

AGENDA ITEM 2-b

MINUTES OF A REGULAR MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD WEDNESDAY, JUNE 19, 2006, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

Chairman Para opened the Regular U.C. Meeting with the Pledge of Allegiance led by Commissioner Diesen and all of the Commissioners were present as follows:

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

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; J. White, Director of Engineering; B. Mudge, Director of Human Resources; R. Skog, Interim Director of I.T.; E. Mahle, Public Relations Manager; B. Sylvia, Superintendent of Lift Stations; R. Walter, New Business Representative; M. Mines, T&D Superintendent; L. Klinkenberg, Chief Accountant; 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; Melanie Stawicki, Reporter for D.B. NEWS JOURNAL; Pete Slavin, Reporter for THE OBSERVER; City Commissioner Grasty; Alex Kish and Brad Douglas, Brent Millikan & Associates, P.A.; and Bob Tolley, Donnie Owens, Rob Hunter, Bill Rogers, Robert Rees, Sally Mackay, Jerry Johnson, Derek Wainscott, Jim Morris, David Hood, Tom Harowski, a court reporter, and a few other unidentified men and women, all members of the public.

(1) Agenda Changes, Additions and Deletions:

There were no agenda changes, additions or deletions at this time.

(2) Approval of Consent Items:

Chairman Para then asked for a motion on the consent agenda items.

Commissioner Reynolds made a motion to approve the consent items, items 2-a. Minutes of Final Public Hearings (2) and Regular U.C. Meeting Held 5-15-06, 2-b. Minutes of Special Joint Meeting of the City Commission and Utilities Commission Held 5-17-06, and 2-c. Minutes of Special UC Meeting Held 5-22-06, approve all three as submitted; item 2-d. Supplemental Professional Services – Invoice No. 14271 – Brent Millikan & Company, P.A., approve for payment in the amount of \$48,750.00; item 2-e. Bid No. 24-06 – Harvest of Timber – Information Item Award Notification, accepted award

(2) Approval of Consent Items (cont.):

notification that highest most qualified bidder was Atlantic Land and Timber in accordance with approval received during Special UC Meeting 5-31-06; item 2-f. UC Resolution Nos. 5-06, 8-06, and 9-06 – Scrivener’s Errors – Roberto Montalvo, approved correction of the scrivener’s errors on these three resolutions; 2-g. Bid No. 22-06 – Waterproof Central Office Building, approved award of PON0003521 to Plummer, Inc. in the amount of \$67,535.00; item 2-h. Bid No. 23-06 – Switching Enclosures for Central Stores, approved award of PON0003529 in the amount of \$77,578.84 to Gresco Capstone Utility Supply; item 2-i. WWTP Access Road Paving Project to Halifax Paving in the amount of \$175,000 as recommended by ECT and authorized General Manager/CEO to execute all documents associated with this matter; item 2-j. Glencoe Water Treatment Plant Generator and Automatic Transfer Switchgear, approved and authorized Quentin L. Hampton Associates, Inc. to proceed with Engineering Services for the Glencoe Water Treatment Plant generator and automatic transfer switchgear as outlined in the attached documentation for an amount not-to-exceed \$92,780 and authorized General Manager/CEO to execute any and all documents associated with same; item 2-k. Developer’s Agreement – San Marco at Venetian Bay, LLC, approved the Developer’s Agreement and authorized the General Manager/CEO to execute the agreement contingent upon legal verification of the Manager/Member for the company and this developer executing the addendum agreement; item 2-l. Developer’s Agreement – Southeast Interchange Complex LLC, approved the Developer’s Agreement and authorized the General Manager/CEO to execute the agreement contingent upon the developer executing the addendum agreement; item 2-m. Developer’s Agreement – Overlook at Turnbull Bay, approved the Developer’s Agreement and authorized the General Manager/CEO to execute the agreement contingent upon the developer executing the addendum agreement; item 2-n. Residential Wiring and Surge Protection Program – Service Agreement Termination – Progress Energy, this was an information item stating the U.C. will no longer sell new HomeWIRE or Surge Protection services and explaining the subsequent existing customer notification and options; item 2-o. DeBerry Room Utilization Policy, this was an information item discontinuing allowance for annual condominium meetings as an approved use in the DeBerry Room; and item 2-p. E-Mail Policy Revision – Section 5.6, Personnel Practices Manual, information item showing upgrade/revision to the E-Mail Policy, to become effective June 20, 2006. Commissioner Hall seconded this motion and it passed unanimously on a roll call vote.

(3) Public Participation:

(3-a) Derek Wainscott and Jerry Johnson RE: Various UC Utility Requirements for Venetian Bay:

Mr. Jerry Johnson, a resident at 3865 Grand Tuscany Way in New Smyrna Beach, addressed the Commission and stated he appreciated the time you have given us to say a couple of comments and hopefully we’ll get a couple of questions we had answered as well. He stated before I get into those questions though, I think that one thing we would

(3-a) Derek Wainscott and Jerry Johnson RE: Various UC Utility Requirements for Venetian Bay (cont.):

like to say on behalf of the Venetian Bay family, as well as some of the other developers out in the western area there, that we feel that trust is a very important word and I think that we have had to trust each other for the last four or five years. I think we have and I think we can be proud of what we have done and I think that we can be proud of what you all have done. You know there was a lot of trust on our part to go in and to bite this big thing off, put in the infrastructures that we have, tens of millions of dollars, and the off-site work as well and that we have never come before you asking for anything. We have always been ready, willing, and able, and happily pay our way for whatever our fair share of anything would be and we continue to feel that way. In that spirit I got a letter from Jim White after the first of the year, sometime in January, and along with our engineer Derek Wainscott, we went in and had two or three meetings with Mr. White. Just kind of future planning, things we thought were relevant as far as what we were building, the last extensions of the road, had to have some additional 16" water pipe put in, and as well as when were platting one of those phases, he had asked us to reserve and we changed our plat there in order to accommodate a future site for a water storage and pump station out on our property. Of course we made those changes willingly and happily and going on our merry way until last week.

Mr. Johnson stated the point of us being here and to get to the reason where you were good enough to place us on the agenda was that as we were discussing, we then had a subsequent meeting, I would say somewhere between three to four weeks ago with Mr. White and the other people that would be the developers of what's been called the western property there. I think most of them are here this evening and we went there again with the spirit of saying okay let's see what the problems are and lets just see the best way that we can all work them out in a fair manner, a manner that's fair to the City and fair to us. We had a nice discussion with Mr. White and we had some questions. Some of the questions were that, and added a couple of them you may not like. One was that on the, and I guess maybe we don't understand, but it seems to me, my understanding is we're not in the telephone, T.V. cable business anymore but we asked a question well then why should we be having to supply conduit for somebody else because no other community that I've ever worked in have we ever been made to supply conduit for Bright House, Southern Bell, or whoever. So that was a question we had asked Mr. White and he said that he would respond to that when he got proper answers from the powers to be.

Mr. Johnson stated another question was they have a calculation of what it would cost for different developers in different areas, you know the farther out the more expensive or whatever, which was a formula that Mr. Rodi had, I think, and Mr. White had worked on. What one question was don't you think since some of these improvements go across the Utilities Commission's property, a fair share should also be paid from that because you're enhancing the value of that property by bringing those capacities toward that. That was another question that Mr. White said he would have to get us an answer for.

(3-a) Derek Wainscott and Jerry Johnson RE: Various UC Utility Requirements for Venetian Bay (cont):

Mr. Johnson stated I believe another question that Mr. White could not answer at that time was brought up by a representative of Landmar who said that there's an annexation agreement that's suppose to provide water for the western part of S.R. 44 or at least for my side of it anyway. That was something that we did not know and that was another question that I think our group had wanted Mr. White to find an answer if that were in fact true and if that would in fact be respected.

Mr. Johnson then asked Derek Wainscott if there was a fourth one that we had asked Mr. White to respond to. He then stated maybe there were only three but like I said we're here to do our fair share and I think I can speak for our group on the west side that way and anything that we can do to be helpful, we're more than happy to do it. We are always willing to pay our costs of doing business, I guess what we want to say is if somebody else has sinned we all pay for our sins, whatever we are obligated to do on it we will be more than happy to do so, just treat us fairly.

Chairman Para thank Mr. Johnson for his comments and then stated Mr. Rodi we will look to you to kind of summarize there if we could.

Mr. Rodi stated as far as item by item, with regard to the Utilities Commission property, it's not been the intent, nor have I heard this Commission say that land was to be developed for commercial purposes. Part of what you'll hear later on in the evening, there's the discussion item that we have with regard to the use of that land as a water resource area and so consequently it's for public use, that's how the land was acquired to begin with so that's been the direction of this Commission and its also reflected in the strategies that are posted behind me and they've been up for sometime.

Mr. Rodi stated with regard to any legal agreements, those have been referred to legal counsel. Obviously, those that are applicable, we'll honor those. He then stated to Mr. Johnson, I think part of the comment you were thinking about is your 2002 agreement, and it had a three-year term. He then asked Mr. Johnson if he wanted to make another point about that.

Mr. Johnson stated yes, there was an agreement between us and the Commission that gave us, since we built a master pumping station and some other off-site things there, that if those items were, those particular facilities, could be and were used by adjacent property owners within three years, we would get from those other developers some pro-rata share back to us for the investments that we made up front.

Chairman Para stated so on the issues really we have the property issue which you've addressed and you're going to address further later, then we have the agreement which you're referring to the lawyers, and then you have the Bright House agreement, the pipes.

3-a) Derek Wainscott and Jerry Johnson RE: Various UC Utility Requirements for Venetian Bay (cont):

Mr. Rodi stated it's really not a Bright House agreement, we intend to use a fiber system. As you well know, in Venetian Bay the fiber is a conduit for telephone, entertainment services, as well as internet services; that's a medium of communication. There's a utility basket set of services that can also be driven by the fiber and the first experiment that we had with fiber there related to automated meter reading. That has not worked in its initial design and it's now moved to a radio-based meter read. But there are still other aspects that we might still want to pursue in the future with regard to using a fiber system. We're still currently in the process of installing a fiber backbone that will go to City and UC buildings and after we get that put in, then our next step is to look at where else it may be effective to deploy. The conduit is obviously a space that we're requiring for communication purposes. Just like on an overhead pole line there's a communications space that we designate for that so that we have that capability going forward.

Mr. Rodi stated the O'Reilly Annexation, it's another legal issue that's been referred to counsel, it wouldn't be appropriate to comment on it here. He then stated to Mr. Johnson, we thank you very much for honoring what you've done and we'll talk a little bit more this evening about how we got to this position.

Mr. Johnson then thanked Mr. Rodi.

Chairman Para asked if there were any other questions. There being none, he stated we'll go on to Mr. Tolley.

(3-b) Bob Tolley – Status of Investigation, WAV, and Other Matters:

Mr. Bob Tolley, a resident at 803 Fairway, addressed the Commission. He stated I want to first pass on my thank you to the Commissioners that attended the joint meeting last week, Commissioner Diesen, Commissioner Spangler, Bill Rogers, Jack Grasty, and a whole bunch of others. He stated I'm not going to discuss anything with the budget this evening, I just want to go right back to the WAV issue if you don't mind.

Mr. Tolley stated at that meeting the other day, I tell you that would have been a great loss for all of us if that WAV issue had been able to get through. What happened is what happened, I'm not going to kick around the dirt, I think everybody knows what happened over there. But I think I want to know what can we do to stop what happened with WAV, how this vote snuck by everybody pretty much, and now there's another issue coming up that I think that Mr. Rodi will address later on. I'm sure most of you know about, it's the South Williamson Boulevard extension, and a whole bunch of goodies went on with that one too.

Mr. Tolley stated so I'm looking to the U.C. Commissioners here for some leadership in saying what can we do legally so that we can prepare and have someone sitting as a full

(3-b) Bob Tolley – Status of Investigation, WAV, and Other Matters (cont.):

time Utilities Commission attorney, or Utility Attorney Specialist. I don't know the words I'm looking for here, with no disrespect to Mr. Preston because he had other issues he works on. So that the citizens don't have to come out and get our flashlights out and go check on what's going on across the street all the time. And in this case, with the help of the citizens and the Commissioners we were able to get the WAV issue under control. But as you all know, there just aren't enough hours in the day to do the businesses that you have, the work that you have to do, and to try to keep an eye on certain sides of the street to make sure everybody is staying up to snuff and you're keeping the hanky panky under control. So I guess, Mr. Rodi, is there a status to what we're doing in being able to find any type of utility attorney that we can set out over there?

Mr. Rodi stated we haven't done anything for months, we made an initial search and found a couple of things. One is that the compensation scale for the kinds of skill sets we're looking for really wouldn't fit here and secondly there was in the skill sets a wide variety of specialization so there was quite a basketful of skills that makes it very difficult for a single individual to have the breadth of experience that we're looking for. So after that we did not pursue it further.

Mr. Tolley then stated would it behoove us to take a look at actually a firm rather than an individual, does that make any sense for us.

Mr. Rodi stated in our budget you'll see there's some contract dollars in there but like anything else you look for specialties depending upon the topic you're involved in and we've been involved in a lot of topics so I hesitate to say that we can find a singular firm, but there are firms out there, and they're usually quite large, that can handle that.

Mr. Tolley stated just a follow-up question or two on WAV if you folks don't mind. There's a very important WAV meeting coming up Wednesday morning at 8:30. I don't know if any of you intend to find the time to be able to make it. I haven't seen the status of the letter that the City Commissioners requested that I believe Mr. Gummey, I don't want to put words in anybody's mouth, was suppose to draw up, in essence withdrawing us from WAV. I now hear that Mr. Roberts is drawing up the letter but I don't know who the messenger's going to be, so I know we're going to be up there but are any of the Commissioners going to be up there or anyone from here to help us out up there in case the stuff starts flying.

Chairman Para stated well that's up to them I guess, if individually any Commissioner would like to go, it might be something to do.

Mr. Tolley stated are we allowed to say anything if that letter doesn't show up, you can see we're in a precarious spot as a citizen here.

Chairman Para stated I think, if I can step out here in front of my colleagues and kind of

(3-b) Bob Tolley – Status of Investigation, WAV, and Other Matters (cont.):

address this, I think that we sufficiently addressed this awhile ago and I feel comfortable with our position. I feel very comfortable with staff's grasp of what our utility needs are for our community and for its future. I guess what I'm saying is I'm not so much preoccupied with what other folks are doing as much as I'm recognizing we have a utility responsibility here and we're going to carry that forward. I think that others in the community and in surrounding communities will see the value in joining with us in that effort so I guess that's my take on it and if my colleagues would like to say something different, please feel free.

Commissioner Spangler stated I can probably add a little bit because I was at the meeting and I sort of sensed that even though it was a unanimous vote by the City Commission to get out of WAV, because of what went on with the refusal to pursue what I call a Judge Gummey amendment, with the substitution of this ordinance they passed that said the U.C. would not be able to sue them, I thought that was going to accomplish exactly the same thing. So I thought that agenda was still being pursued so that raised the issue of is the City Commission sincere in their wanting to work with us and cooperate with us. Well, the first place that we would look beyond the referendum and ordinance and everything that passed is we would look at the participation in WAV. Otherwise we said we don't want to be a part of it, the City Commission voted and said, and I think the Mayor said the U.C. was adamant, they didn't want to be in it, and therefore the City Commission voted 5 nothing against WAV. Then it was unclear to me whether we were officially out of WAV at that point or whether the City Attorney was going to pursue some long complicated devious legal maneuver to avoid legal expense and see if we could get out of it, otherwise I wasn't sure whether we were out of WAV. Physically I don't think we are, or spiritually, so I wanted to know if the spirit of the City Commission vote was such that they would support us and turn their back to WAV. So I went to see the Mayor today and I was fully expecting him to say that yes he's going to attend this meeting and yes, until such time as we're legally out of it, he will continue to vote and pursue those policies. To my surprise the Mayor told me that he isn't going to go the WAV meeting and if he did go he wouldn't vote. So I have to take that in spirit they're going to pursue not being a part of WAV for whatever other reasons.

Chairman Para commented I question quoting people, I think that's where you're going to go.

Commissioner Hall stated I'm going right on top of it if I have the floor. He stated there are some things going on in the Mayor's personal life that some of the people in the audience know about, elderly parents and he's been in and out of hospitals for the last month, probably four days out of the week. But I have talked to him also about WAV and he is beginning to understand that WAV may not be where we need to be but he also understands, and we need to understand that if we pull out we're going to have a huge battle and we need to face it. It's backed by the St. Johns River Water Management District, there were things before WAV, and I wish I could remember all the things they

(3-b) Bob Tolley – Status of Investigation, WAV, and Other Matters (cont.):

were called for the last 20 years, and I think all of us just need to understand that was a 5 – 0 vote. It doesn't matter if it was a 4 – 1 vote, if the City Commission vote 3 – 2 pull out, we're going to be in one heck of a battle.

Commissioner Spangler stated I agree with that, if the battle materializes but that's a separate issue, and I felt like the conversation tried to make that the point rather than whether WAV would be effective for us or not.

Chairman Para stated I guess what I want to weigh in on, just as a general policy, my policy, as long as you all ask me to be Chair, is that we don't get into quoting other conversations that are specific and germane to philosophies and positions and whatever else when that individual is not here. I tread very lightly when I try to give you guys some guidance or whatever, but that's just my preference, I always kind of bump up when I hear about that sort of thing, Mr. Tolley knows exactly what I'm talking about there.

Commissioner Spangler stated I know that I don't want to offend anybody but I felt like I sensed that there was going to be that cooperation that we've been talking about for whatever.

Mr. Tolley stated just a quick update, I had breakfast.

Chairman Para interjected you're not going to quote anybody are you?

Mr. Tolley stated I don't know if he came in while I'm talking but I had breakfast with Jack Hayman this morning.

Chairman Para stated wait a second, let's don't even go there.

Mr. Tolley stated I'm not going to quote him, I'm going to tell you my read, I can say that right. My read is I think they understand better now than ever what happened here or what might have happened, let's put it that way; not to cast any dispersions. I think they are looking for an amendable way out of the situation short of getting into a protracted legal battle. What I recommended, and here we go with the citizen again, is let's make sure the Utilities Commission, citizens of New Smyrna Beach, are out of this WAV deal, which is my opinion we never were in legally. Then come back, come before the Commissioners, meet with Mr. Rodi, or whomever you've got to meet with, sit down go over the pros and cons of the WAV program, answer all the Commissioner's questions, Mr. Rodi's questions, and if Mr. Rodi says to the Commissioners let's take a look at this, fine. Then smack it out there for a referendum of the voters or the ratepayers of New Smyrna Beach. Then I said regardless of what happens at least you know at the end of the day where everybody stands. Now its done to what I think to be right and the way it should have been, and all I'm saying is based on my read of the breakfast this morning, they are looking for a way out of this besides a battle, they are not looking for a battle.

(3-b) Bob Tolley – Status of Investigation, WAV, and Other Matters (cont.):

Chairman Para stated right, I don't think it behooves anyone, and I think that staff did an excellent job in presenting their perspective and I want to go with that, we voted to go with that and I think that's what we need to follow through on, and that course of action is very deliberate, very respectful and responsive to the needs of the community, and that's what I'm concerned about so I'd like to continue in that direction.

Mr. Tolley stated and I really would request again somebody be there Wednesday because as citizens, what can we say on the record. I mean we can speak our own minds but it has no bearing on what they're going to say about New Smyrna Beach. I just think it's a very important issue for somebody to be up there.

Chairman Para thanked Mr. Tolley for his comments and added he appreciated Mr. Tolley's time.

Commissioner Spangler then asked if he could clean up what he had said. What happened at the City Commission meeting was that they supported us and voted not to be in WAV. What I felt was that they were sincere and I have no reason to believe they're not sincere.

Commissioner Reynolds stated I just seem to get a perception that some people think that there's some adversarial relationship between the City Commission and the Utilities Commission and I think that's really far from the truth. We have to work together, we will work together. This was a case of where the City Commission listened to some expertise in terms of where our future water's coming from and what we need to do with it. I think the City Commission did a wonderful job in accepting that and supporting it, so from my perspective, he reiterated, I would hope that people would not get the idea that there's some kind of adversarial relationship, I think that's far from the truth. I've talked to enough of the City Commissioners and people around to make sure that we're working together and if we don't work together what good does that do the City and the citizens of our City; none at all.

(3) Public Participation (cont.):

Chairman Para confirmed there were no further comments from the Commissioners and asked if there was anyone else in the audience that would like to be recognized for public participation before we close it up.

Mr. Robert Rees, 391 Granada Street, addressed the Commission and stated he saw an article on Sunday, in the June 18th Journal, an article about utilities struggles coming up with growth. There were some areas in here where you entertained the thought of charging developers more to fund new water lines and other growth related needs. I brought up this subject at the City Commission meeting Tuesday and tried to get an understanding why there was never a utility growth impact fee and one Commissioner

(3) Public Participation (cont.):

told me that there was and then went on and said that there's a connection fee and everything else. I said that's not an impact fee, that's a connection fee and the property owner pays that. Then they informed me of the capacity fee. Well the capacity fee I learned and came to the understanding, is for a new water plant, power plant, or treatment plant when needed. But I still haven't heard of an answer where there have been any revenues acquired and sat aside for the future growth and this is what I'm hoping can be done, we need that instrument in place.

Mr. Rees then stated we're out of the telephone business, we're in the internet business. I'm a long standing customer of the internet service, and I'm about to leave as a result of the services getting slower and slower. As we changed providers, whoever provided for us, since the last time we acquired that new provider I've recognized, and other people have recognized, that the service has slowed down dramatically. I've had my computers checked, I've had them cleaned and serviced and modems checked, and it is still slowing down and I'm about to leave and go to broadband or something else and I just wanted to make you aware of this problem. Other than that customer service and technical service has been outstanding.

Chairman Para stated I'm certain staff will look into that.

Commissioner Diesen asked Mr. Rees if he was on dial up.

Mr. Rees stated yes, I'm on dial up service. If it continues you're going to find out more and more dial up customers will be leaving probably because the technologies are getting so large out there that they're going to high speed internet, DSL, or broadband, Road Runner. He stated research that before we get too far and lose too many, and lose too much money in the internet area.

Commissioner Hall stated to Mr. Rees, this is about the third time you've mentioned utility impact fee and I have some dealings with that in another venue in my life. We could charge Mr. Johnson \$10,000 for every house he built or somebody could, and I will tell you it will never be enough because that's not the problem. Growth has never paid for itself in the State of Florida because our whole taxing structure is so screwed up, it has been since the 1920's, if you want to go back historically and look at it. He stated there's a lawyer sitting right there with glasses looking at me who knows that because we've talked about it before, several years ago. He asked Mr. Rees if he was asking for this Commission to take the position of trying to impose, I don't think we can impose that, I think it would have to go to the City Commission to impose a utilities impact fee upon every new house, commercial building, built within the City boundaries of New Smyrna Beach, or within our service area.

Mr. Rees stated yes, I think there should be some. It never will pay for 100% but we need to get some revenues for it to help assist and even though we are getting in on a

(3) Public Participation (cont.):

voluntary basis from the developers and they promise and say they're willing to help, and everything else, I agree with that 100%. But we do not have an instrument guaranteeing that we're going to get it. What if a smaller developer develops this area and then we have not collected anything or no instrument is in place to get anything to acquire it and he sells what he wants to sell and then they leave and go to another town and start building.

Commissioner Diesen interjected let's let Mr. Rodi reply to that.

Mr. Rodi stated we have two public hearings, there's one this Thursday, the next one is at our next Regular U.C. Meeting in July. The content of what we're talking about is the specific point that you've raised and I think as you can see by the number of developers here this evening and the developers that were at the City Commission's Special Meeting that occurred just last week, there's a great deal of interest in how this fee is equitable among developers and with regard to existing customers. So a specific example of that, tonight on the consent agenda were three developer agreements. They were approved in the context of the traditional fees that the U.C. has charged. There's another component of that agreement that is an addendum and that addendum is specifically intended to recover those infrastructure fees for both water, wastewater, Bright Water, and the electric system that relate to new growth and development. So that until we have the conclusion of those public hearings there is no formal document but that is a part of all of this.

Mr. Rees stated then after these two upcoming meetings we'll probably get that in place then. He said going back to Commissioner Hall's comment on growth never pays for itself, only in government growth. Private enterprise, as it grows, if it doesn't pay for itself it goes bankrupt and it's gone.

Chairman Para confirmed there was no further public participation this evening.

(4) General Manager's Report:

Mr. Rodi asked if there was any need for further clarification with regard to the developer agreements that were approved on the consent agenda, because there's an addendum portion and I want to make sure that was brought forward. We have those addendums that have been outstanding going back for months now. He then requested Mr. Montalvo to give a summary of the financials.

(4-a) Monthly Summary Report for May, 2006:

and

(4-b) Budget Summary through April, 2006:

and

(4-c) Commercial Monthly Report for April, 2006:

(4-a) Monthly Summary Report for May, 2006 (cont.):

Mr. Montalvo stated we are reporting the budget summary for the month of April, 2006. He stated you can see on the agenda item 4-a. we're reporting the summary of the financial statements. The electric closed the month of April with a surplus of \$772,000. The water closed the month with a negative of \$300,000 and one of the biggest components there is the fuel and purchased power costs that we are using right now, the increment of the cost of the fuel and purchased power. The wastewater ended with \$23,000 negative and the communications closed with a negative of \$900,000. He stated we're still expensing the loss of the communications, even though we are trying very, very hard to shorten that it has almost been impossible and we are continuing to work on that. He commented everyday we find things there that amaze us and in the way that we are dealing with this situation hopefully we can get out of this soon. He then offered to answer any questions.

Commissioner Reynolds asked are those things that you're finding, is that being analyzed by our auditors?

Mr. Montalvo stated yes, they have been communicated immediately to them.

(4-d) Infrastructure Limitations - Map - Robert Rodi:

Mr. Rodi stated he would now lower the screen and use the projector so that everyone in the audience can look at the same thing that he would be talking about. He then stated if you can't hear me please let me know, that's why I tried to set this up here, so that we can look at this and proceed.

Mr. Rodi then commenced his power point presentation and stated this map reflects the number of developments that we're aware of and it's not fully complete at this point and that's why it has draft on it. He stated he would like to tell you a little bit about the evolution of this so hopefully it will make more sense to you. As you may recall, after the hurricane season we had an issue with respect to fuel supplies in Florida powering generators, natural gas, oil, etc., because the Gulf was affected. During the course of that discussion there were a number of questions that were asked. Do we have enough energy, and then we started talking about do we have enough water, and there was a lot of confusion about what are we really facing. Internally there were projects that were being tracked, more from a budgeting standpoint, to try to understand how many capacity fees might be affected for the next budget year. But from an overall perspective, we really had to get our arms around how many projects are there, and how many have gone through the process to the point where they could probably be developed. So what we did, I think all together here there may be 60 projects listed, and there's a little corresponding number on here. This ERU, equivalent residential units, we adopted those from Planning and Zoning, and essentially what we've learned is that ERU number can be an accurate number, or it could not be an accurate number, but it's a common number that's initially assigned. It doesn't seem to take into account the quality of the land or the

(4-d) Infrastructure Limitations - Map - Robert Rodi (cont.):

density or a number of other things, but it seems to be a maximum.

Mr. Rodi stated so what we've learned is that if these numbers here are totally accurate, there's about 16,000 units and you can see the developments noted here. As we've gone through this one of the things we've learned is that some developer agreements have been completely gone through the U.C. For example, some of Johnson's subdivisions here in this area have been approved and we have this part here yet being developed with no final developer agreements, they've been on hold since February. There are other locations, I think there's one here that is Florida Days, and if I understand the graphic well enough, that has been completely through the process. We're trying to understand what that would really mean in terms of impact.

Mr. Rodi stated second impact, I don't know if you've seen this before but it starts to come into play, this is the Volusia County existing land use wildfire susceptible areas and this is for what exists today. I think this was done by the Community Development from the State. He stated it's very hard to see but where ever you see colors here it indicates that there is some wildfire potential and then there's another indicator up here, which are like these white dots, indicating that's a potential area and then this is sort of unclassified for the land use. But what struck us when we looked at this, and this was prior to the fires occurring here this year, is if you look along this corridor, and just about everywhere you look, there's tremendous exposure. He stated okay we thought, there was an existing, and then this next one is the future, and it doesn't seem to be that much different. That's a rather sobering thought especially after we saw what happened as it got very close to a couple of very large subdivisions, some under construction and some that have been here for awhile.

Mr. Rodi stated so this brings us to a summary map of a model that was done. One of the obvious questions is if you have 16,000 potential new residential units, depending upon the build out rate, depending upon where they are, it seems reasonable to ask the question what will it do to the existing systems. In examining this, there haven't been formal studies done for many, many years and this happens to be the water piping supply map. These have been up on the wall over here for months and I've been participating in City Commission meetings, talking about the effects of some of these things, and trying to communicate, as we have learned, what the status is of our systems. This particular map, and it's very busy here and it's much more legible when you look at it over here at the wall. But I asked that it be broken into immediate needs and this means like one to two to three years. Then there's an intermediate need area that is less than five years and then this green is representing the area between five and ten years. One of the deficiencies of this portrayed here is that we have to install for the existing infrastructure a new 20" line, that is basically in this area, from our Glencoe Water Treatment Plant to the Smith Street Plant, and put in a 20" low pressure main. One of the things you're going to find remarkable is there had been a 20" low pressure main and it was converted to a Bright Water use so that what we're dealing with now is going back and putting that in. But this

(4-d) Infrastructure Limitations - Map - Robert Rodi (cont.):

line has a very dramatic effect on supplying actually the beachside and all of this infrastructure area here.

Mr. Rodi stated out of this Glencoe Water Treatment Plant we have a 24" line that comes up generally into this area and then eventually goes across over here to Mr. Johnson's development. What's important about that is along the way there are reductions in size to the point that out here we have 95 psig, which is some very high pressure but it comes from smaller pipes driven initially from that 24" pipe. However when you ride around in this area and you go through town, have you noticed the fire hydrants. Some of them have blue caps, some green caps, some orange and some red caps. When I first saw that I wondered what was the reason, what was the distinction behind that, and what I learned is that the red caps are the lowest available water flow and then ascending in more water flow are orange, then green, then blue being the best.

Mr. Rodi stated this map represents part one of the water study, and part two were the pumps that deal with the system. At Smith Street we learned that the pumps themselves were probably not the right ones and they cycle the water, so we lose about a third of the capacity over there, just pumps it around in a circle. So we were trying to understand, again, the pros and cons. In understanding this particular map, it's pretty clear that this whole area out here, aside from this 12" line, and by the way the capacity is all used up now on that 12" line, on the reuse line and wastewater line there's still capacity there. What that means is that we thought let's take some flow studies and see what we have. As I mentioned before we have a technical specification issue with regard to fire flows. It isn't that there isn't water out there, it isn't that you can't fight a fire out there, but when you start to couple this need with the need of the previous slides with regards to the fires, and you saw what happened. We were able to maintain pressure and go through that but if you end up with simultaneous fires at different locations, it becomes very important to understand the consequence of this; so this is one item to take into account.

Mr. Rodi stated we did the same thing with the electrical system and in this case blue is the immediate, red is the intermediate, and green is the long term; and he stated you can see a lot of blue. A lot of this stems from where things back up to the source, so if you have smaller wire in here, by the time you get down here, and this is actually 13 KV instead of 23 KV, you end up with, just like you do with the water system if you think of it the same way, with restrictions, you don't get the voltage levels. Just like you do with pumps and capacity, you need wire size and substation transformers; and that's what we found with the electrical system. Obviously again when you get out into this area, there's some initial installation that's there. As you add on these units, then you need more substation capacity to the point that we have been talking with FPL about a 230 KV substation to be able to give us a stronger connection to the grid. But at some point you exceed the capacity of the 115 KV system because essentially what this is saying if we have 23,000 electrical customers now and we add another 16,000, we get beyond the capacity of the existing 115 system. So we're looking at down the road, at what point

(4-d) Infrastructure Limitations - Map - Robert Rodi (cont.):

would that happen, how would we configure the system; those kinds of issues.

Mr. Rodi stated so what we did, we took the three maps, and we still have outstanding, the last part of the studies due to us are the wastewater and reuse water, because obviously if you run a new 20" line down S.R. 44 there's a wastewater line that has to be a part of that, and then a reuse line. What we did was overlay the water piece and we put the electrical piece over it, and this color distinction is not all that good for you to see but in some areas we have overlaps so the color changes, meaning that you have both a need for water and also for the electrical system. What this represents is our investment that we have to make. The immediate needs are in the next one to three years and let me explain why that's so important. We have a budget cycle and when we put the budget together we used an aggressive growth schedule. Aggressive meant simply 6% on residential units, maybe 3% on commercial, and commercial generally follows residential. In the water arena, we've been having 6% growth rates for the last couple of years so its not an unreasonable number to use.

Mr. Rodi stated when we project that out over a 10 year period, it has a very dramatic effect to the point where when we start to look at the supply, the raw water availability, we start to bump up against our CUP allocation and that happens about 2011, 2012. We really don't think the growth rate will maintain itself from what we've seen and we're tracking the actual adds every month. And you'll see those, look in the General Manager's letter, the numbers are way down this year compared to last year and whether they'll stay down we don't know. But we're still at historical levels, it isn't that they went away, we're at historical levels and not the aggressive growth.

Mr. Rodi stated these darker areas represent where there have been developer agreements that have gone all the way through the U.C. so that when you look at some of the information here you'll see partial, and some have been approved and some haven't been. But in order to deal with the allocation of all of this infrastructure investment, at whatever pace it goes, we tried to use the equivalent residential unit (ERU) as the rationing basis so that regardless of how its actually developed, that's a consistent approach that was used to begin with. By representing this the two-year budget cycle means this, we don't have hearings until August, so presuming that we have the approval to move forward with our CIP plan, and we're out now talking with the engineers about what do we do with the need about the beachside million gallon tank on Third Street, we're looking at the 20" low pressure line, and other immediate needs so that we can start to execute this.

Mr. Rodi stated then we have a second issue and the second issue relates to the cost of just that infrastructure. So we split the cost figuring if we're going to the bond market for the existing infrastructure, which we are, then by the time we get ready and we approach them, you can see we're well into that next budget year, just from a timing standpoint. So we have half the costs for the budget year 2007 but the balance of the cost is for 2008. When I made the presentation for the CIP one of the points I wanted to make is when you

(4-d) Infrastructure Limitations - Map - Robert Rodi (cont.):

approve this new 20" low pressure line that goes between Glencoe and Smith Street, and approve the new pumps and the replacement of the electrical system, that's stuff going back to 1947, so we went from 50 HP motors to 300 HP variable speed drive motors, that kind of load on these systems, you're left with committing to actually two years. So when I've represented this I've tried to represent it as effectively as we can taking into account what our capacity is to bond, and also to recognize the distinction between increasing the capacity of existing infrastructure for regular growth versus the growth that occurs within the infill, or within some areas that are pretty clear, that relate to the western unit.

Mr. Rodi stated so what we did was we split this into three groups, there's a western group that goes from I-95 west, there's a middle group that goes from US 1 to I-95, and then we have beachside. It's meant to reflect a distinction between what new growth is in those areas and the existing infrastructure and the capacity we have to accommodate for that new infrastructure. So that's how we ended up with that part of the plan.

Mr. Rodi then stated some summary points. We don't know what the build out rates are going to be for existing projects, we don't control that, there are market influences, there are so many different things and I know from a standpoint from developers in the room, that's very known to them. But then we have existing and future wildfire exposure impacts in much of our UC service area so its incumbent upon us to pay close attention to this. We've used detailed studies reflecting historical growth and added the new projects impacts. We put the constraint map together to reflect what we need to do in the one to three year period and the timing on this becomes important especially if you're starting up a new development. By the time you get the infrastructure in within that subdivision, then we've got to be ready on the outside. Existing infrastructure can be significantly impacted by project growth. As I rode down Williams Road there's a huge area there that's been cleared and I don't know what that means but if there's a lot that happens there there's not a whole lot of strength around there from a standpoint of a water supply and whatever, because of what's already occurred further to the west on Sugar Mill with the three developments essentially by KB Homes. The interrelationships with the existing system are important in they've already been affected. The water, wastewater, sometimes is a little bit more understandable to deal with it, obviously you're not doing a lot of digging, encountering a lot of underground obstacles with it. The 20" low pressure main, Smith Street upgrade, South Causeway tank and pumping system are essential for the short-term existing needs and they do impact some project development. The 20" and 16" S.R. 44 main and the 12"/ 8" main are essential for that western area development. Those are some of the projects that we're looking at relative to growth itself. Then there's an area along Pioneer Trail that has an upgrade and then the electric impacts are dependent upon that load, which affects the substation transformer additions and it just backs up to that point as I mentioned earlier.

Mr. Rodi stated in the 10 year capital improvement plan we used an aggressive forecast

(4-d) Infrastructure Limitations - Map - Robert Rodi (cont.):

to drive out the range of options, so we were saying if all of this really does happen what would it do and then we can back off from that point but we needed to understand it has this overall effect as best as we're able to understand it. Of course, depending upon the project ordering of the infrastructure, implementation can change. For example, we weren't fully aware of the new DRI that's basically an Edgewater development but as we understand it 1,500 to 1,800 equivalent residential units would be in the U.C. service territory, and that wasn't even on our radar screen. So it's that kind of thing that you try to work your way through but I wanted to explain how we ended up in this position. He then asked if there were any questions.

There being no further questions, Mr. Rodi requested to go on to the next topic, because I think they're interrelated here.

(4-e) Private Partnership - Water and Electric - Robert Rodi:

Mr. Rodi stated I found this, an old map when there was the Duke project here, so if you look at it you'll see some designations there for that project. This was the intended site of that, it says proposed Duke Power Plant Site in the hash marks, and of course we have an existing substation. What really struck me when I first saw this, first of all I wasn't quite sure what it was but then I looked here at the wetlands area, went through and did a quick calculation. This represents, I think when it was 1,100 acres or so, and this corner here now is part of the Johnson Group holdings, but if you look at this yellow area, almost 60% of the topographical area is wet. What also struck me here is this corridor reflects the 115 KV electrical system, FPL and the U.C.'s lines coming in. So that really raised a question, in looking at this scale up here is roughly 800', so when you look at this distance, there's a lot of land mass there to use.

Mr. Rodi stated this is another chart that's also contained in our water study and the significance of this legend over here is the absorption rate, and this is the land area we were just talking about and if you see this color code over here and tie it out, it shows that its not a primary for recharging the aquifer. So that means that the water going down through the soils, and what have you, don't really recharge as well as when you move a little further west. You can see the differences over here even just from area to area. What struck me about that is there's a clay liner that is there and it meant to me with the rainfall that we receive, it might hold enough water that we might be able to take advantage of it. Within the Commission we've talked about this several times now for months as it reflects the strategy.

Mr. Rodi stated this slide I pulled off St. Johns website, but I think it starts to show, when we start talking about the aquifer and the clay liner and the surficial aquifer. That's sort of what I was referring to on the U.C.'s land, is the surficial aquifer. How much we could harvest in the way of water off that land. And that gets into things like maintaining the wetland condition, how much rain you have, but we keep wondering about the

(4-e) Private Partnership - Water and Electric - Robert Rodi (cont.):

impacts we're going to face and we're still not out of this drought period, especially when you have these shallow wells. We have some shallow wells, we're in the upper Floridan but we're still only down 300' or 400'. If we have a migration of chlorides, as we have in some wells, then what you want to do is sort of not pump so much out of that well because the theory is however the intrusion is getting there to contaminate your water, you're just going to worsen it.

Mr. Rodi stated so what we started to think about is if we're able to, you saw that we put in out there a reuse pond, and it's not a real big one and we've already used up our capacity to our low level. This is initially our threshold that was established for us, there's more water out there but they told us we could only operate to this level. In order to meet our CUP allowances, and they're set at like 8.33 and we just had an approval for that, it requires that we conserve, that we use reuse water and use it rather extensively to diminish the demand on the potable water system. We have the approval for five new wells and they're all going in on that land mass out there around the Duke site. So that if we're able to use that land for purposes of water harvesting, for purposes of having much larger retention ponds, from a standpoint of using reuse and taking it to part of the City right now that doesn't even have that available, then we should be able to diminish the potable water use. And assuming that everybody is not using these shallow wells for irrigation purposes, and most of that as you well know goes unregulated, so there's a tremendous amount of water that's used that way.

Mr. Rodi stated in talking about this, part of our strategy is related to power generation. We certainly don't have the money to build a plant, even using a lower cost, say \$1,000 per capacity, and even then a 100 MW plant which is our peak load we've ever had here, you see right away, that puts us at \$100 million for a 100 MW plant. So if we start to move into renewables, renewables generally have a multiple for costs and its driven by what you do with the fuel source. So if you gasify the fuel like biofuels, any of those that relate to trees or harvesting of that kind of material, it drives that cost up tremendously, maybe two to four times.

Mr. Rodi stated part of what's being developed now are combination plants and essentially what the idea is, and you'll see this in what I'm trying to articulate here, expressed in terms of our strategic plan for both water and for the power plant. But if you look at this lower area here, part of what we would have to examine is if we can pull water from a much lower area it certainly has more salt content and this is why you hear about any type of processing using a reverse osmosis membrane and it removes that salt. Then the problem is what do you do with the remainder of the material, that's always the question. You can get potable water out of it and then you have to mix minerals with it so it tastes better to us, rather than like distilled water, but there's always the issue what do you do with what's left.

Mr. Rodi stated part of what we're starting to learn is that water in this area roughly may

(4-e) Private Partnership - Water and Electric - Robert Rodi (cont.):

only have 500 ppm, and when you process it the concentration may double, but if you mix it with your reuse water from the wastewater plant, what you're capable of doing is diluting it enough and then its all available for use. So some of these combination plants are 100 MW's and they'll produce 11 million gallons of water a day. Now, if you get 11 million gallons that comes up, they're only 50% efficient mostly, what do you do with that 11 million gallons. So you have to try to match and examine all of this.

Mr. Rodi stated what we're talking about, and it's reflected in our budget, is an examination step by step. Is that land out there useful so that in the areas where you have this surficial aquifer, you put horizontal pipes in here and you can collect a great deal of water, it doesn't have much salt, and you can put that right into the pond, or you can take a deeper draw of water here and mix it with what you're getting. So we're starting to examine all those combinations.

Mr. Rodi stated why I bring it up at this point is it seems as if that is a critical issue, there's a lot of risks with it, and there isn't a ready answer but we have time to react. What we're doing is putting this out for public comment, we're trying to make people aware of why we're doing what we're doing, there's a basis, it's not opinion, as to what we're trying to achieve and collectively I think we'll come up with, as is usually the case, a much better answer.

Mr. Rodi stated I wanted to make one other comment. Through the U.C. land, I was told that there's going to be the Williamson Boulevard Extension, 200' wide, over the length of the property. I've researched the U.C.'s records, I can't find where the U.C. has ever endorsed this. Apparently there has been a lot of discussion, even to the point of talk about commercial development all around it. That would take 50 acres of that land if you take that 200' wide corridor. I don't know what that means, I don't know if there're mutually incompatible. If they're compatible or not depends upon where the roadway would have to go, depends upon where we're going to put a substation, where we would put our new wells, and where we would put all this piping system. And assuming that we could overlay the new pond areas in the existing wetlands, so it could both recharge the aquifer that's down there, as well as use it for irrigation supply. He then commented I've talked enough I think.

Chairman Para commented to Mr. Rodi, good food for thought, thank you. He then asked Mr. Rodi what action he would need from the Commission this evening.

Mr. Rodi stated there's really no action required. I made comments ahead of the U.C. at the last City Commission meeting and I was talking about it and what I wanted to do was explain how we got here. We have, I think, time to react but that's why it's in the queue now. So there's no action other than to make you aware and to gain your counsel as to whether or not you think we ought to pursue some of this. He commented I'm already getting unsolicited MOU's, I received one this morning.

(4-e) Private Partnership - Water and Electric - Robert Rodi (cont.):

Chairman Para stated I think over the years, and its been a number of years we've talked about this piece of property, it presents enormous possibility for the betterment and enrichment of the quality of life for those who live in New Smyrna, so it's a very good process for you to walk through and give us some insight with.

Commissioner Reynolds stated to Mr. Rodi you were talking about the budget cycle. I'm sure that there is some way that if we need to accelerate that budget cycle and we explain to the City Commission the rationale for doing that, that we could expedite some of those efforts. Have you given any thought to that?

Mr. Rodi stated the way we're trying to expedite it is by having these kinds of conversations but in addition to that, trying to get more detail as to what the projects will entail. What we have is an order of magnitude costing coming from our surveys. We have some short term actions that can be taken to deal with some of the more pressing immediate problems. But from a standpoint of the capital improvement plan I think we have the bonding and rating agencies we're working with. What we're doing with regard to our financials, and what we're doing with regard to the detailing of what these projects are, so it can be moved up a little but not a whole lot because they've scheduled the meetings in August.

Commissioner Hall stated I want to be sure I heard you correctly during your presentation. Your recommendation is going to have five more wellfields in this area that we own.

Mr. Rodi answered new wells, and we have the first one being detailed now.

Commissioner Hall asked what's the time line on all five.

Mr. Rodi stated I think they're going to stretch out over the next two to four years. We've got to get them established very quickly.

Commissioner Hall stated I don't think the Williamson Boulevard Extension is going to take place within the next 20 years.

Mr. Rodi stated that's another timeline issue. For example, I made a comment before that the 230 KV substation isn't until sometime after 2008, we're just assuming that everything will move forward and what have you. But once you put that on the ground it's there and it needs to be in proximity to where our existing station is, but not too close because there's some circulation issues. From a standpoint of trying to anticipate what the needs are, as you can tell, its very complicated.

Commissioner Diesen asked will there be any constraints by St. Johns as far as the method of harvesting water?

(4-e) Private Partnership - Water and Electric - Robert Rodi (cont.):

Mr. Rodi stated I think there would be and there's some legitimate, like anything else, some legitimate issues. We received an email from St. Johns wanting to speak with us about alternate water supply. We, like other water supply utilities, received a letter last month telling us we have year in which to respond on alternate water supplies. So I tend to think, for those of you who've dealt with water, it's extremely complicated, it doesn't sound like it would be but it is. There's some aspects, for example, if we're maintaining wetlands and if those are designated wetlands. They're wet but I don't know that they're designated wetlands. If you pull too much water out of them then the vegetation is impacted, so there's a balancing act. He stated it's even like with our wells we have monitoring requirements right now. I would imagine there's going to be quite a number of things to work through and we've retained Missimer Services, a very talented person, to help us start to step through about what the potential is for this. I think its that kind of help but you just take it a step at a time.

Chairman Para asked if there were any further questions.

Mr. Donnie Owens addressed the Commission and stated I have a question, can I tell ya'll something? You know the five wells you've pitched to maybe go out there, I use to hunt that area, walked that whole area, and right back from Turnbull Bay Road where it crosses Pioneer Trail, there's a gate there, a big pipe gate, and there's a DOT site there. One day I saw the DOT in there dumping stuff and I watched them and waited until they left. And I got shot when I was a teenager so I'm always real conscious about when I go target practice I'm going to make sure where my rounds go, so I would go in there and shoot down into a hole where they would dump at and I went up there behind where they were dumping and was shooting and got so dizzy and nauseous that I left, from whatever they had dumped in that hole there. I never went in there again because I got so nauseous that I almost didn't walk away from whatever they were dumping in there in that spot.

Chairman Para commented that's something we ought to check out.

Mr. Owens stated it's a big hole 30' to 40' deep.

Chairman Para stated there's an EPA phone number that something like that can be reported.

Commissioner Diesen stated yes, but we need to check that out.

Mr. Tolley then asked if we could get a name of the gentleman.

Chairman Para stated I think he is just a concerned citizen reporting a potential hazard to the community, and then confirmed he was Mr. Owens. Chairman Para then moved to the next item on the agenda.

(5) Commission Counsel's Report:

Mr. Preston stated I believe there's still one item of Mr. Rodi's report, the private partnership, or had that been removed.

Mr. Rodi stated what I was talking about with regard to that, I need to emphasize that a little more clearly. Obviously if we don't have the funding to develop a power plant or even a combination plant in total, one of the thoughts is to partner with the private sector. That's why I made the comment about the MOU, I received someone's proposal this morning, we haven't asked for any, but it is a way to move ahead with this but it would require much more discussion, but added it is a viable option.

Mr. Preston then stated I handed to each of you the response from Ms. Wilson of the Attorney General's office in regards to our request for an opinion and its self explanatory but you can see that in essence the Attorney General denied rendering an opinion inasmuch they claimed we did not have standing to ask for an opinion. What we had asked for as you know is clarification as to the procedure that the City followed in regards to the Telecommunications services. She and I spoke by phone and she was very helpful and she also provided as you'll see in her letter, references of earlier opinions which surround our issue, though don't speak to it directly on point. So I included those for you so that you can have those references as well.

Mr. Rodi stated Brent Millikan had recommended that we seek this opinion because we are remaining in the internet business and that's, you know, part of it. It was a going forward question.

Chairman Para stated as I did just a quick cursory read, it appears that if our counterparts on the City side would join with us in asking for this opinion then it would then be rendered, am I incorrect in that.

Mr. Preston stated no, I believe that you're correct in that assessment.

Chairman Para stated so maybe that would be the thing to do, to ask folks on the City side.

Mr. Preston stated I would like to clarify a little bit. They don't need to join with us, it's not our issue, that's what the Attorney General said, and they need to own it as their issue.

Chairman Para commented should we advise them of that. He then stated okay, I'll be quiet on that and we'll move on.

(6) Committee Meeting Reports:

Commissioner Reynolds stated we have a meeting on the benefits program, I think on the 23rd. He asked Ms. Mudge if that was correct.

(6) Committee Meeting Reports (cont.):

Ms. Mudge stated the 28th.

Commissioner Reynolds stated on the 28th, we're having a meeting at 2:30 to finalize the provider for the next year.

(7) Old Business

(7-a) Fiscal year 2005 Audit – Brent Millikan & Co., P.A. – Roberto Montalvo:

Mr. Brad Douglas from Brent Millikan & Co., P.A. addressed the Commission and stated I will take you through the preliminary draft that you have and our presentation will be limited to this draft that we have. Just to clarify and educate everybody what's going on, we had expanded the scope of our audit. We had to basically look into things that go beyond the normal scope of doing an audit or financial statements, just the purpose of rendering opinion on the fairness of the presentation in accordance with generally accepted accounting principles. We're still developing some of our management letter comments to some latent issues that had occurred in the time period from when we pulled off doing our field work and certain events took place, and certain employees are no longer here. We needed to look into certain systems and control procedures that we still are formulating our comments on so that's why that critical part is not here. We know that you have a lot of issues that you're facing, some that require that your bond counsel and financial advisors have your numbers so that credit analysts can take a look at these audited balance sheets, income statements, and your notes and your other components of your comprehensive annual financial report so that's why we're presenting it in the format that we are right now. I just wanted to make sure I clarified that in advance.

Mr. Douglas stated as we have done this before, basically you're looking at this big report, broken into four sections, an introductory section, the financial section, a statistical section and the supplemental audit report. The supplemental audit reports are what will be presented at another time. Because it is a draft there's some cosmetic things that we're finding that we have to fine tune and are correcting that. We expect that by the next meeting that we'll have the report in its complete final format.

Mr. Douglas stated the Certificate of Achievement in Financial Reporting, the Government Finance Officers Association (GFOA) continues to reward the Utilities Commission this prestigious award, and it's one you should be proud of. It's been 25 consecutive years that you've received that and a reproduction of that is in the report.

Mr. Douglas stated when you look at the letter of transmittal, it's an area that we don't audit, but it's something that a little more subjective than management's discussion and analysis. The transmittal letter is something that the GFOA had devised in providing like an outlook, kind of like a background of the organization and just some subjective information that does not go into management's discussion and analysis. The

(7-a) Fiscal year 2005 Audit – Brent Millikan & Co., P.A. – Roberto Montalvo (cont.):

management's discussion and analysis is limited to just certain specific requirements, you can't add to it, if you do you lose your grading on your excellence in your financial reporting that the GFOA reviews when they look at your comprehensive report.

Mr. Douglas stated I'm not going to go into any detail on the introductory section with the transmittal letter but I will refer you to the next section which is the financial section, that's the most important part where pages 1 and 2 contain our report. In spite of the knowledge of the fact that we have had issues with respect to the Communications Division, we'll put that into perspective with the financial statements taken as a whole for the entire Utilities Commission. We just want you to know that in our audit report we continue to give you an unqualified opinion, meaning a clean bill of health. We basically tell you that we've audited the financial statements, that we've conducted our audit in accordance with professional auditing standards. That the financials statements are fairly presented in conformity with the accounting principles generally accepted in the United States and that we have some reference, certain sections that we apply limited procedures, like management's discussion and analysis, but we don't render an opinion on that whether or not it's completely accurate.

Mr. Douglas stated management's discussion and analysis, pages 3 through 12, we've mentioned this before, and this is one of the benefits of having the newer reporting model that was adopted early by the Utilities Commission. What happened is you have to basically present a narrative of the financial aspects of the Commission in a way that a reader can easily understand it. Certainly, when you look at the notes to the financial statements, there's specific required disclosures that have to go in there. They kind of get into technical terminology with regard to accounting principles or procedures or policies that you adopt or how you account for specific items, but what's in management's discussion and analysis is suppose to be something that you read and gives you financial highlights. Whether it be something that's good or something bad, and puts everything in perspective on a comparative basis that may not be presented otherwise within the financial statements themselves. There's graphs that help to visually give you an idea of how you're operating and basically what it comes down to is it precedes the actual basic financial statements. When you get into the basic financial statements, that's where I'm going to limit my discussion to tonight.

Mr. Douglas then asked the Commissioners to flip two pages. He interjected the Commissioners have all had this in advance so I'm hoping you've formulated some questions, but I'm just going to run through some of the basics here. On pages 13 and 14 of your preliminary draft is the balance sheets of the Utilities Commission that shows you as of September 30, 2005 and 2004, what your assets were comprised of, what debts you owed to creditors, and what your net assets were. We've talked about this before and we want to make sure that its understood that this particular report and the balance sheet, in the manner its presented, as a classified balance sheet, but what's the most significant assets that you own and the largest investment that you have is in utility plant. So that's

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why you see your financial statements for your balance sheets start with capital assets rather than your most highly liquid assets, which are generally cash investments.

Mr. Douglas stated when you look at page 13, and you're comparing total assets, total assets increased about \$4 million for the year. When you look at what contributed to the \$4 million, the actual components, you had an increase in your restricted cash and investments. That came when you compare where did that come from, I mean the restricted cash and investments. The majority of it came from capacity fees that are charged developers and I think that when you look at page 15 you'll be able to see why a good part of your restricted cash investments had increased because on page 15 when you look at your total capital contributions, they were \$3.4 million. So you've collected \$3.4 million in service capacity fees, connection fees, whatever we wanted to call it, but we're not going to call it impact fees though. Those helped to contribute a majority of what went into your restricted cash investments.

Mr. Douglas stated the other thing to note is that you have notes receivable. While there was a sale of some land that was being held for future use, for potential future use, that the Commission decided it didn't need, it was surplus property. Selling it produced a gain and you were holding back a promissory note of approximately \$1.9 million, so there's another component of the increase in your total assets for the year. So that just gives you an idea we have some mix, we obviously invest in our capital assets, however depreciation expense that you recognize helps to offset that amount. So it doesn't look like it has as much impact on you as it normally does, other than the fact that your total utility plant net of accumulated amortization, depreciation, reflects the sale, the cost basis of the land is gone.

Mr. Douglas stated net assets have increased \$4.7 million and that's pretty good. If you flip to page 15 and look at the statement of revenues and expenses and changes in net assets, when you're looking at that you're looking at, the Utilities Commission overall. This is not stating the profitability or lack thereof by system, this is just overall. You had operating income of \$1.6 million and you had additional income that we account for as income for capital contributions. As we say it's connection fees, service capacity fees, its accounted for as an other revenue, not an operating revenue. So the total change in net assets for the year was \$4,695,385, \$4.7 million.

Mr. Douglas stated now if you want to see how that is broken out by system, I would recommend that you flip to pages 38 and 39. This is where you have a little bit more information presented in the back of the basic financial statements. The basic financial statements are the balance sheet and your statement of revenues and cash flows. On pages 38 and 39 what you are seeing is the representation of what's on page 15 broken out so that you can see how much the electric system, the water system, the wastewater system, and communications system contributed to, incurred a loss, or had the net profit for a year. He stated what I'm just trying to present to you is that if you look at the

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column for communication system or division, you'll notice that the change in net assets is a loss of roughly \$3.8 million and yet overall the Commission's total change in net assets is \$4.7 million positive. So it kind of puts into perspective, yes, we incurred a significant loss and this picture only covers the fiscal period that went from October 1, 2004 through September 30, 2005. It's measuring that twelve month fiscal period that you report on. It does not take into consideration, obviously, of what has transpired in this fiscal period. We haven't even had an opportunity to look at that or audit it but we understand that there have been losses incurred each month in that Division. But it also tells you as a Commission that overall you absorbed that loss. It's hard to believe that we could sustain a loss two years in a row greater than \$3.5 million and be able to afford to do it. We really couldn't afford to do it but the fact of the matter is that you did. The side impact of that is it basically used up your Rate Stabilization Fund and your operating cash, which if you look back at your balance sheet you are going to notice that you really don't have very much of unrestricted cash investments, its mostly just the restricted cash investments that you have left. So that's the consequence of having a loss two years in a row of that magnitude.

Mr. Douglas stated if you want to have three easy answers as to what created the \$3.8 million loss this year, I'll tell you that one of them is the fact that there was an FCC mandate or an order on remand that was issued in December 2004 that become effective in March 2005. Basically it took the handcuffs off of the ILEC's, the incumbent local exchange carriers, obligation to unbundle elements so that you can offer your platform under your telephone system in that way. That basically translates to this, because of that change the agreements that you had expired and you had new commercial agreements that came into effect and it increased the costs that you had to pay to BellSouth and Sprint. We didn't react to, respond to, the change in the commercial agreements or understand its full financial impact by changing our pricing of our residential or commercial packages we offer to customers. Putting it in another way, we did not revise our rate tariffs whatsoever so we continued to charge telephone services a certain rate but were having to pay at a much greater cost. It contributed about \$1.4 million roughly, a negative \$1.4 million gross margin, so your gross margin decreased by that much in comparison to what you experienced in the prior year. That's one factor of the \$3.8 million loss.

Mr. Douglas stated another factor that contributed to the loss was a loss of revenue from Epicus. When you consider that Epicus filed bankruptcy in October of 2004, and prior to that you had recognized revenue under your agreement to solicit customers on their behalf and receive a 15% commission. What happened is you recognized revenue in the fiscal year that ended in September 30, 2004 of about \$1.7 million. I think that prior to them filing for bankruptcy we had approximately, separately from the deposits, \$420,000 or so of the \$1.7 million that we deemed was going to be uncollectible and proved to be uncollectible. But you're looking at a revenue stream of a commission that you received from an outside source that was roughly another \$1.4 million when you think about it;

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\$1.7 million less the amount we deemed to be uncollectible. So there's another component of your \$3.8 million.

Mr. Douglas stated the last one is, basically continuing down the road where some of our customers did not have credit worthiness and we continued to experience a significant growth in the amount of account receivables that were beyond a period of which we could effectively collect on those. So a provision for loss on uncollectible accounts receivables and carrier access billings which are separate network access charges charged to long distance companies. You had \$1 million and another \$350,000, call it \$1.5 million that you lost in 2005 just to those two sources.

Mr. Douglas stated so there's three big factors that contributed to the \$3.8 million loss that you had to basically report in your fiscal year of 2005. I just wanted to make sure I sort of touched on that. Certainly there's a lot more information than just that, that's going to be included in our management letter comments, but I felt compelled to at least explain to you some of the big contributing factors.

Mr. Douglas stated the rest of the report that you're looking at contains statistical information. What's going to happen is that presentation of your tables, your demographics, a whole bunch of good information that helps provide a lot more information about the Utilities Commission is going to change dramatically in the fiscal year that you're in now because of a pronouncement that the governmental accounting standards board is putting upon you to change that and provide more information in the statistical area. So that will change and you'll have more information. I think it will prove to be more beneficial as well when you're looking at everything. He stated I think that's pretty much it. Again we're going to have to come back and present to you the final report with all of the back section of our reports in there and the response that you will have from management to any comments that we've developed. Mr. Douglas then opened it up to questions.

Commissioner Spangler stated I was confused, you were saying that we had an increase in assets for the year, and we were able to do that despite the fact that we lost money in telecom. I would say, based on what I hear, that I don't consider an increase in restricted funds that have come from capacity fees as necessarily an asset, though I'm sure as an accountant you would set that off by our pending capital improvement costs and infrastructure costs. It isn't reassuring to me that we have a lot of capacity fees sitting in the account because that's pledged money.

Mr. Douglas stated that's true, good comment.

Commissioner Diesen commented we're not in a real good cash position either are we.

Mr. Douglas stated no we weren't or aren't.

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Chairman Para stated but it's going to get better.

Chairman Para then thanked Mr. Douglas, stated it was a very good report and was easy to read and understand. He thanked the company for all their hard work.

Mr. Douglas stated we do appreciate being able to be here and present this information and as I mentioned before we will have a more complete report. He thanked Mr. Rodi and Mr. Montalvo for their help in getting us to this point where we could at least do this.

Chairman Para confirmed there were no further questions and asked if there was a motion to receive the audit.

Commissioner Spangler made a motion to receive the Audit for Fiscal Year Ended September 30, 2005. Commissioner Diesen seconded the motion and it passed unanimously on a roll call vote.

(8) New Business:

Chairman Para asked if there was any new business to discuss.

Mr. Rodi stated I just wanted to make a comment on bandwidth on dial up (pertaining to Mr. Rees earlier comments). You're very dependent upon your telephone provider so obviously what we do is provide the service itself that's based in the computer but getting out onto the internet is mostly copper wires. So if there's a decrease, especially on dial up from 56 K down, you might want to be asking some questions from your telephone provider.

(9) Possible Other Business – Time for Commissioners:

Commissioner Hall then stated I want to apologize to Commissioner Spangler. I think maybe I misunderstood some of your comments at the beginning of the meeting about the City Commission meeting.

Commissioner Spangler stated I understand where you were jumping and I'm aware of those things, but what I wanted to really bring out is that we're being supported in what we asked for at this time, and I want everybody to know that.

Chairman Para commented and that's good. He stated I just have one thing, Mr. Rodi, we just said goodbye to two folks. Is there anyway we could, and I don't want to interfere with personnel or anything else but, show our appreciation to these folks for making an investment of a lifetime. He stated again, I don't want to run ahead of you or anything else but I saw it in the report. He then stated that's all I've got.

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

There being no further business to come before the Commission, Commissioner Reynolds made a motion to adjourn and Chairman Para closed the regular U.C. meeting at 7:47 p.m.

APPROVED:

ATTEST:



CHAIRMAN



ASST. SECRETARY/TREASURER

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