

VERO BEACH UTILITIES COMMISSION MINUTES

Tuesday, September 13, 2016 – 9:00 a.m.

City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Chairwoman, Laura Moss; Members: Stephen Lapointe, Judy Orcutt, Bill Teston and Alternate Member #1, George Baczynski **Also Present:** City Manager, James O'Connor; Finance Director, Cindy Lawson; Water and Sewer Director, Rob Bolton and Deputy City Clerk, Sherri Philo

Excused Absences: Robert Auwaerter, Chuck Mechling, J. Rock Tonkel, and Richard McDermott, Jr.

1. CALL TO ORDER

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

2. PRELIMINARY MATTERS

A) Approval of Minutes

1. August 9, 2016

Mrs. Moss referred to page two of the August 9, 2016 Utilities Commission minutes. She noted that "*Fibrio*" should be "*Vibrio*." She then referred to page four noting that "*and*" in the statement "the City of Vero Beach and electric franchise" should be "*an*." She then added to the minutes after the last sentence of the first paragraph under item B), "*Candidates for State Representative have pledged to pursue this kind of change. Infrastructure requirements with regard to transmission and distribution have been discussed at previous Utilities Commission meetings. There was a proposal that we would need to spend \$21 million dollars over the next 20 years on utility infrastructure. The Power Plant has been closed since last year. We are not in the power generated business. The power that we sell is purchased from Orlando Utilities Commission (OUC) and the Florida Municipal Power Agency (FMPA). So we are talking strictly about transmission and distribution, not power generation. The \$21 million dollars is allotted to update the transmission and distribution infrastructure. Also, the City itself has concerns with existing pension liabilities and post employment benefits that remain unfunded. There are infrastructure needs beyond utilities including needed roadwork.*"

Mrs. Orcutt said that Mr. Lapointe has his PHD and should be referred to as Dr. Lapointe.

Mr. Baczynski referred to page three noting that "*Layne Sikes*" should be "*Lange Sykes*."

Dr. Lapointe said that he would submit to the Deputy City Clerk correct spellings of scientific names.

Mr. Baczynski made a motion to approve the minutes of the August 9, 2016 Utilities Commission meeting as amended. Mr. Teston seconded the motion and it passed unanimously.

B) Agenda Additions, Deletions, and Adoption

Mrs. Moss pulled item 2-C) from today's agenda. She explained that the information provided in their backup was not the final draft and was currently being updated. She said that she would place this item on their October meeting agenda.

Dr. Lapointe made a motion to adopt today's agenda as amended. Mr. Baczynski seconded the motion and it passed unanimously.

3. PUBLIC COMMENT

None

4. NEW BUSINESS

A) Review of cost of legal counsel (outside attorneys and City staff) for electric matters for both current and previous fiscal year figures. Present projection for the coming fiscal year. – Ms. Cynthia Lawson

Ms. Cindy Lawson, Finance Director, explained that the report provided in their backup, *Gardner, Bist – Electric Utility Legal Services – 8/10/16 - list of costs*, is a report that she started keeping when the City first began working with Gardner, Bist (report attached to the original minutes). She noted that this report was accumulative since January, 2014 and is not by fiscal year. She reported that for fiscal year 2014/2015, out of the \$1.1 million the cost was about \$556,000. Year to date for 2015/2016 the total professional services of the electric utility was about \$600,000, which is not just for Gardner, Bist. She reported that the budgeted amount in 2016/2017 for total professional services in electrical services is \$750,000. The reason it is not just Gardner, Bist is because the professional services line item in non-departmental of the electric utility is where they put all costs for outside professional services, including Gardner, Bist, the attorney's that assisted in the Old Diesel Plant, the auditors, the actuaries, etc.

Mrs. Moss questioned the Lower Rate Initiative in the amount of \$331,562.

Ms. Lawson explained that was primarily the renegotiation of the OUC contract.

Mrs. Moss asked Ms. Lawson to discuss the first three items of the report, which were General, Electric Legislation, and Regulatory.

Ms. Lawson explained that she keeps track of what is paid. She does not keep track of the actual expenditures or the purpose for them.

Mr. Jim O'Connor, City Manager, explained that whenever legislation is being proposed they look at what the impact would be on the City.

Mrs. Moss asked is it fair to say that for years 2015/2016 the amount is \$600,000.

Ms. Lawson noted that year to date it was \$602,000 including Mr. Wright's (Attorney of Gardner, Bist) expenses, expenses associated with the litigation on the Old Diesel Plant, actuaries, auditors, etc. The budget for that line item for 2015/2016 was \$1 million and

they are at \$602,000-\$603,000 as of the end of July. In the coming fiscal year they budgeted \$750,000 for that line item.

Mrs. Moss asked if she could subtract \$602,000 from \$1 million to determine year 2014.

Ms. Lawson answered no. She said that she could go back and research what Gardner, Bist, alone was in 2014.

Mr. James O'Connor, City Manager, noted that one reason the budgeted amount was going down was because costs are going down as they are running out of places to appeal. He reported that at 9:30 a.m. this morning the Public Service Commission (PSC) would be hearing the City's case with Indian River Shore (IRS) and hopefully they will make a decision. Once that decision is made the next appeal would be to the State Supreme Court, which only looks at hearing information that is submitted to them. Therefore, the cost will be relatively low because they have already accumulated the documents and information.

B) Update on progress of STEP System – Mr. Rob Bolton

Mr. Teston reported that he spoke with Mr. Bolton prior to today's meeting and asked if the cost for installation of the STEP System was available to the public. He was told that the information is located on the City's website.

Mr. Rob Bolton, Water and Sewer Director, showed on the screen the City's website and how the public can maneuver the site to gather information on the STEP System. He briefly explained Exhibit B – Charges, Fees, and Credits to the Commission members.

Mr. Teston said they were putting out a lot of information, but in reading it the average homeowner would have trouble arriving at a cost. He felt that it should be simplified so the homeowner could come up with what their total cost would be.

Mrs. Moss asked how many STEP Systems have been installed.

Mr. Bolton said they have completed between 60 and 70 installations. He reported that they are redesigning how they go through the process because they are receiving more and more calls and there is a lot of paperwork involved, which is very time consuming. He said they are trying to speed up the process by having things done at the same time they are doing all the paperwork.

Mrs. Moss asked what is the timeline to have a STEP System installed.

Mr. Bolton said if it is an emergency they usually get it done within a two-week period. If it is under the normal process it would take about 30 days.

Mrs. Moss asked when this is fully implemented, how many homes would be involved.

Mr. Bolton answered approximately 1,500.

Mrs. Moss asked approximately how long will it take.

Mr. Bolton showed on the screen a map showing where the lines have been installed, as well as areas they would be working on. He said they have about two (2) or three (3) streets left and then they would be starting on the mainland. He noted that this did not include the canopy streets on the barrier island.

Mrs. Orcutt asked what percentage of the 1,500 home sites have less than the 24-inch clearance to the groundwater.

Mr. Bolton answered 65 to 70 percent.

Mrs. Orcutt reported that the Department of Health did a study at the end of 2015 at the request of Governor Scott and the Legacy Systems that have the less than 24-inch clearance to the water table have a zero reduction of nitrogen. Therefore, all the nitrogen that is in the septic system is entering the groundwater. She said it is very important that they encourage people to connect to the STEP System. She then handed out to the Commission members a copy of the *Draft Florida Onsite Sewage Nitrogen Reduction Strategies Study* (attached to the original minutes).

C) Discussion of installation of STEP System (Canopied Streets) with regard to proposed changes in Code Section 71.14 Rights-of-Way required to be improved – Mr. Rob Bolton

This item was removed from today's agenda.

D) Emergency preparation for water and wastewater treatment systems with reference to the standards of the EIS Council as stated in its "Black Sky" Handbook – Mr. Rob Bolton

Mrs. Moss read into the record the E-Pro Handbook II, Volume 2 / Water, page 13, Executive Summary - Introduction, "*Black-Sky power outages lasting a month or more, covering multiple regions of the United States, would inflict cascading failures across the electricity-dependent sectors essential for preserving the economy, public health and safety and national security and for sustaining the lives of the population on affected regions*" (attached to the original minutes). She reported that Mr. Bolton gave a tour of the City's facility to people who are concerned about these issues.

Mr. Bolton reported that they gave a tour to the gentleman who wrote the report because he was trying to get a better understanding of how a "black-sky" event would affect the water and wastewater industry. Mr. Bolton reported that because the City has an older system a lot of how they run the Plant is done manually. A lot of the newer Water and Wastewater Plants rely on electronics to run their systems so they are more prone to problems from a "black-sky."

Mrs. Moss asked when does the Water and Sewer Franchise Agreement for "out of City" residents expire.

Mr. Bolton answered March of 2017.

Mrs. Moss asked if the Utilities Commission should be discussing it.

Mr. Bolton said the City Attorney received a draft Franchise Agreement from the County this past Friday. He said that City staff and County staff would be working on it, which would probably take a few months before they have a final document.

E) Update on meeting of FMPA, FPL, City, and County. Other FMPA matters. – Mr. James O’Connor

Mr. O’Connor gave a brief update on the meeting between the Florida Municipal Power Agency (FMPA), Florida Power and Light (FPL), the City of Vero Beach, and Indian River County that was held last month via telephone. He reported that FMPA said if they have a proposal that works within the framework of the existing contracts they would be happy to entertain it.

Mrs. Moss asked is there a report of the meeting available.

Mr. O’Connor answered no.

Mr. O’Connor reported that FMPA has prepared an exit cost in the All Requirements Project for each city and the City of Vero Beach’s cost is about \$33.4 million, which more than likely the City would not be exercising at this time. He has been told by the City’s attorneys that there is no penalty to allow the drop dead date to pass, but the City would have to give another three (3) year notice of termination.

Mrs. Moss reported that at the City Council unanimously passed a Resolution regarding the Florida Auditor’s General Audit Findings of the FMPA. She read into the record, Section 2 of the Resolution, *“The City Council requests the Florida Auditor General and Joint Legislative Auditing Committee: A) Initiate an appraisal of FMPA to determine the Fair Market Value (sale between a willing buyer and a willing seller) of the generation assets of each of the FMPA projects; B) Allocate the Fair Market Value to each participating member of each FMPA project for inclusion in the participating members’ financial statements; C) Determine fair and equitable exit costs allocated to each participating member of each FMPA project as proposed by Florida Tax Watch report,” an analysis of FMPA audit members should be able to exit with reasonable and predictable exit costs to best serve their customers” and D) Continue to schedule periodic operational audits of the FMPA.”*

5. OLD BUSINESS

A) Follow-up to presentation by Dr. Widder of Ocean Research & Conservation Association (ORCA) regarding Kilroy Monitoring System – Mr. George Baczynski

Mr. Baczynski asked Mr. Bolton for an update on what has transpired since he was put in contact with the Ocean Research and Conservation Association (ORCA).

Mr. Bolton said that he spoke to Mr. Monte Falls, Public Works and Engineering Director and they were going to try to get together with Mr. Warren Falls of ORCA. He noted that this has not occurred yet, but he would have something to report at the next Utilities Commission meeting.

Mrs. Orcutt reported that she attended a meeting last week and the Florida Department of Environmental Protection (FDEP) gave an explanation of Governor Scott's proposal for 50/50 funding to help with septic to sewer conversions. She said the FDEP has been charged with putting together the legislative ask for this 50/50 funding. She said at the direction of the Governor, FDEP is to write that the only people eligible to apply for grant funding would be the counties impacted by the Lake Okeechobee discharge. She asked Mr. Bolton that because the City has experience by doing a letter writing campaign to the Governor to implement the STEP System, which was successful, could the City submit a letter requesting that this grant funding is allowed Lagoon-wide. She asked Mr. Bolton if he felt it would be helpful to ask the City Council, the Utility Department or whoever it should be of the City to send a letter to the Governor asking that he offer the 50/50 funding Lagoon-wide.

Mr. Bolton said the group that really helped them with the STEP System was the Indian River Neighborhood Association. He felt that as a citizens group, they had a better voice than cities. He said if she wants to do this, that it needs to be an effort of everyone, not just the City.

Mrs. Orcutt said that she started with the Soil and Water Conservation District, who did agree to write a letter to the Governor. She felt that the City should write a letter and they could ask others to also write a letter. She asked Mr. Bolton if he would write a letter.

Mr. Bolton said that he would work on drafting a letter.

Mrs. Orcutt asked the Commission members if they knew of any other organizations they could get to send a letter to the Governor.

Mr. Baczynski suggested the Audubon Society.

Mr. Baczynski said a few meetings ago he spoke with Mr. O'Connor about a subscription to Grant Finder that FMPA subscribes to.

Mr. O'Connor said that he has not found anything in the Grant Finders that would apply to the City.

6. CHAIRMAN'S MATTERS

Mrs. Moss reported that she also attended the Indian River Lagoon meeting that Mrs. Orcutt referred to. She said there is a Brevard County Plan that is very well done and has three points, which are: *reduce excess nitrogen, remove muck, and restore citizen oversight.*

Mrs. Orcutt reported that the Brevard County Plan is located on the Brevard Natural Resources website.

A) Distribution of information by the City Clerk's office

Mrs. Tammy Vock, City Clerk, entered today's meeting at 10:30 a.m.

Mrs. Moss said that she noticed when she receives information from the City Clerk's office it states "undisclosed recipients." She felt that to be transparent, when things are sent it should show who it was sent to, the date, and the time it was sent. She asked is that possible.

Mrs. Vock explained that when she sends information to Commission/Board members, she sends it as a "blind copy" to ensure that no one responds. She said that previously she would send information asking them not to respond, but after speaking with the City Attorney's office they felt that sending "blind copy" would be a safer way to send it. She said that she would make a copy of what she is sending prior to sending it and keep it in the City Clerk's office so if anyone ever has a question they could see that the information was sent to everyone on the Commission.

Mrs. Moss requested that as the Chairperson, she would like to receive something on her copy that shows who receives the information.

Mrs. Vock said that she would make Mrs. Moss a copy of what was sent, but she would not send it out that way.

Mrs. Moss said that she wants to make sure that everyone receives the information.

Mrs. Moss asked who else receives this information. She asked is there a media list.

Mrs. Vock answered no. She said most of the information is sent to the Utilities Commission and the Finance Commission.

Mrs. Moss said the reason she was asking was because last year during the OUC contract negotiations an out of state blogger received information before the Utilities Commission received it. She said recently she had a question that she addressed to the City Attorney's office and the City Clerk's office. She asked how does this information go anywhere else.

Mrs. Vock said that information was given to the City Council at the request of the City Attorney to make sure Council received a copy of his memorandum. She noted that if the media requests a copy then she would of course send it to them.

Mrs. Moss said an effect this could have is it could cause people to be fearful of asking a question.

Mrs. Vock noted that anything put in writing is a public record.

Dr. Lapointe said if they don't want to put the email addresses in the information being sent to the Commission/Boards, all that needs to be done is select the names in the "blind copy" prior to sending it out and paste the names at the bottom of the document.

Mrs. Moss asked then the Commission members if they had any items they would like on next month's agenda.

7. MEMBER'S MATTERS

Mrs. Orcutt asked for an update on the FMPA Solar Survey.

Mr. O'Connor said the Survey is in the process of being developed.

Mrs. Moss said that she would put that item on next month's agenda.

8. ADJOURNMENT

Mrs. Orcutt made a motion to adjourn today's meeting at 10:41 a.m. Mr. Teston seconded the motion and it passed unanimously.

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