

## AGENDA ITEM 2-a

MINUTES OF A REGULAR MEETING OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, HELD MONDAY, NOVEMBER 16, 2009, AT 6:00 P.M., AT 200 CANAL STREET, NEW SMYRNA BEACH, FLORIDA

Prior to opening of the final public hearings, Chairman Allen proceeded with an invocation and Commissioner Hall led in the Pledge of Allegiance immediately following.

### Regular U.C. Meeting :

Chairman Allen stated we'll call the meeting to order for the Utilities Commission this evening, it's good to see each one of you, and welcome Mayor Barringer as you're with us this evening. He then requested for a roll call to be taken and a majority of the Commissioners were in attendance as follows:

Commissioner William E. Hall  
Commissioner William H. Reynolds  
Commissioner Oscar Zeller (ABSENT)  
Chairman Walter Allen III  
Commissioner Jeanne K. Diesen

Others in attendance were as follows: R. Rodi, General Manager/ CEO; L. Klinkenberg, Director of Finance; R. Mitchum, Director of Electric Operations; T. Beyrle, Director of System Ops. & Generation; R. Lemoine, Director of I.T.; P. Di Chiara, Director of H.R.; D. Hoover, Director of Water Resources; M. Lynch, Materials Manager; B. Bilinski, Controller/Budget Supervisor; E. Fisher, Public Information Manager; D. Wood, Customer Service Manager; D. Zorge, Customer Service Supervisor; B. Keehn, Administrative Support Specialist; D. Simmons, Exec. Adm. Offices Mgr. /Recording Secretary; W. Preston, U.C. Legal Counsel; Adam Barringer, Mayor - City of NSB; Ron V. Flick, Compass Group Inc; Pete Sechler, Glatting Jackson; and Bob Tolley, Glen Senti, Barbara Mudge, Mr. and Mrs. Leddy, and an unidentified man, all members of the public.

### (1) Agenda Changes, Additions and Deletions:

Chairman Allen asked if there were any agenda changes, additions or deletions.

Mr. Rodi stated there were none.

### (2) Approval of Consent Items:

Chairman Allen stated as we move on to item 2, it's the approval of the consent items. He stated we have four items on the consent agenda, the Minutes of the Regular Utilities

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

Commission Meeting held October 19, 2009, Change Order No. 1 to Hazen Construction on the 20-inch Potable Water Transmission Main, a Review of the Developer Contributions to Utility Infrastructure, and the Review of the Infectious Disease Preparedness Plan. He then asked if there was a motion to approve these consent items.

Commissioner Reynolds made a motion to approve the consent items: item 2-a. Minutes of Regular U.C. Meeting Held 10-19-09, approve as submitted; item 2-b. Change Order No. 1 – Hazen Construction, LLC – 20-Inch Potable Water Transmission Main, ratification of the General Manager/CEO's execution of Change Order No. 1, changes successfully negotiated by staff for zero dollars/zero time; item 2-c. Review of Developer Contributions to Utility Infrastructure, a motion to approve the annual cost revisions, pursuant to the annual review requirement, for the developers contributions to utility infrastructure, and approval for U.C. staff to make needed corrections and modifications to said costs providing staff presents to the Utilities Commission the reasons for and the changes to said costs; item 2-d. Review of Infectious Disease Preparedness Plan, for information and a review of the Plan. Commissioner Hall seconded this motion and it passed unanimously on a roll call vote.

(3) Public Participation:

Chairman Allen then proceeded to agenda item three, public participation, and stated to the public in attendance, this is your opportunity, if you'll step to the podium. If you want to present something to the Commission, would you please do so. There being no responses from those in attendance, Chairman Allen then closed public participation.

(4) R. Rodi - General Manager's Report:

Chairman Allen then stated I'd like to move on to items 4 and 4-a, the General Manager's Report for October 2009 and the Financial Status Reports for September and October 2009.

(4-a) Financial Status – September 2009 and October 2009:

There being no comments on the General Manager's report, the Chairman moved on to the financial reports. Ms. Klinkenberg addressed the Commission. After a couple of comments regarding the podium and microphone, she stated we presented the financial statements for fiscal year end September 2009 with a change in net assets of \$2.9 million, and this is reported on a GAAP basis, and they're still unaudited.

Ms. Klinkenberg stated we ended the year with an underrecovered fuel balance of just over \$1 million. Our external auditors are on site, and they've already begun their annual review of our September financials.

(4-a) Financial Status – September 2009 and October 2009 (cont.):

Ms. Klinkenberg stated we also provided the October 2009 financial status and our change in net assets is \$114,000 for that month. She commented you know it's always a slow beginning. She stated our underrecovery fuel cost is just under \$300,000 for the year. Ms. Klinkenberg then asked if there were any questions.

Chairman Allen asked if there were any questions or comments. He then stated it's good to see the underrecovery get down there, it's been a while getting there, but it's great to see that. He then asked if there were any other questions on the General Manager's Report.

Commissioner Reynolds stated I'd like to thank Mrs. Fisher for the revitalization for the U.C.'s website. I think it's very functional and thanks again.

Chairman Allen added the revitalization of the U.C. website is very functional and it's easy on the eyes. He also stated it's good to have the interaction with the different employees and earmarking our city. Hopefully, and I think you probably have some things in mind of changing that now and then to keep it updated. He stated to Mrs. Fisher we do appreciate it.

Chairman Allen confirmed there were no further questions regarding the General Manager's Report or the Financial Status Reports.

(5) Commission Counsel's Report:

Chairman Allen then moved on to item 5, Commission Counsel's report. He asked Mr. Preston if there was a report.

Mr. Preston stated he had no report.

(6) Old Business:

Chairman Allen stated there were no old business items to consider.

(7) New Business

Chairman Allen then stated for item 7, there is no New Business.

(8) Possible Other Business – Time for Commissioners:

Chairman Allen went on to item 8. Possible Other Business - Time for Commissioners, and asked Mr. Rodi if he had anything to add.

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

Mr. Rodi stated Mr. Flick is here from the Hampton Inn project and I wanted just to make a comment because he has not had a chance to review the developer's agreement which is currently in legal counsel's hands. He stated I know they're proceeding through the City's side of the process, but I just wanted to make it clear that we're in the final stages of that agreement. He added but I feel it unfair to not have Mr. Flick and his team have a chance to review it thoroughly before we bring it to the Utilities Commission. What I had said to Mr. Flick is that once we have this finished, and if they're in agreement with it as well, because it's a performance-based agreement, that I would put it under the consent agenda, and if you so chose to pull it off that's fine, but our intent is to continue to work together as we have. He commented and I think it's been an amicable relationship, at least over the last month or so.

Chairman Allen then asked Commissioner Reynolds if he had any comments.

Commissioner Reynolds stated no.

Chairman Allen then asked Commissioner Hall if he had any comments.

Commissioner Hall commented it's nice to be back after missing two meetings.

Chairman Allen commented it's good to have you back. He then asked Commissioner Diesen if she had any comments.

Commissioner Diesen stated I'd like for us to have a slight discussion about cap-and-trade, what the possibilities are and aren't, and talk a little about Copenhagen. I don't necessarily want to get into the politics of whether it's good science or bad science, but what the implications may be, even though it looks like the agreement won't go full board this year, it's being set up, it looks like, as a two step deal, for some this year and some next year. What's the possibility, you read both sides of it, and some of it's very dire and some of it isn't. She stated I'd like to hear you, Mr. Rodi, discuss it because I know you know a whole lot more about it than I ever will.

Mr. Rodi stated well, if I can go back probably a year or so, it's important to start there. As you may recall there was a legal case that was very critical, and that case was Massachusetts vs. the EPA. And you may recall that I waited a long time to have a decision on that particular case. And the importance of that is that the Supreme Court ended up ruling that carbon dioxide is a regulated gas, much like we deal with now with our generators, nitrogen, nitrous oxide, nitrogen dioxide, carbon dioxide, carbon monoxide. There are a lot, when we run these units, there are different thresholds that we must meet and CO<sub>2</sub> is added to that bailiwick.

Mr. Rodi stated recently, and that becomes very critical because when that particular gas is regulated it is treated as if it is something that is harmful to either life or something of that nature; very serious. Well, if you think about that, and this ties into a lot of the

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

argument about global warming what's actually causing it, but it goes further than that, it touches transportation, it touches us as human beings as we expel carbon-dioxide among other gases, and cows, you know. So there are a lot of ramifications when you start to think about this.

Mr. Rodi continued and stated very recently the EPA issued the beginning of its rule making process, and part of that is that if you are an emitter of carbon-dioxide gases at a specific location, not an entity, and you emit more than 25,000 tons of this gas in a year, then first of all you have to report it. So that's the beginning of the process to accumulate the data as to who the big contributors are. Well, what becomes really critical and this gets to be very, very, complex, is that if indeed a lot of the legislation now at the federal level, at the House is passed, the cap-and-trade, it has some very onerous provisions with it that are indirectly enforced through the EPA. And some of them are that you have to have certain efficiencies with your home or you have to upgrade your home. Some cities have already passed legislation that says you have to have an energy audit before you can sell your house. And the sanction for that is not only a financial penalty but in some cities it is regarded as a criminal offense. He stated now you heard the word criminal, so if the issue, and this is part of the politics of it, if the issue is you're saving the earth, then the criminal aspect seems to be consistent with that.

Mr. Rodi stated as we move to the Senate, there was recently a subcommittee that began the first part of the Senate version, which is expected just like the health care bill, to be very different than the version that is in the House. But as you know the President is headed to Copenhagen, and the meeting there at the Summit, and this is where it becomes really difficult to anticipate what's going to happen. Within the United Nations approach to global warming is a provision that was cited within the Copenhagen Accord. That would, of course, be a treaty and two-thirds of the U.S. Senate would have to approve it before it would control the U.S., but in these provisions, and I need to say this because it's extremely serious, there's a provision for the formation of a New World Government. When I heard that I thought wow, what are some of the parts and pieces of this, and there's a tax where wealthier nations are supposed to take care of disadvantages nations, it's like a 2% tax. There's a whole structure to this thing.

Mr. Rodi stated well, I didn't believe and I first picked this up on a Wall Street Journal article. Someone was crawling around and so I pulled it out, and this is the United Nations Report. I figured you were going to ask this because I've been sending out emails about it. But definitely, on the page that was cited, it starts to address this. Now, I really don't know how these things work, there's a secondary plan that's now being talked about because a lot of the member nations aren't together on this.

Mr. Rodi stated so, that's at a very high level, but it's a really serious thing. So, again, step back in time when we started talking about a generating plant. Okay, going all the way back to 2005, we were talking about we wanted renewable units, and the importance of that was trying to anticipate what units would be excluded from a standpoint of being

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

renewable and green house gases, and which units would not be excluded. Well, basically all fossil based units are included and so there are carbon taxes, and if you emit too much carbon dioxide, that's part of the cap-and-trade. Some of the figures being thrown out there, \$25 per ton of expelled CO<sub>2</sub> unless you're running a renewable unit.

Mr. Rodi stated so in our consideration of what to do with a generating unit, and part of what the direction was from this Commission, was to get off the grid. And so in examining what alternatives there are you can get off the grid but then if you have some types of renewable they're not dispatchable, you can't rely upon, like wind. If the wind dies down you don't have any energy, if the sun goes away you don't have any energy, and if you don't have battery storage to make it work when those units aren't working, then you don't have energy and you're back to the grid.

Mr. Rodi stated so what we've looked at are a lot of different technologies and part of the issue for us frankly was that from our point of view is the City had to win in this too. So, we looked at technologies that basically have a gasifier. Now understand that, and you've heard the presentations, we've had two different companies in here, the most current one right now is Horizon. And Horizon by the way is, I spoke with them last week, and they were supposedly closing on their loan for \$500 million to build these plants.

Mr. Rodi stated so, in looking at the types of technology, a gasifier does not burn things and what I mean by that is, take a fuel and combine that fuel, oxidize it with oxygen. And the reason why there's an advantage to using a gasifier is that all of the emissions are very low. So plasma technologies give you low emissions, gasifiers do the same thing. And the gasifier itself can take any number of fuels and essentially you're using heat in the absence of oxygen to create a syngas, sort of like a synthetic natural gas and that's what the gasifier does. So you could put wood chips in it, or you could put tires in it, or you could put garbage in it. And we tried to find something that would take municipal solid waste, garbage. What it does for the City, the City pays tipping fees, and the tipping fees are relatively expensive like \$34 a ton, and Tomoka's pretty much inexpensive for tipping fees.

Mr. Rodi stated and by offsetting that cost, then we use it as a fuel and we get energy out of it; well that becomes important. And then it's considered to be renewable so the CO<sub>2</sub> emissions because what happens then is this synthetic gas is actually run through traditional generator, a combustion turbine, the waste heat is captured, and you have a steam turbine, a combined cycle unit, and you end up with outputs. So the generator itself does burn the syngas but the CO<sub>2</sub> doesn't count against you because you're using a renewable process; that's how it technically qualifies.

Mr. Rodi stated so the deal there for the City was that if indeed there's not a reason to have a recycling program, so the cost of the recycling program is a savings for the City. The tipping fees is a savings, and for us the cost is pretty competitive, and that's what you heard Mr. Pullins present straight out of the bag. You know with his very first

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

presentation you saw a \$64/MWh price and that's the all end cost, 6.4 cents. Well, if you look at a traditional combustion turbine, okay natural gas fired, because the natural gas units have a lesser amount of CO<sub>2</sub> emissions. He added coal's the highest, diesel is right in the middle, and then natural gas units are the lowest. He stated they have a heat rate and the heat rate is it takes 8,000 btu's to produce a kWh, if natural gas is like it is today, around \$5.00 a million, it'll cost you 4 cents just for fuel, and you have maintenance that goes with that unit, the O&M cost, the cost of the unit itself of 3 to 4 cents. So you can see at, when you start doing the math, it'll cost you 4 cents for fuel, and 3 to 4 cents for your O&M costs, so you're up above that (6.4 cents).

Mr. Rodi stated so a lot of the issues with renewables, for example, even though the biomass plants that are being built now in different parts of the country, a lot of those contractual costs are 13 to 18 cents a kWh. When we start to look at trying to protect our assets and look down the road about what's going to happen with cap-and-trade, I've taken a very pragmatic approach with this. It isn't because I understand the global climate, it's how best do we protect our community and have affordable energy that also benefits our City.

Mr. Rodi stated so that's the approach and what we've been up to. It's been very complex, it's going to become much more complex. I don't think any cap-and-trade, and basically all that means is you're given a certain allocation, if you're under that you get to sell the balance and you can make money off of it. So, depending upon how they allocate the amount of CO<sub>2</sub> you're allowed to use. He stated in Europe some folks have made a "killing", a lot of money off of it, and others haven't; so there are winners and losers. But we don't think anything will come, and I say that we, because I get reports from legislative committees, and you know you look at how all of this is going to play out, and they're saying no, not this year, but maybe next year.

Mr. Rodi stated and then next year in regard to the International scene, hearsay again, another Wall Street Journal article is saying, well maybe there will be a two step process. So if there is no accord that comes out of Copenhagen, which is predicted now, then what we'll do is afterwards, we'll have some general agreements and then afterwards we'll put the details together as if there was going to be a treaty and then try to push it around and sell it that way. I don't know where it's going, it's terribly complex, and of course there's no question that you can see changes occurring around the globe. Some of those, you know if you watch the history channel and those other shows, you can see some of it is cyclical, some of it's occurred before, and some of it, you know is occurring now. I don't really know, but all I can do in my little part of the world is try to advise you as well as I can, with something as complex as that. And I know that's probably much more than you wanted to hear about this but as stated previously some of the provisions in the House Bill, I'm talking about in the Congress, are very onerous, very onerous. He stated and of course, you know there are a lot of changes in lifestyle and everything else that could come from that.

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

Mrs. Diesen added and that section, I think its 202, isn't it, the one that really...

Mr. Rodi stated sections 202 and 204 in the House Bill, yes.

Mrs. Diesen stated right, those are really alarming when you read them and see the things that could happen. And there's a line in the one section that said the Secretary of the EPA will be able to change the regulation at will.

Mr. Rodi stated yes, and that's what happens because the EPA is the administrative arm of this. And I know that, but Mr. Beyrle and I worry about some of these things. It sounds strange that you'd worry about generators and that, but with emissions, one of us can go to jail; I mean this is nothing to fool around with. But when you have that kind of sanction and it's there so that you make sure that happens and the transmission grid we're being exposed to multi-million dollar penalties. You know I sent you the email on FP&L, an \$18 million penalty for that outage that occurred back in February, and they got off light compared to some of the things.

Mr. Rodi then stated but I just wanted to use the platform a little bit longer and I have also been sending you some studies and reports. The Pew report I sent the other day, that was looking at the State of Florida compared to California and other states and it's ability to survive frankly, bankruptcy, that was very revealing. He stated another report that I sent out earlier today showed the changes in jobs and the opportunity for economic growth and that was done by another institute, Milken (Milken Institute Comparison), that is also credible. And what that shows is that many of the Florida cities, and it had large metropolitan areas as well as smaller areas, but all of the Florida areas went from the top to the bottom. So, these are studies because what they're trying to do is indicate the ability for recovery and all of what we're going through. So, when I'm making my comments I'm trying to do it within the context of protecting really our customers and our citizens, our owners, from some of this as best as we're able to. And at the same time trying to look down the road about what it is we have to do and this is a dreadfully serious time.

Mr. Rodi stated and I know Ms. Klinkenberg passed over the return on fuel, but you know that was a \$4 million gamble that we took to carry that because of what was going on with the economy. And now we've reached the point that where that's pretty well recovered, so we're going to start to look at returning some of that. You know when you see those kinds of impacts, they're really tough. And that took the whole team to do that but that fell on Mr. Beyrle's back primarily to continue to buy and sell power affordably. And when he was being unable to negotiate good deals, that accumulated that \$4.6 or \$4.8 million. That's terribly frustrating for him and his team over there, when you know that you don't have any negotiating ability, but fortunately we've recovered from that. He stated that's some tribute that I wanted to pay because I know that he got tired of hearing it. He concluded by stating thank you, enough.

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

Mrs. Diesen stated thanked Mr. Rodi for his comments.

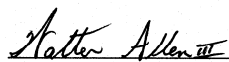
Chairman Allen stated the other thing I'm looking at and thinking about cap-and-trade and the direction the Commission has been heading over the last four to five years, is not only looking at alternative energy for a reasonable priced energy for the customer, but also in that aspect to look at the alternative energy and the availability and possibly even bringing in those, some types of jobs, or even ventures that would develop things. So, it's more than just one aspect of the picture for the New Smyrna Beach area by looking at a larger perspective of even employment, having the future technology available and companies that would come and partner. And I think the largest thing is, if we can get an alternative energy plant in a process, and we can reach that point, I think a lot of other things would fall in line for our community and would be much better.

Chairman Allen then stated I appreciate the knowledge that we have with us through Mr. Rodi to be able to lead us in the right direction and keep us focused on where we're heading and striving to head for. And doing it in a process, not just jumping out on something at the drop of a hat, but walk through a process and when you go though a process it takes time. He then stated to Mr. Rodi, so I appreciate the time and the effort you put into that.

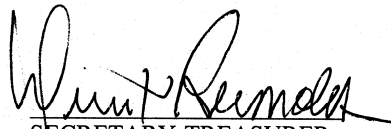
Chairman Allen concluded by stating I would like to share just a few more things, Just as a note for the record, I don't know whether you all knew Mr. Hagen or not, he passed away the other week. Mr. Hagen served here at the Utilities Commission for many years (former Director of Utilities) and I just wanted to mention that. He also stated I just wanted to mention and thank staff and the employees for the good work that they do on a day-to-day basis. I know a lot of times there are challenges that they go through in dealing with different aspects of their work, and I do appreciate the hard work that goes into seeing the Utilities Commission function and work in a manner and for it to be a good work place. He concluded by stating other than that, I don't have anything else.

Mrs. Diesen commented Happy Thanksgiving and Chairman Allen concurred. There being no further business to come before the Commission, Chairman Allen closed the regular U.C. meeting at 6:34 p.m.

APPROVED:

  
CHAIRMAN

ATTEST:

  
SECRETARY-TREASURER

These minutes were formally approved by the Utilities Commission at their December 21, 2009 meeting.