that we could start introducing people for what we're going to be facing in the next few more years. If I was to answer the question overall, I don't think we're competitive enough and as there are more and more exits nationally there will be higher competition for the remaining available work force.

Chairman Para stated and that's a concern to me because its always important that we, and I realize that on a general scale we're going through some difficult times but at the same time we don't need to short change those most important facets to our agency and that's our staff. So one Commissioner here is saying I want us to be competitive.

Mr. Rodi stated thank you. He added what we're trying to do is cover so many competing needs, we are out for bid for contractors for several reasons. One of them is to do routine work if the development takes off so that those contractors are best applied for projects. Likewise though we're also going to have a few contractors here doing routine work to allow some catch up on what we haven't done for many years. One of the examples in the water area is locating shut off valves for the water system, because they get covered over, lost on prints, etc.

Chairman Para commented I'm familiar with those, when I use to dig under the ground.

Mr. Rodi stated but if we're fortunate we may be able to hire some of these people and the idea of having them routinely is should we be affected by a hurricane these companies have, for us, large numbers of employees to bring in to take our community and put it back on track again. So we're trying to cover all these different needs with one approach at this point and then try to move more to the recruiting and some succession planning.

Chairman Para thanked Mr. Rodi for his comments, added good strategies.

Mr. Montalvo stated to answer your earlier question Commissioner Hall, on the budget for 2007, the gross amount on the salary is \$8.2 million.

Commissioner Reynolds stated he had one more question and it goes back to your first

(1) Presentation and Consideration of U.C.'s Budget – FY2007 (cont.):

statement regarding the factors that you've considered which I wanted to go back to Telecommunications for comparison purposes. He stated its not taking into consideration any additional costs associated with the existing and/or abandonment of the telecommunications business. Is there any sort of order of magnitude or is it just such a wild guess that's just not worth saying anything about?

Mr. Rodi stated I will tell you what I think if an opinion is acceptable. We have several outstanding potential liability claims against us by resellers. One has come forward with a specific amount, another has not yet. There could be no exposure or it could amount to millions. Likewise we are trying to recover payments that are owed to us on the carrier access billing system which we think may be about a million dollars. In order to collect that we have someone now and you've approved the contract and that individual would partially benefit. So let's say we were able to be very successful and obtain most of it, we may have \$500,000 or \$600,000 that would come from that. We sent out the letters today to the FCC, we're doing a state at a time. We did Mississippi today, Tennessee yesterday, and we'll be moving through North and South Carolina, and these other states. But as customers switch over we're going to have transition costs of maybe about \$35.00 per customer and some other filing fees. So we're thinking that with the revenues we have coming in and the expenses we're going to have to make, plus by abandoning we limit our liability claim, at least that's the theory, that we're trying to net out at zero, so that's sort of where we are. So exiting each of the individual contracts, I think we have 37 individual contracts, and we have to end those, like with Commworx and some others, and they have definite termination provisions. Most times I think it will be okay but in some cases I think we're going to have a struggle and those are the unknowns. When you read the contracts there doesn't appear to be financial exposure but there are timing exposure issues so that we may have to continue to make payments until a certain ending. We have taken all that into consideration and are trying to target it for zero but it is very unwieldy.

Commissioner Reynolds stated so it could be anywhere from best case zero, worse case \$3 to \$4 million.

Mr. Rodi stated I would agree with that guess but it is a guess.

Commissioner Reynolds asked Mr. Rodi if he thought we should have something in here, maybe an addendum, when we go to the City to explain that, capsule that, because that's certainly going to be a question. It's sort of like the budget for Iraq, separate from all the other budgets.

Mr. Rodi stated my preference is to try to talk it through because by then it will be August, because as I understand it, the City budget reviews aren't being scheduled until August, so we should have more definitive information by then to know where we

(1) Presentation and Consideration of U.C.'s Budget – FY2007 (cont.):

are in this process. He stated there's another aspect that I'd like to bring to your attention. In order for us to finance this budget, part of what we're attempting to do is match the need with the unpredictability of development and other things. So that in putting this budget together for capital we tried to backload, if you will, when we begin the projects. For example, a number of the water projects said immediate needs, a year to two years. Well, we're trying to start mid-way next year, and of course once you start you have the rest of the project to go, so when you look at the capital improvement amount, you have a certain amount for this year but you have as much for the following year. So there is, when this commitment is made, also the impact in to the next year for those carry-over budgets. From a timing standpoint, in order to bond this, we're not going to be able to start right at the beginning of the next fiscal year because the City's budget hearings aren't until August. So we're trying to deal with a timing issue, trying to deal with the wise use of funds, and looking at which projects we really have to move on and move forward with and coordinate all that. It's the same kind of a story about what are you really dealing with, and so that decision makers like yourself and the City Commission, get as open and as genuine a view as we know how to present at this point. We'll learn some more by August and our intent is to continue to keep looking through this because each time we do, like anything else, we discover another way maybe to do it a little better.

Commissioner Hall commented the budget is a breathing, living document that changes as conditions change. I think if we were to come back at this time next year and look at it month to month and compare the 2006 with the 2007, we're going to see a number of changes.

Mr. Montalvo interjected that's correct.

Commissioner Hall stated how many of us predicted what was going to happen on 10th Street, nobody, and what did that cost us, a half million dollars. So I hope the public understands that a budget is not set in stone, ideally we would like for it to be set in stone, but even our own personal budgets don't turn out that way.

Commissioner Diesen stated if we wind up hearing the "M" (moratorium) word, that's going to have major impacts as well. She added that's a very real possibility.

Mr. Rodi stated as an information item, and I think it's important to say since you brought up 10th Street and lessons learned, I know that Mr. White and the Engineering staff are talking with the developers about obtaining easements for facilities for two reasons. One is the County has not given us very much road right-of-way to put all this stuff in, and secondly if we have to move, like this 20" line headed out west, that would be extremely expensive. So we're trying to protect future impacts by taking the time now, and not being a developer, but assuming some of the things that they wrestle with. Here's another impact for them but it is a serious one because one small project costs us a half a million, and with us being all the citizens and ratepayers of the U.C. So that we

(1) Presentation and Consideration of U.C.'s Budget – FY2007 (cont.):

have to, I think legitimately, take that approach with these projects. He then added that's for the phone calls you will receive.

Mr. Montalvo stated if you don't have any other questions, that concludes this presentation and I would appreciate this being considered for approval. He stated we have to send this to the City tomorrow, if you wish to do that.

Chairman Para then asked if there were any further questions or a motion.

Commissioner Reynolds stated I make a motion that we forward the budget to the City Commission. Commissioner Diesen stated I second it and the motion passed unanimously on a roll call vote.

(2) Bid No. 24-06 – Harvest of Timber:

Chairman Para stated while the next person's making their way to the podium, I will convey another compliment. He stated to Mrs. Connor, for someone who is not a timber or lumberjack, I reviewed the presentation and it was extraordinarily comprehensive, so thank you for the good work and thank you for the privilege of giving my two cents in that conversation; very good work and well researched.

Mr. Rodi stated let me give you some overview here, this particular project, just like the budget, originated with staff. I think part of what you've seen with the format, the kind of information, and the improvement really came from staff. That was the source of it, they have very, very good ideas. He stated and we refer to the "two Lauries" but they have been very helpful in allowing this budget to proceed forward. The issue about harvesting the timber came from Mr. Mines, who was in attendance and Mr. Rodi pointed him out to the Commissioners. He commented Mr. Mines is not often seen but he is always in the middle of restoring power, being in the middle of things, and he said some time ago we've got that land out there and we really ought to start thinking about selectively harvesting some of the wood. Mr. Mines came up with a name and we started down the process of going out for bids to some selective harvesting of the timber and then the fire occurred. What we have found is a good portion of the land we own has been terribly marred and now we're facing a situation where if we don't get in there and get out what we can, then it all goes to waste and it becomes fuel then for the next big fire.

Mr. Rodi stated so that's how we ended up in this position and obviously at the last meeting we had some guidance about what we should do as far as reforesting the area and getting some experts in and also how we should help ourselves to monitor for what kind of timber gets taken out of there and our returns. Mrs. Connor has done an exceptionally good job of talking with everyone, learning what she can, and so this particular proposal is to try to really make lemonade because we have a difficult situation. To do some still selective harvesting, we'll clear cut where it's all burned, we'll do some selective

(2) Bid No. 24-06 – Harvest of Timber (cont.):

harvesting on the lands that weren't bothered, and try to make the best of this. So we're asking for your approval for us to proceed forward and then we would put the award on the consent agenda for the next meeting and if you want to talk about it directly, we'll pull it off.

Chairman Para stated I would just say that everyday we let that timber stand its losing water which is weight, which is how you're paid. So time is of the essence and I think we ought to go ahead with giving staff the authority and the motion or the recommendation.

Commissioner Diesen stated I'll make the motion to approve the award of Bid No. 24-06 to the highest, most qualified bidder (final award information to be supplied prior to or at the next Regular U.C. Meeting). Commissioner Hall seconded this motion and it passed unanimously on a roll call vote.

(1) Presentation and Consideration of U.C.'s Budget – FY2007 (cont.):

Mr. Rodi then asked if he could ask a clarifying question on the previous resolution and motion. Staff understood that the motion that was made was for the approval of the budget and adopting the budget, and then forwarding.

Commissioner Reynolds stated that's what was meant.

Mr. Rodi stated Mr. Beyrle had told Mr. Montalvo it just said to move it forward (not what the recommended action stated), so I just wanted to clarify that so we didn't create hiccup for ourselves.

Commissioner Reynolds stated I assumed that we approved it.

Chairman Para then interjected that Mr. Mines had also commented to him at a previous meeting to not let that timber get away; a good true stewardship of our asset out there.

Mr. Rodi stated while Legal Counsel and the Recording Secretary are having a discussion, I just wanted to bring up to you that there are number of employees that really do above and beyond and at some stage we really need to have those individuals recognized in some fashion. I just wanted to do a little advertising for them, just to get that message out.

Mr. Preston then stated I do think your point was a good point in that perhaps a revised or additional motion should be made regarding the budget, because the actual motion was just to forward it to the City, so if you would consider either amending that motion or a new motion regarding the approval upon adoption, or adoption upon approval.

Chairman Para then asked if there was a motion for adoption upon approval.

(1) Presentation and Consideration of U.C.'s Budget – FY2007 (cont.):

Commissioner Reynolds stated since I messed up the first one I'll try to get this one straight. I move that we approve this budget and forward it to the City.

Commissioner Diesen commented but then you have to strike the old one if you're going to do that, right.

Mr. Preston stated if you're going to incorporate that then you make a motion to withdraw the former and then submit the latter.

Commissioner Reynolds stated I so move that a motion be made to withdraw the first motion. Commissioner Diesen stated I will second that, and the motion to withdraw passed unanimously on a roll call vote.

Commissioner Reynolds then made a motion to approve the UC Budget for 2007 and forward to the City of New Smyrna Beach.

Commissioner Diesen interjected does it have to say adopt?

Mr. Preston stated I would suggest using that language.

Commissioner Reynolds stated I make a motion that we adopt the U.C. budget for 2007 and forward to the City of New Smyrna Beach for their approval. Commissioner Diesen stated I will second that. There being no further discussion, this motion passed unanimously on a roll vote.

(3) Counselor's Report – Ongoing Litigation:

Mr. Preston stated I have two items, the first is dealing with the Rob Hunter litigation. Your attorneys in that litigation have done an excellent job in preparing that file for eventual trial, have conducted exhaustive discovery, have evaluated the case for exposure for the Utilities Commission and have conducted mediation, and have come to terms of settlement subject to your acceptance. The insurance contract calls for your acceptance and we want to have your acceptance of the settlement agreement. If you wish, you can choose to save time and a lot of verbose language from your Interim Counsel and just make a motion to accept the settlement. If not you can allow me to talk to you about the terms of the settlement, whichever you choose.

Chairman Para stated why don't we sample the Commission first because I know many of us got the email.

Commissioner Diesen stated I'd say let's approve you to move forward on the settlement, and forget the verbose discussion.

Chairman Para asked if there was a second.

(3) Counselor's Report – Ongoing Litigation (cont.):

Commissioner Reynolds seconded Commissioner Diesen's motion and it passed unanimously on a roll call vote.

Commissioner Hall commented I want to hear the discussion about it, but I'm going to vote yes.

Mr. Preston stated then I will forgo the verbose discussion of the settlement. The second item I have is I have had the opportunity to prepare and submit to the Attorney General the opinion you requested. I have a copy of that I wanted to hand to you, regarding the City Charter (entering telecommunications). He proceeded to distribute a copy of the letter and stated there's no real indication as to how much time we can expect the Attorney General to take in response to the request.

Mr. Preston stated while you're discussing that, and you realize there has been acceptance of the settlement agreement, I do want to point out that part of that agreement did state the following. I want to make this clear as well in that it is an obligation of the Commission, its employees, staff, and those associated that each party hereby confirms and agrees that they will refrain from making disparaging or derogatory publications or statements regarding the plaintiff's, that's Rob Hunter's, employment with or termination from the U.C. Each party agrees that they will not actively seek out media attention or publicity regarding the terms, amounts, or conditions of the settlement agreement and release.

Chairman Para stated now that does not preclude the press from calling us and asking us correct?

Mr. Preston stated it does not preclude them, you will simply indicate to them that the matter has been resolved, the litigation is resolved, and because of the settlement the lawsuit is dismissed, and any and all actions and/or claims, or potential claims for any actions arising before and up to the date of termination have been resolved and released by the Plaintiff, Rob Hunter, and that the matter is dismissed, the law suit is dismissed with prejudice which means no action can be brought on any of those matters. He then commented if you can remember that.

Chairman Para commented I'll just tell them to call you.

Commissioner Diesen commented we can't talk.

Chairman Para stated yes, that's basically it. He then confirmed with Mr. Preston that this was dismissed with prejudice and asked him if he had anything further.

Mr. Preston stated that's my report.

(4) Possible Other Business – Time for Commissioners:

Chairman Para then asked if there was any other business and asked for a motion for adjournment.

Commissioner Diesen stated she would make that motion but I just wanted to say one more time I think staff did an outstanding job on the budget. It was very readable, I was able to read right through it.

Mr. Rodi asked for the two Laurie's to stand up. There was one in attendance, Laurie Klinkenberg, and those present applauded the efforts by staff.

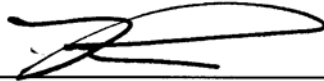
Chairman Para commented yes, excellent work to Mr. Montalvo, and additionally asked him to let everyone know how much we appreciate the work.

Commissioner Diesen then made a motion to adjourn.

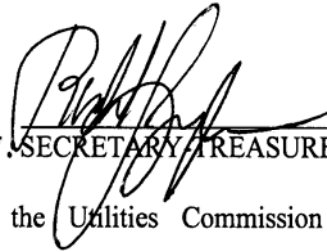
There being no further business to come before the Commission, Chairman Para adjourned the Special U.C. Meeting, the meeting closed at 6:53 p.m.

APPROVED:

ATTEST:



CHAIRMAN



ASST. SECRETARY/TREASURER

These minutes were formally approved by the Utilities Commission at their July 17, 2006 meeting.