

VERO BEACH UTILITIES COMMISSION MINUTES
Tuesday, May 10, 2016 – 9:00 a.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Chairwoman, Laura Moss; Members: Chuck Mechling, Bill Teston, Judy Orcutt, Stephen Lapointe, J. Rock Tonkel and Alternate Member #1, George Baczynski
Also Present: City Manager, James O'Connor; Finance Director, Cindy Lawson; Transmission and Distribution Director, Ted Fletcher; Water and Sewer Director, Rob Bolton and Deputy City Clerk, Sherri Philo

Excused Absence: Robert Auwaerter

1. CALL TO ORDER

Today's meeting was called to order at 9:00 a.m.

2. APPROVAL OF MINUTES

A) April 12, 2016

Mrs. Moss referred to item 5-A) on today's agenda noting that "Power Services" gave the presentation not "Power Resources."

Mrs. Moss referred to the second to the last paragraph on page 9 of the April 12, 2016 Utilities Commission minutes. She said the closing sentence should state, "*We are getting out of the power generating business, but we are still in the power transmission and distribution business.*" She then referred to the last paragraph prior to item C) on page 11 stating that just after Mrs. Orcutt's last statement that the following should be added, "*Mrs. Moss then asked if any of the Commissioners did not support reliability. No one stated otherwise.*" She felt that was important to be added because the Commission members received a letter from Mr. and Mrs. Whittall expressing their concerns regarding reliability (letter dated May 9, 2016 and is on file in the City Clerk's office) and she felt they all were concerned with reliability. She then referred to the first sentence of page 13 stating that "*change*" should be "*chance.*"

Mr. Tonkel made a motion to approve the minutes of the April 12, 2016 Utilities Commission meeting as amended. Mr. Mechling seconded the motion and it passed unanimously.

3. PUBLIC COMMENT

Mrs. Moss said because there was no one wishing to speak under public comment that she would like to take this opportunity to apologize to the public that some of the backup information for item 5-A) on today's agenda was not available on the City's website. She explained that the Commission members did not receive the information until late yesterday. She said that she requested that they receive information on agenda items at the time the agenda is posted, which is one (1) week prior to the meeting. She said in this

case it was under Old Business and Mr. O'Connor and Mr. Fletcher felt confident in reviewing the numbers. She said that she checked the City's website this morning and the new information was there. She asked that staff put this information on the City's website.

Mr. Tonkel said in some cases it is difficult to generate the information as a result of the way it has been requested. He asked aren't they better served in the long run to give staff more time to produce the documents and then have it on the agenda for the next meeting.

Mrs. Moss agreed. She reported that she did ask Mr. O'Connor and Mr. Fletcher if they wanted more time. She said that she would also like the Commission members to have more time. She asked Mr. O'Connor if they were going to be asked to make a recommendation today.

Mr. Jim O'Connor, City Manager, answered no. He explained that what they are doing today is reviewing the information. He said there are two major components that allow them to accomplish the goals, which are; 1) having the human resources available in order to make it happen and 2) the financial resources available.

Mrs. Moss said before they get into the main portion of staff's presentation that she would like to answer what she thought Mr. Tonkel was addressing. She asked is staff looking for a recommendation from the Commission.

Mr. O'Connor answered no. He said these numbers have been given to Power Resources to be put into the Rate Study that they are working on. The Rate Study will be the official action that the City Council will be charged with. What staff is doing is trying to keep the Commission informed.

Mr. Tonkel asked Mrs. Moss are they going to have a presentation on the information they received.

Mrs. Moss answered yes.

Mr. Tonkel said that he was just trying to deal with the issues that surface from time to time. He said it would seem to him that there might be some things that could be held in the rears until their next meeting because they don't have time to inform the Commission members or the public. He felt this was something that could be worked out between the Chairwoman and City staff.

Mrs. Moss agreed that they need information in advance if they are going to be required to make a recommendation. She thought that she mentioned at their last regular Commission meeting that she wanted to have a joint meeting with the Finance Commission. She said the Finance Commission is going to have a separate meeting where Power Services will be giving them a presentation, which she felt was appropriate. She said if the Utilities Commission decides today that they want to meet on this again that maybe they could have a joint meeting with the Finance Commission sometime after they have had their presentation.

Mr. Lapointe questioned how much into the details of the operation of the City's business does the Commission need to get involved with. He asked are they a body that attempts to set goals, define missions, etc., or are they getting into the weeds and trying to do staff's job for them.

Mr. O'Connor said the key is that they are an Advisory Commission to the City Council. His obligation based on the charge of the City Council is to make the Commission part of the discussion of how staff comes up with the information they present to the City Council. That is what they are attempting to do today, which is to keep the Commission informed.

Mrs. Moss said the Utilities Commission is an Advisory Board. She said that Mr. Lapointe was not on the Commission last year during the time that they were dealing with the Orlando Utilities Commission (OUC) contract and at that time, and is continuing, there is an existing pattern of delayed delivery of critical information requested for informed decision making, which she felt Mr. Tonkel was referring to. She referred to a memorandum that she sent to all involved dated April 13, 2016 (on file in the City Clerk's office). She read, *"Going forward, all information related to an agenda item should be attached to the agenda distributed one week prior to the meeting; otherwise, the item will be removed from that agenda for consideration at a later date. The work performed by our commissions is crucial. The vote by the City Council on the OUC Contract at the Special Call Meeting of October 19, 2015 represents an example. I quote from page 8 of the minutes of said meeting, which read as follows: "Mr. Kramer made a motion to approve the Finance and Utilities Commission recommendations, including the changes that Mr. Wright brought up today." That motion passed 4-1. Members of the City Council voted on the recommendations of the Commissions. They did not vote on the contract itself. That single act testifies to the importance of any and all of our recommendations."* She said they do need to take this very seriously as their recommendations can provide the basis of a vote by the City Council, which they historically have.

4. NEW BUSINESS

None

5. OLD BUSINESS

A) Recommended Improvements and Cost Estimate by Step (for Vero Electric's Transmission and Distribution System) – (Previous presentation by Power Resources – April 12, 2016)

Mr. Ted Fletcher, Transmission and Distribution Director, briefly went over his memorandum regarding the 2016-2035 Long Range Planning – Revised Step 1 Recommendation with the Commission members. He said the spreadsheet attached to the memorandum shows some of the items that were pushed out to Step 2, which reflects the savings listed (attached to the original minutes).

Mr. Teston said essentially the numbers stayed the same; they were just deferred out further into the horizon.

Mr. Fletcher said that is correct.

Mr. Teston said it was his concern that they were pushing out maintenance. He asked does this expose the City to more outages.

Mr. Fletcher answered no.

Mr. Baczynski said generally when expenses are deferred out three years it is unusual that they would stay the same. Normally there is escalation of material costs, labor costs, etc.

Mr. Fletcher said it is possible that the numbers could go up, but that is the number that Power Services provided. He noted that in five years they will be looking at the following five years as to what needs to be done.

Mr. Tonkel said if the Commission is going to be asked to make a recommendation on this proposal, which he felt was a leap that either the Commission accepts the results of the study and the work done by management or they further question the specifics of maintenance that is planned. He said that his point is if their intent is to accept the study and management's revisions and give a recommendation to the City Council that he would like to make sure they are all prepared to do that in that they have enough and sufficient information. Essentially what they are saying is that the Commission agrees to find a way to finance \$10 million over the next several years. He was not opposed to this, but was posing the question as to if they have sufficient knowledge to make that recommendation at this stage.

Mrs. Moss said that she would be okay with deferring this matter to their next meeting.

Ms. Cindy Lawson, Finance Director, explained that the City adopts a five-year Capital Improvement Program (CIP) every year for the Electric Utility. So this is essentially not new, it is a modification to that plan. All the capital improvements in the Electric Utility are funded through rates so it is not really appropriate to make a recommendation on this plan as a standalone. This has to be considered in the context of its impact on rates and in the context of the adoption of the budget, which is part of the five-year CIP. This information is a revised five-year CIP that was provided to Public Resources Management Group who are folding it into the Five Year Rate Study that they will be bringing back as a presentation to the Utilities/Finance Commissions and it will also be the starting position for the budget workshops in July for adoption of a modified or a five-year CIP for the next five years. Therefore, other than the general conversation regarding the goals of reliability and/or their general recommendation about the accuracy of the Study, to make a recommendation about yes or no on these expenditures in the absence of a conversation about the impact on rates or the budget she did not feel was the right way to go about it. She noted that they would see this twice in the context of the

budget and in the context of the Rate Study, which has to support these improvements. They will be able to see what impact it may or may not have on rates going forward.

Mrs. Moss asked are they stating that the Commission would not be asked to make a recommendation today.

Mr. O'Connor said that is correct. He said they could make a recommendation if they choose to, but what staff is doing is making a presentation to them on how they are putting the budget together going forward.

Mr. Tonkel felt the Commission should move this forward and recommend that this be incorporated in to the CIP budgeting process and endorsing at least this conceptual approach of the upgrading of maintenance for the City Utilities.

Mr. O'Connor noted that reliability has become one of the City's top priorities with the priorities being safety, reliability, and pricing.

Mrs. Moss said at the last meeting when they discussed this Mr. O'Connor noted that there were political considerations as well. She said last week FMPA approached the County to meet regarding the sale of the entire electric system and the City Council voted unanimously to continue that discussion, which would have a huge impact on this. She said this would probably take a few years if there is a deal before it would be finalized and in the meantime they have to keep the lights on. But, on the other hand for this Commission to recommend a 20-year expenditure flies in the face of the will of the people who voted twice by referendum to sell the entire Vero Beach electric system.

Mr. O'Connor said that was one of the things they tried to carry on when they were trying to sell the system in that there was no reason to put money into it as FPL was going to standard the City's system with their system.

Mrs. Moss felt that the Commission understands that they have been caught in a political riptide as to the sale and no sale explaining that they got pulled way off shore, reliability is sinking, and now they have to swim parallel to shore before they can get back into safety. She said that is at no fault of Mr. Fletcher or Mr. O'Connor. She felt that they have been addressing it as best as they could.

Mr. Lapointe thanked Mr. O'Connor and Mr. Fletcher for this information. He said it seems to be within what they expect to happen. He did not think there was any more work to be done by the Commission at this point.

Mr. Tonkel asked Mr. O'Connor would an expenditure of this be partially funded from reserves or would the City incur new debt to finance the improvements.

Mr. O'Connor said it would depend on the size of the project. He noted that it would be individual projects, not the overall projects. He said they try to keep the reserves at 90 days and they currently are at 91 or 92 days. The history over the past few years was that if they have 96 days, for example, they would recommend a rate decrease at least for that

year. He said this same activity will occur over the next five years and every year staff will be looking at the revenues collected, the expenditures needed, and set the rates accordingly. He hoped that they would have something from PRMG in June that could adjust their rates. He noted that they don't have any major expenditures between now and then so PRMG would be looking at revenues already collected and what the expenditures over the next 12 months will be, set the rates for that, and then have projections for the upcoming years. But, it really is done on a year to year basis.

Mr. Tonkel said then at this point they don't envision a necessity for additional debt for this set of projects.

Ms. Lawson explained that when PRMG puts the five-year CIP plan into the Rate Study, one of the things they will do is make recommendations as to the things they think might be appropriate to be financed. She said it does depend on the useful life and the nature of the project. She noted that they have always had a five-year CIP and one of their goals has been to levelize the transfers from the operating side into capital. Rather than "spending reserves" to do projects, they target an unrestricted cash amount and adjust the rates accordingly. She said the City has not actually borrowed money for a project for the Electric Utility since 1989 or 1990.

Mr. Mark Mucher said Mr. O'Connor continues to say that they look at safety first and then reliability and cost. He reminded the Commission members that under previous leadership when they were setting their goals they were basically discussing rates and he suggested that they add reliability as a goal, which he felt they were heading in that direction. But there also seems to be a big emphasis on keeping rates low or even reducing them at the cost of deferring some of these projects. He said that Mr. Fletcher has assured him that the reliability will be under control and he trusts him. He said the proof will be in the pudding.

Mrs. Moss said the Commission's goals include both rates and reliability. She referred to their 2015 Annual Report (on file in the City Clerk's office) and read, "*To continue to facilitate the downward trend to obtain the lowest possible sustainable utility rates and the efficient operation of the utilities.*" She felt that efficient operation would also speak to reliability. She then read under the Electric – 2016 Objectives, "*Monitor the magnitude, frequency, and duration of power outages, as well as the causes.*" She said it is a balancing act between rates and reliability.

Mrs. Moss referred to a letter from Mr. and Mrs. Whittall dated May 9, 2016 (on file in the City Clerk's office). She read from within the letter, "*The water system is also in need of maintenance and replacements to keep from having broken water mains.*" She asked Mr. O'Connor if that was true.

Mr. O'Connor said they have very few breakages or outages of water. He said the water lines they put in have a 75-year life expectancy. They are doing major projects, such as expanding their capabilities at the Water Plant, they are condensing the number of wells they have, the Clean B System at the Wastewater Treatment Plant, etc. He said a lot of this work is cutting their cost, but at the same time doing some real investments to

upgrade the system. They have not experienced anything that would indicate they have a reliability issue. They do repair lines as they do have breakages at times.

Mr. Rob Bolton, Water and Sewer Director, said they do budget annually for line renewal and replacement.

Mrs. Moss thanked Mr. Fletcher for attending today's meeting. She said that she would be in close contact with Mr. O'Connor to see when it would be appropriate to place this item back on a future agenda.

Mr. O'Connor reported that the Rate Study would probably be coming before the Commission in June.

Mr. Fletcher said it took eight years to get where they are and they know what has to be done. They are in the catch-up phase and are on the right track.

Mrs. Moss said that she has been asked by individuals in the community about individual outages. She said that she has a question regarding an outage on Indian River Boulevard and the traffic light by the 17th Street Bridge. She did not have the date so she would get back with Mr. Fletcher.

Mr. Fletcher asked if it was last week.

Mrs. Moss thought it was.

Mr. Fletcher said that outage was caused by a car accident.

Mrs. Moss said that people come to her with individual issues, which she welcomes because she felt it was a good thing if they can engage the community. She said they have a responsibility to get back with them on it. She then gave her email address, laura@mossim.com, for anyone in the community who has a question.

Mr. Teston referred to the comment that they are in the catch-up phase. He would assume that the recommendation of deferring some of the maintenance that it would not create a situation of safety or service for those components of the system.

Mr. Fletcher said that is correct. It does not pose any reliability exposure risk or any safety issues.

B) Motion on Stormwater Utility Study to be Reviewed with Regard to Parliamentary Procedure – (See page 14 of the February 22, 2016 Joint Utilities Commission / Finance Commission minutes)

Mrs. Moss asked how long before the Commission sees the Stormwater Utility Study again.

Mr. O'Connor said it would probably be a few months.

Mrs. Moss said a motion was made at the February 22, 2016 Utilities Commission meeting to recommend to the City Council that they go forward with the second half of the Stormwater Utility Study. She said at the time she intended to amend that motion to include the recommendation that it be decided by public referendum. She said that this is not meant as criticism to anyone as in this case it was herself that was not familiar with Parliamentary Procedures. But, if the Commission members are not familiar with Parliamentary Procedures then they cannot conduct business in the most effective manner. She said that she could have made a motion for an amendment at that time. She thanked Mr. Lapointe as she felt he was the source of them receiving additional information from the City Attorney (referring to the memorandum from Mr. Wayne Coment dated May 4, 2016 regarding the rules and procedure for meetings on file in the City Clerk's office). She read from the memorandum in part, *"to help manage and provide parliamentary procedures for large meetings such as conventions."* She said it is not her opinion; it is a matter of fact that is a misperception. She then read into the record, *"Henry Robert was a West Point educated United States Army Officer. He became interested in parliamentary law when he was asked to preside at a meeting and didn't know how. After the meeting he vowed to learn something about parliamentary law. He soon found that little information about this subject was applicable to small voluntary organizations. So while he was stationed as an Army Officer in different parts of the Country he attended meetings and noticed that each organization was conducting meetings by its own set of rules. There were no universally accepted rules in existence. He saw that organizations would be better able to function and carry out their purposes if they had a universally recognized and accepted set of parliamentary rules."* She said the important point to keep in mind is that Mr. Henry Robert developed this to be applicable to small voluntary organizations. She would appreciate any assistance if she is remiss in calling for discussion, etc., that they point it out to her. She said that she is going to try to play by the rules.

Mr. Lapointe said that he did not request anything from the City Attorney.

C) City of Vero Beach Representation on the FMPA Board

Mrs. Moss read into the record information from the Florida Municipal Power Agency Operational Audit, *"The Florida Municipal Power Agency (FMPA) is a Joint Use Action Agency (JAA) created in 1978 pursuant to a series of Interlocal agreements with Florida municipalities under the authority of Sections 163.01 (Florida Interlocal Cooperation Act of 1969) and 361.10 (Joint Power Act), Florida Statutes. The FMPA finances, acquires, contracts, manages, and operates its own electric power projects or jointly accomplishes the same purposes with other public or private utilities."* She referred to Table 6, Gain/(loss) from Fuel Hedging Activity, which showed a total of \$247,631,584. She said the gist of the Executive Summary is that these practices were not consistent with industry practices, but utilized by other organizations of that kind. She then referred to a letter that was written last year by Mr. Herbert Whittall, past Utilities Commission Chairman, who suggested that the City Council send the information to all participants of the FMPA (attached to the original minutes). She read, *"We hope all of your City Council has read and understands the gravity of the findings of the Florida Government Audit of FMPA. It shows that FMPA management has not been doing what FMPA was*

set up to do. Namely, to deliver Natural Gas and Electricity to its members at the lowest possible price, lower than any one of us could obtain for ourselves. As elected officials we are responsible for FMPA's actions. We request that you appoint one of your fellow council members to be the voting member on FMPA's board. We need to rein in FMPA's \$2 Billion debt and wasteful ways." She then read from comments made by Mr. McDermott in response to what Mr. Whittall wrote, *"Fellow Commissioners, I applaud Chairman Whittall's cause to action, however, I do not believe it is anywhere near strong enough action. Having read the recently submitted audit of FMPA, I find myself appalled by the lack of general business management practices by the Auditor General, David Martin, such as ..."* She said that at this point Mr. McDermott's comments went on to list quite a few of them. She then read, *"I know you have all read the Audit, but I would be remiss if I didn't underscore the bad judgment and outrageous costly decisions FMPA management has made in other unacceptable financial decisions."* She said in closing, Mr. McDermott stated, *"They are an organization that has run amuck by contracting its members to obligations never bought into or envisioned, and has not fulfilled its mission of supplying our communities with reasonable rates."* She said this is the context, which discussion should take place. She felt this was something that the Commission should recommend to the City Council. She felt that Mr. O'Connor had vast technical knowledge, but it was obvious that these huge losses occurred while the representatives on the FMPA Board were not Elected Officials. She said they have already seen the outcome and the staggering losses by not having Elected Officials on the Board, who are accountable to the voters. She said that State Representative Debbie Mayfield pointed out at their last meeting that an argument is raised that an Elected Official won't have the technical expertise. She said that is true, but Representative Mayfield also stated that there is nothing stopping an Elected Official from bringing the City Manager or Utilities Director to advise them. She said the big issue is accountability. She said the City Manager answers to the City Council, but not to the voters. She felt that they have to have direct accountability to the people.

Mr. Teston referred to a memorandum from the Vice Chairman, Mr. Auwaerter dated May 9, 2016 (attached to the original minutes). He said that he agrees with Mr. Auwaerter in that Elected Officials come and go. Mr. Teston said that he did not know of any Elected Official who was elected because of their knowledge of the electrical utility systems. He felt that if they are going to have continuity and a sense of accountability and attempt to manage the organization, it would have to be the City Manager or Utilities Director, just as Mr. Auwaerter stated. Mr. Teston said the City Council will have to vote on anything that they would recommend anyway. He did not see where having a Councilmember sitting on the FMPA Board was to any advantage of this City or any other city. He felt the Commission needed to consider the memorandum from Mr. Auwaerter and leave it to the City Council to resolve it.

Mrs. Moss said that she attended the City Council meeting when she thought Councilmember Randy Old was asked to be removed from this position and Councilmember Pilar Turner volunteered. She said that Mrs. Turner does have background as an Engineer. Therefore, they do have qualified people on the City Council.

Mr. Lapointe suggested that they take advantage of their new found Roberts Rules of Order because they are having a discussion about a possible action without a motion on floor.

Mr. Lapointe made a motion that the Commission recommends to the City Council that the representative to the FMPA Board be the City Manager or his representative. Mrs. Orcutt seconded the motion.

Mr. Lapointe said this would allow the City Manager to be the representative or he could appoint for a particular meeting the person he feels would be the most appropriate for the subject under discussion at that meeting.

Mr. Tonkel felt they should be very clear about what Mr. Auwaerter is recommending, which is that the representative should be the City Manager or Utilities Director. He is obviously saying to the Commission members that even though there might be value in having an Elected Official, in terms of accountability it doesn't bring the level of expertise. Mr. Tonkel felt that Mr. Auwaerter made a very rational case to do what they have been doing and what the City Council has elected to do. He said that he did not know if this was the Utility Commission's business. He felt this was outside the boundaries of the Utilities Commission. He felt that Mr. O'Connor has been doing a commendable job in representing the City's interest.

Mrs. Orcutt said that she has served on a lot of boards where elected officials served and it is hard to have consistency. She agreed with Mr. Tonkel in that she was not sure this was in the Commissions purview. She said that she appreciates the work that Mr. O'Connor has done.

Mr. Randy Old, Vice Mayor, said that he served on the FMPA Board for 12 or 13 months. He said that he didn't understand FMPA and asked to be on the Board so that he could understand. He said that his background is finance and he didn't understand the audit. He said that he spent a lot of time with the City's Finance Department in trying to understand it and it is still very complicated. He said that during the FMPA Board meetings they do vote. He said that he stepped down from serving as the City's representative because he felt having someone who was going to stay on the Board year after year was a better choice. He noted that each municipality does it differently, but most of them have the Utilities Director as their representative.

Mrs. Moss asked what is the history of Vero Beach's representatives. She said that she knew Mrs. Turner served as the City's representative prior to Mr. Old.

Mr. O'Connor said it was the City Manager from the beginning up until recent times.

Mrs. Moss asked was Mrs. Turner the first Elected Official to serve as the City's representative.

Mr. O'Connor said as far as he knows she was the first Elected Official to serve on the Board representing the City of Vero Beach.

Mr. Tonkel asked what was the original motion.

Mr. Lapointe repeated his motion.

Mr. Tonkel made a motion to amend the motion that the determination of the representative to FMPA be left solely to the discretion to the City Council who in his opinion are in a position to place the person they feel is most qualified either a Councilmember and/or City Manager. He said to prescribe basically that it be the City Manager at this point detracts the ability of the City Council to make the determination. He said hopefully the amendment would prevail and the initial motion would be in effect defeated.

Mr. Lapointe called for a Point of Order. He said the motion is not an amendment. If Mr. Tonkel wants to proceed they could call the vote on the original motion.

Mrs. Moss said they would first vote on the amended motion.

Mr. Mechling seconded the motion for discussion.

Mrs. Moss felt it was good that they remind themselves that they are an Advisory Board and are not dictating terms at any time to anyone. But, with that being said her position is that she would hope an Elected Official would represent the City because they have seen the results when it is not an Elected Official, which resulted in disastrous financial losses. She would hope it would be an Elected Official, who would be directly responsible to the people and could certainly count upon the advice of a financial and technical expert who is within the City.

Mr. Mechling felt it should be left to the City Council. He felt that the best person might not be someone who is elected because of the complexity of the financial and technical side. He felt it would be hard to find the person with that knowledge and experience. He felt the person who would be best served would be by appointment of the City Council, who are the ones who are elected. He would support the concept of Mr. Tonkel.

Mr. Teston read into the record the second paragraph of Mr. Auwaerter's memorandum, *"I think that this approach breaks down in practice. I have listened into FMPA's meetings by telephone and also attended the last Board meeting in Orlando. The issues are quite complex and in order to make informed decisions require an individual to have a background in both utility operational and financial analysis. It is highly unlikely that we will have a Councilperson with both that background and also willing to spend the time to research and analyze the issues."* Mr. Teston felt that Mr. Auwaerter's point should be well taken by this Commission. He said it was reinforced again today that the even if a Councilmember has the qualifications regarding the financial and technical issues, that Councilmember may or may not be reelected and if not, then the new Councilmember would have to get up to speed. He said they need continuity and someone with as much knowledge as the City can bring forward to represent the City and make viable recommendations to the City Manager and/or the City Council. He said they would be just as accountable as a Councilmember.

Mr. Baczynski felt the point about the changeover of Councilmembers was only valid up to a point. He thought that in the 10 years that he has been in the City of Vero Beach there have been three (3) City Managers and three (3) Utility Directors so they also have turnover. Therefore, they too have a learning curve. He said they were not really improving the situation for the City when these turnovers happen. He said employees retire, take new positions, move, etc. He felt if they want to make decisions on the most logical basis, they should look at what it is that FMPA has done that has caused the most problems (technical or financial).

Mrs. Moss said that is a valid point that they could have the same kind of change with personnel as they do with City Council.

Mr. Mark Mucher said the City Council is going to determine the representative no matter what the Commission recommends. He felt this was a mute point. He said when Mr. Old resigned from the position he wanted to appoint Mr. Howle, who had no experience. Mr. Howle declined the position and then the City Manager was appointed.

Mr. Tonkel wanted to make it clear that his motion was that the representative could be either/or and is clearly the determination of the City Council. He felt that Mr. O'Connor has represented the City wonderfully and is not the issue here. He felt the issue was that the authority is left up to the City Council and the Commission should not even be making a recommendation.

The Deputy City Clerk called the roll on the motion to amend the motion that the determination of the representative to FMPA be left solely to the discretion to the City Council who in his opinion are in a position to place the person they feel is most qualified either a Councilmember and/or City Manager and it passed 5-2 with Mr. Baczynski voting yes, Mr. Teston no, Mr. Mechling yes, Mrs. Orcutt yes, Mr. Lapointe no, Mr. Tonkel yes and Mrs. Moss yes.

Mrs. Moss said they now need to vote on the main motion.

Mr. Lapointe explained the main motion was mute and the amendment to the motion that they just voted on became the main motion.

6. CHAIRMAN'S MATTERS

Mrs. Moss asked the Commission members if they had any items they would like on the June Utilities Commission agenda. She suggested that they discuss how they want staff to prepare the outage reports.

Mr. Teston thought they suggested having a value over time so they would be able to see how the outages are being handled.

Mr. O'Connor suggested that Mrs. Moss speak with Mr. Fletcher on how they want their report on outages.

Mrs. Moss said that she would go back and look at minutes when this was discussed and speak with Mr. Fletcher prior to their June meeting.

Mr. Teston thought the Commission also discussed what type of matrix they would like on the operation of the Electric Utility.

Mr. Baczynski suggested that the Utilities Department publish a report as an example of what they can do at this point. Then the Commission members can look at it and see if they are covering things the Commission members feel are important or if there are things the Commission members think should be added. He said they have received generalized information, but if they received a sample report on what they could do every quarter the Commission members would be in a position to decide how well it meets their needs.

Mr. Teston noted that they need to be careful because they could be drowned with numbers. If they don't ask for specific information it could be so overpowering that they would not be able to function.

Mr. Lapointe said that he discussed the STEP program with Mr. Bolton who has a concern with five (5) canopy streets located on the beach in that he is bound by Ordinance not to install sewers in those rights-of-way. He said that Mr. Bolton suggested that the Commission discuss this at an upcoming meeting.

Mrs. Moss said they would plan to discuss it and that she would speak with Mr. Bolton in the meantime.

Mrs. Orcutt suggested that at the beginning of their agendas that they add the item; agenda additions, deletions, and adoption of the agenda.

7. MEMBER'S MATTERS

A) Parliamentary Procedure – Stephen Lapointe

Mr. Lapointe said the comments from the City Attorney were coincidental to his placing this item on today's agenda. He felt it was incumbent on them to adhere to Robert's Rules of Order. He said contrary to the statement by Mr. Coment, Robert's Rules of Order is for organizations of any size, not just for large organizations. He said there are some variances in the instructions given by Mr. Coment. For example, contrary to Robert's Rules of Order, the presiding officer (Chair) may make a motion. Mr. Lapointe said normally that is not done. He explained that normally if the Chair feels that they need to make a motion, the gavel is handed to the Vice Chair and the Vice Chair facilitates the discussion and the Chair can resume their position after that item is complete.

Mr. Mechling said that he needed some clarification. He asked with the motion today, wouldn't it have been appropriate that the maker of the original motion had to accept the amendment because of the intent to dramatically change it. If the maker of the motion

would not have accepted it then they would have had to vote on the original motion and then move forward with subsequent motions. He asked is that correct.

Mrs. Moss explained that what she read was that once a motion is made; the maker of the motion no longer owns the motion; that once a motion has been made any other member can make changes.

Mr. Lapointe said also in the instructions from the City Attorney, it states, "*members of the public shall limit their address to three (3) minutes during the public comment section of the meeting.*" Mr. Lapointe felt it was nice that they often allow public comments during discussions, but according to the instructions given to them, that is not a proper procedure. He then read from Section 2.56, "*The Council shall be adjourned sine die no later than 11:00 p.m. unless the meeting is extended or continued to a time certain by a vote of the City Council.*" He said that he loved the idea of having an adjournment time.

Mrs. Moss said that she would like that too, but when they were working on the OUC contracts it was not practical. She then referred to the public comment issue. She said that she is a very strong believer in listening to the public. It is her understanding that if the person presiding over the meeting allows it to go beyond the three (3) minutes there is no problem. She said that she would check on this.

B) Procedure for Presentations – Stephen Lapointe

Mr. Lapointe said often times when presentations are given the Commission members tend to interrupt with questions before the presenter has the opportunity to give their presentation. He felt that in the interest of efficiency and time it would be better to allow the presenter to make their presentation and then ask questions. He felt that what was happening was that the members interrupt the presenters with questions, which gets them diverted into tangential conversation that detracts from the force of the presentation and takes up unnecessary time.

Mrs. Moss said that she would agree with him if it is a short presentation. But, some of the presentations can be quite lengthy and she did not know if anyone could remember their questions.

Mr. Lapointe said they could take notes during the presentation.

Mrs. Moss felt that certain things come out of spontaneous discussions.

Mr. Mark Mucher said they have had a lot of discussions during today's meeting that became mute. He felt that the business regarding Robert's Rules of Order was one of them. He said for the 30 years that he has been involved with the City it has always been his understanding that the City does not abide by Robert's Rules of Order, that they have their own rules. He felt that since the Utilities Commission was a subcommittee of City Government, any discussion of Robert's Rules of Order was probably mute.

Mrs. Moss said if that is the common perception that is very bad because Mr. Lapointe is correct and the City Council should be abiding by Robert's Rules of Order and if people think they are not that is very unfortunate. She said that is also part of the City's Code, which states how they are to conduct themselves. She explained that whatever is not stated in the City's Code, they are to follow Robert's Rules of Order. If they are not following Robert's Rules of Order then that should be corrected.

Mr. Tonkel said that he was not going to change his behavior. He said that he gains a lot by the questions that he asks and he felt it has been helpful not only to him but to the other Commission members (referring to the presentation issue). He said if they want to call him out of order to feel free.

8. ADJOURNMENT

Mr. Mechling made a motion to adjourn today's meeting at 11:07 a.m. Mr. Teston seconded the motion and it passed unanimously.

/sp