

MINUTES OF A REGULAR MEETING OF THE FORT PIERCE UTILITIES AUTHORITY, TUESDAY, JANUARY 19, 2010, 4:00 P.M., CITY COMMISSION CHAMBERS

Members Present: Chairman, Robert W. Summerhays, Jr.; Secretary, Darrell Drummond; Deputy Secretary, Pamela K. Cully; Deputy Secretary, Michael A. Perri, Jr.; and Mayor Robert J. Benton III.

Absent: David Recor, Ex-Officio Member/City Manager.

Others present: William G. Thiess, Director of Utilities; Rupert N. Koblegard, III, FPUA Attorney; Nina Hurtubise, Director of Finance; Nancy Dallaire, Risk Manager; Thomas W. Richards, Director of Electric and Gas Systems; Timothy E. Perkins, Director of Water and Wastewater Systems, and Putnam Moreman, IV, Internal Auditor
The meeting was called to order by Chairman Summerhays.

The Invocation was given by Dr. Ken Brown of Hope for Families.

The *Pledge of Allegiance* was recited.

The roll was called and a quorum declared.

A motion was made by Mr. Drummond, seconded by Mrs. Cully, and unanimously carried to approve the following items listed on the Consent Agenda:

1. Approval of the Minutes of the Regular Meeting of January 5, 2010.
2. Approval of an increase for the second of three one-year renewal options, for RFP #5789, Hydrogen Sulfide Control Services (Piggyback Manatee County Bid No. 07-5835FL), with Siemens Water Technologies, Sarasota, Florida, in the amount not to exceed \$30,000.00, for a total not to exceed contract amount of \$180,000.00
3. Bid No. 5977: Authorization to accept the lowest responsive responsible bid from Allied Universal Corporation, Miami, Florida, for approximately 650 wet tons of Caustic Soda 25%, in the amount of \$99.67 per wet ton, for a total not to exceed \$64,785.50 annually.

A note was received from The Mustard Seed thanking FPUA customers for the amount of \$520.00 contributed through Project Care.

Mr. Thiess said that the Avenue Q project has been around for about five years and we are very close to implementation.

Valerie Schulte, Supervising Engineer for Water and Wastewater Engineering presented the Interlocal Agreement for Avenue Q sewer improvement project. She said

this project has been around quite a long time. On January 15, 2008, the Board approved a contribution equal to four years of sewer revenue up to \$52,000 and for half of the overlay costs at that time, which was about \$66,000. Mrs. Schulte said it was realized there was not adequate funding from any other parties. FPRA had agreed to extend some funds, but it was not going to cover the whole amount. In the meantime, there was an application for Community Development Block Grant (CDBG) funding, which the County did secure; however, there are quite a few conditions attached to it. The major condition is that all the low to moderate income (LMI) tenants need to be provided the sewer service. There are a few properties in the County that need to sign an annexation agreement and to date we are missing one of those. The other requirement is that they need to sign up for and agree to accept the sewer service. Mrs. Schulte said that letters just went out for that and we have only received two back and are waiting for another fifteen. She said that in the meantime the County and FPRA Boards have approved this Interlocal Agreement and we would like to get this done and have it in place so that once we get the grant funding requirements met, we can move forward. Our contribution is \$65,000 and we have the money in our budget.

Mr. Thiess said that it is up to \$65,000. It is \$24,000 if there are no change orders and the rest of the amount is to cover change orders.

Mr. Drummond said that Mrs. Schulte indicated that the letters have gone out to the seventeen and we have received two back.

Mrs. Schulte said that two people went into customer service and have signed up.

Mr. Drummond asked if there is a plan to getting these signatures or are we looking to wait until they respond.

Mrs. Schulte said they did give a deadline of January 24th and at that point if they have not responded, further action will be taken like sending a second mailing. She said we may get the County involved where they actually walk the block and try to talk to the people.

Mr. Drummond asked if these are County residents only.

Mrs. Schulte said they are City and County residents.

Mr. Drummond said his concern is that this is old business and he would like for it to be over. If we need to do something more assertive, he would like for that to be the case because he would like for this project to be done at least in his life time. He said January 24th sounds good for the first one, but he said he would like some kind of report back to the Board so that if we need to get involved at this level, or the City needs to get involved, we can progress to get these signatures and move this project forward.

Mrs. Cully asked how long the grant is for.

Mrs. Schulte said the grant requirements are within a couple of years of completion. She said it is not a construction timing issue right now. The concern that she has, and

she has not received an answer from the County on this, is how long they can keep the bid open. They received very good bids on the construction work and it was under our estimate. They awarded it in December, but we do not know how long they can hold out before they give a notice to proceed.

Mrs. Cully said so that would go away.

Mr. Drummond said that as he understands it, they will not be given notice to proceed until such time that these are in place.

Mrs. Schulte said that is correct.

Mr. Drummond said that the contractor is ready to go and this is holding it up. He said that he would like something back formally so that the Board knows if they need to do something.

Mr. Thiess said that they are going to track the letters as they come in. He said Mrs. Schulte has a table that engineering has prepared that lists all the essential master items of this project. They are going to include in there a column for coming in to sign up for service and having an annexation agreement signed. Mr. Thiess said that we can update the Board as frequently as they would like.

Mayor Benton asked if there was still one hold out.

Mr. Thiess said one person refused to sign the annexation agreement, but that property has been vacant for over a year and that removes it from the lower income requirement with CDBG. It is not a primary residence and nobody is living there so the owner of the property is not LMI and they have no tenant. He said we got off the hook on that one.

Mrs. Schulte said it was based on the tenant income level and if the property is vacant for a certain amount of time, it does not see a benefit from the sewer so they exclude it from the LMI requirement.

Mayor Benton asked if it was a county resident.

Mrs. Schulte said that is correct.

Mr. Thiess said they would be able to connect any time down the road because they will have a sewer service sitting in front of their house.

Mr. Perri asked if they would have to sign the agreement at that time.

Mr. Thiess said yes.

A motion was made by Mrs. Cully, seconded by Mayor Benton, and unanimously carried to approve the Interlocal Agreement with St. Lucie County and the Fort Pierce Redevelopment Agency for the sewer improvements in Avenue Q between 25th Street and 29th Street which includes an FPUA contribution to the project of up to \$65,000.00.

Mr. Dewey Hudman, Administrative Coordinator of Water Distribution, presented the item for a contract extension and contract increase to the Unit Price Contract with Ditchdiggers for Water Distribution and Wastewater Collections. Mr. Hudman said they would like to extend the Unit Price Contract to the end of our fiscal year, which is an eight-month extension and will cost approximately \$335,000 based on the initial terms of the contract. He said they would also like to change the two one-year renewals to coincide with the fiscal year change and that would allow them to budget their funds in a more efficient manner.

Mayor Benton asked if the increase was the cost of the labor.

Mr. Thiess said no, the increase is for the increased period of time.

Mr. Hudman said that one year is for \$650,000 and by extending it by eight months; it would be greater than that sum. The rates do not change. Ditchdiggers has signed a letter that is in the Board's package that they will hold their third year rates through the two one-year extensions, which was not in the original bid.

A motion was made by Mr. Perri, seconded by Mr. Drummond, and unanimously carried to approve an increase for the remainder of the fiscal year and a contract extension for the Unit Price Contract for Installation of two-inch water mains, water services, and miscellaneous system improvements, Bid No. 5675, with Ditchdiggers, Inc. Fort Pierce, Florida, in the amount not to exceed \$335,000.00 (Water Distribution \$135,000.00 and Wastewater Collection \$200,000.00).

Mr. Thiess said this status report for the electric power cost adjustment is our standard format that we bring every month to the Board. Staff has not recommended an increase or a decrease in the power cost adjustment and that will be up to the Board's discretion. He said Nina will present the facts and if the Board would like to discuss comments from the workshop as far as which direction we might head option wise, we can do that.

Nina Hurtubise, Finance Director, presented the Status Report on Electric Power Cost Adjustment Over / Under Recovery for December 2009. She said that we continue to be in an over recovery situation. The table presented is a rolling 24 months of data to show how it has gone up and down over time. Mrs. Hurtubise said that for the month of December 2009, we added only about \$178,000 to the over collection. She said we had anticipated it would be more than that, based on projections, but this is what it has turned out to be based on the rates actually charged to us. We do have an accumulative over recovery of about \$1.9 million, which is exactly where we would expect to be at this time of the year. We did end up paying sustainably more for our energy rate for the month of December over what was projected only the month before by FMPA. It was not anywhere near as bad as it was for the month of November. FMPA has begun to project at the 50% confidence level and we had been using 80%, so we wanted to be sure that the rates were going to turn out the way we expected them to be. They have gone to a 50% confidence level and they projected that the December energy rate would be \$29.37 per MWh, but charged us \$47.37 per MWh.

That is 61% higher than what they were projecting. The demand rates for transmission and other capacity did drop, but so did our peak demand. Our bill did go down on that side of the house and fortunately we did see some positive things in the month of December. Mrs. Hurtubise said that we continue to follow up with the month of December. We did decrease the power cost adjustment (PCA) to \$52 and we did drop it again in January to \$50. In the month of December you can see what we were charged and where our PCA lies and if you include that in the base, we are still over recovering. Where we stand today is there were four possible scenarios, plus the hybrid result that were recommended by Public Resources Management Group (PRMG), our Rate Consultants. They were presented in great detail and we can discuss this further. Mrs. Hurtubise said she believes that is what the workshop was for and we did discuss it at great length for a long period of time, the different possibilities of how to approach the PCA moving forward. She said generally there are two philosophies, one is do we want to keep the PCA pretty much the same all year round or would we want to change it every six months so that in the summer we would have a low PCA in times of high consumption to lessen the burden on the customer. In the winter when the consumption is less and the bills are less, raise the PCA slightly so we end up with a more level billing. The question is do we try to reduce the impact on the bill or do you want to make the PCA the same all year round. We do have the projection out through the end of September 2011 presented to you. The scenarios are very similar. Because of some of the reductions that we have already taken, some of those options are a little bit more limited, but there are lots of different choices and different philosophies to take. Staff is looking to the Board for guidance as which direction you would like to see us go.

Mr. Drummond said he would suggest after reading the paper on Friday after our workshop on Thursday, he was sorry he was not able to attend that meeting because what he read in the paper did not seem like the meeting he attended. He said the paper made it sound as though we were going to stay just the way we are. Mr. Drummond said that we left it that we would review the information and see which direction we wanted to go. He said he is of the mindset that the 80% confidence level that the staff has suggested, if we went with the hybrid method, we would not be negatively impacted. If we went that route and lowered it to \$48 and kept it there until October, and if everything stays at the 80%, we would be looking at an increase to \$55 in October. If on the other hand, we see that numbers that are suggested by FMPA come to pass, then we would probably be looking at something less than \$55 in October. He said he does not think we would be hurt by looking at an additional \$2.00 at this time under the hybrid system, which is at the 80% confidence level and still gives us an opportunity to move with the FMPA numbers as they come into the staff. Mr. Drummond said that is the direction that he would like to have us go in the short term.

Mrs. Cully said that after looking at all four scenarios, she would like to stay in the 80% confidence level because that is conservative and that is the way she is. She said she is thinking of our comfort level and she would like our rate payers to be comfortable. She thought the hybrid looked good except that it has a \$7 increase in October, which she said is way too much and it would be hard on our customers. In the winter time when we drop that a little bit nobody notices it because we do not use as much electricity. In the summer if we keep it lower it will not make a difference because all the

bills will be high because of the amount of electricity we use. Mrs. Cully said that she would prefer scenario #3 even though it is \$50, which is where we are right now, but it stays that way through October and then in October it only gets raised by \$4. She said she would like to know that every month she would have a pretty good idea of what her bill would be. She said she could easily recover from \$4 instead of the \$10 in scenario #4 or \$7 on the hybrid result. Mrs. Cully said if we drop it to \$48, Mr. Thiess said that he feels we could probably do that and still be okay. The staff and Mr. Thiess are going to continue to look at this every single month and we could drop it down if FMPA rates get better.

Mr. Drummond said that it is his understanding if we visit it in October, it would impact our customers in November's bill so we would be going into the winter months anyway where we would be looking at a reduced cost to our customers so it should not hurt as badly.

Mr. Summerhays asked when we have ever had a cold October in Fort Pierce.

Mr. Drummond said he understands and if indeed we are accurate and we find that none of the projections that FMPA has given us hold true, we are still not going to be negatively impacting our customers before October. He said he is of the opinion as it stands for many of our customers with \$50 it already is a hardship, even if it is predictable. Mr. Drummond said he is looking to be a little bit more competitive for our customers now where we can be without placing us in any kind of financial negative position which this hybrid suggests, we would not be placing this organization in a negative position.

Mrs. Cully said that she agrees with Mr. Drummond and she would like to stay with the \$48, but we all want that comfort level and she always has liked that. She said when it comes to money, it is a little different and she likes to have everything steady and something she can count on. If we would be a little bit more conservative and just keep it at a level we feel that is steady that would be the best for our rate payer.

Mayor Benton said that if he was going to support any of the scenarios, it would be the hybrid one because it is very difficult to project anything until he sees FMPA projections get a little bit more accurate. They have been so off and if they go a few months where they are close and their predictions are a little bit better, he would feel a lot more confident. He said right now he is looking at whatever can be done to reduce the costs to the consumer at least until next fall. There is talk about the price going down as far as the costs of electricity and he finds that surprising. Mayor Benton said he wants to see reality. He said with the hybrid scenario it shows the public that we are looking to give them some sort of relief now and it will not hurt us financially. If there is an emergency down the road, we will do what we have to do.

Mr. Thiess said that we do look at this on a monthly basis, our finance director, PRMG, and our staff. We are at a 70% to 80% confidence level that is based on rate forecast curves and is driven by the costs of fuel. If we are setting it up on the 80% curve and we end up on the 70% curve, staff would bring back a recommendation for reduction depending on the curve we are on not on the one we assume we are going to be on six

months before. If the FMPA projections on the 50% confidence level come through, we will be bringing recommendations back that are not even on these charts. We will watch it and whatever curve we end up on is going to be based on experience. It is just a matter of which one we assume starting out as to how conservative we want to start out. Staff will make adjustments to make sure we are on the right curve based on the recommendations.

Mr. Summerhays said that there are two things that play to him and one of them is that what we are really picking here is a philosophy not a specific plan. Do we want to keep the PCA higher in the winter so we can lower it in the summer or not have to raise it as far and help level our customer's bill. Mr. Summerhays said what really causes the pain is these sudden changes. He said the usage goes up in the summer and if we have a situation like we did last year where we were at \$54 and in February we looked pretty good so we dropped it to \$49 and instead of going positive on the over/under collection as we thought it was going to be, by June we were \$4 million in the hole. We were forced to turn around and raise it back the \$5 to \$54 right in the height of the cooling system. He said that he does not want that to ever happen again. Mr. Summerhays said he has some doubts about the ability to project these rates and he would like to play it month by month, but he thinks that FPUA needs to have a philosophy about whether to keep it higher in the winter. He said that he can think about a lot of good reasons to do so and among them is that he is not comfortable with \$1.9 million in an over collection because we were \$4 million in the hole last June and he does not ever want to be there again. We were literally running out of cash. For those reasons, Mr. Summerhays said that he favors something closer to scenario #3, but looking at it every month. If we do start getting billed less, we can lower it a month or two months down the road. In the meantime, we are building up our over collection in preparation for summer and playing it safe.

Mr. Thiess said that if we take the high winter lower summer PCA philosophy, every dollar you take in the winter, you get back in the summer. It all washes out to zero.

Mr. Summerhays said it is just a matter of when it gets paid because whichever scenario we pick, the customers are going to end up paying the same it is just a matter of when they pay it. He said he truly believes the volatility is the killer and he thinks we ought to pursue that. If we can see where a month from now we are really over collected because the projections from FMPA came true, we will lower it then. In the meantime, let's keep it at \$50 and adopt a policy of keeping it higher in the winter.

Mr. Drummond said that he would suggest that as he looks at 2009 from March through July that is where we were running those great deficits. This hybrid scenario suggests that we have 80% confidence that after the \$48, we would still be okay through October. October would be the earliest we would have to address it. He said that he is in agreement that we need to have a policy that works to the good of the customer, but his overall concern now is that he is looking to help relieve the burden that they have been living with for more than six months. There is no down side to going to that additional \$2 if staff is going to be coming back to us each month with their monthly review of where FMPA is going to end. If we find that the number is completely and continuously out of level, that \$2 back one way or the other is not going to impact the customer that

much. At this point, without doing great damage to us financially, we are able to give additional relief to our customers. Mr. Drummond said it is not fiscally irresponsible to look in terms of doing that at this point.

Mr. Summerhays said the other problem that he has is the \$7 increase in October with the hybrid scenario.

Mrs. Cully said that is exactly what she was going to say. It does not do our rate payers a whole lot of good if we can drop it \$2 and end up having to raise it \$7 in October. Scenario #3 only has to raise it \$4.

Mr. Drummond said that under normal circumstances he does not think you would have a big argument from him, but in this particular climate anything we can give our customers now is a benefit to them. If we can do it without hurting the agency, he is in favor of that.

A motion was made by Mr. Drummond and seconded by Mayor Benton to lower the Electric Power Cost Adjustment by \$2.00 from \$50/MWh to \$48/MWh effective February 1, 2010 and revisit it on a month to month basis with the intent of having another adjustment in October. Those voting in favor of the motion were: Mr. Drummond, Mr. Perri, and Mayor Benton. Those opposed: Mrs. Cully and Mr. Summerhays. The motion was approved.

Attorney Koblegard said that the Harbour Isles project where we billed for Capital Improvement Charges back in 2004, which is right at about \$400,000, and it was caught a couple of years later that it had not been paid. They had tapped into their potable water to feed the irrigation system. We filed suit against them last May and told them instead of pursuing it through the courts we would see if we could resolve it. He said that we have been going back and forth and it is to no avail. We are no closer today than where we were. After the staff meeting we discussed it last Wednesday and Mr. Koblegard is advising that we go ahead file the answer and pursue it in court to try and resolve the issue. Mr. Koblegard said he is sorry that we have put it off this long, but we were trying to be the good neighbor and look out for the residents there.

Attorney Koblegard addressed the issue with FDOT where they said we owed them money for delays and we say that they owe us money for having to relocate. In light of that and as a result of the City Commission quit claiming the property to the FDOT without our knowledge where we could have raised the issue that our utilities are there and we need to be protected, we met with the City a second time and they are trying to go to bat for us to see what we can work out. Mr. Koblegard said he has been advised by the FDOT attorney that unless we had an answer to them right after this meeting, they would go ahead and file the suit. The FDOT attorney sent us a copy of the complaint, he held it up until we had a chance to mediate it and see if we could resolve it. Mr. Koblegard thinks he will still hold up on it and we are hoping that the City will be able to help us and maybe at our next meeting he can report back to them that it has been worked out. If not, we will probably have to have a meeting outside of the sunshine and he suggests that we do it right before the meeting. Mr. Koblegard said it

probably would not take more than twenty minutes because he could just meet here early, if that is what we have to do. He said there are some issues that we need to discuss, but we can do it in private. Mr. Koblegard said that Mr. Thiess is allowed to attend that meeting with us, if it comes to that. It is actually the first suit that we have had since 1995 and we will have to have a court reporter there. The court reporter takes the transcript and types it up for the record and it is kept. It is not released until this case is resolved. Mr. Koblegard said that hopefully it is not going to happen, but it may be where we have to go on this one.

Mayor Benton said he would like to follow up on what Mr. Koblegard was talking about. He said he has sent all the information from their meetings, what has gone on back and forth with FDOT, and the information provided by Mr. Koblegard to the Secretary of FDOT. He said it has been almost a week now and he has not heard back from them and he is going to make a phone call tomorrow. Mayor Benton said he expected to hear something by now, but after sitting through two meetings and hearing details on this, you would think that parties in the field that have worked together for years and when somebody makes a mistake, somebody would bring it to their attention. Mayor Benton said to have progressed to this point and the cost and FDOT paying it off does not make a whole lot of sense. He said he does not think it makes sense to the City Attorney either. He hopes this can be resolved because a Statute has been created now that would not have allowed this to happen today as it has happened before. Unfortunately, the taxpayers get stuck with it. Mayor Benton said that if he does not resolve it with the Secretary he would get it to several of our legislative delegation and see if they can put some pressure on them. He said that hopefully he would have an answer by next meeting.

Mr. Perri said that he has had some comments from the rate payers about the public workshop that did not seem very public. They were not asked at the end of the meeting if they had any questions. He said the meeting was quite lengthy and some of the people that had questions left before it was over and he said he did not think that was the proper format. If we are going to have a public workshop, we ought to include a time for people to speak. He said the length of the meeting was quite long without a break. Some people apparently had other things to do and they left. Mr. Perri said he thinks we need to put a little more thought into the time of day that we have meetings and be sensitive to the public that want to speak.

There being no further business, the meeting was adjourned.

ATTEST:

SECRETARY

CHAIRMAN