

MINUTES OF A REGULAR MEETING OF THE FORT PIERCE UTILITIES AUTHORITY, TUESDAY, AUGUST 17, 2010, 4:00 P.M., CITY COMMISSION CHAMBERS.

Members Present: Chairman, Robert W. Summerhays, Jr.; Vice Chairman, Darrell Drummond; Secretary, Pamela K. Cully; Deputy Secretary, Michael A. Perri, Jr.; Mayor Robert J. Benton III, and 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; Thomas W. Richards, Director of Electric and Gas Systems; Evelyn I. Walker, Director of Shared Services; Douglas W. Giel, Manager of Special Projects; Nancy Dallaire, Risk Manager; and Anne Satterlee, City Communication & Marketing Manager.

The meeting was called to order by Chairman Summerhays.

The Invocation was given by Reverend Ames Pittman of Westside Baptist Church.

The *Pledge of Allegiance* was recited.

The roll was called and a quorum declared.

Rand Eckhart, President of Energy Structures & Systems, Inc., 5458 SE Railway Avenue, Stuart, Florida said that with this being an election year, numerous statements have come out in reference to Fort Pierce Utilities Authority. He said statements like, in order to reduce rates, they should get out of the electrical business, sell a portion to FPL, or the Utility Board should be taken over by City Commissioners. Mr. Eckhart said the most important issue is to not let the politics get in the way of what they are trying to accomplish and how best to lower utility rates by adding benefits to commercial and residential ratepayers, as well as boosting the image of the utility itself. There are several ways these goals can be accomplished without increasing the already large burden on the backs of the ratepayers. Mr. Eckhart said one area the Utility Authority could accomplish part of these goals would be in the critical area of peak demand. He said peak demand is the times of the day when the cost and the use of electricity are at its most demand and at its highest use. The peak costs during these times are what we do not see in average rates because of the high costs of peaker power plants who run less sufficiently and operate few hours a day or years depending on the time and the use. These costs do not even take into account the cost of pollution or more importantly the vast amount of water needed to operate these plants. Mr. Eckhart said FPUA in the fiscal year 2009 purchased 115 megawatts of demand power out of 529 million kilowatt hours at retail sales. He said the demand load represents approximately 22% of the total kilowatt hours or about \$17.5 million of the total gross receipts taken in by FPUA. By utilizing these figures furnished on the FMPA website, the average FPUA cost per kilowatt hour is \$0.15 per kilowatt hour. For the sake of discussion, if we take the avoided cost of \$0.06 per kilowatt hour and multiply it by 115 megawatts by offsetting the total peak demand load that would give a figure of \$6.9 million. That figure is roughly equivalent to the amount of the City of Fort Pierce receives annually from

FPUA. This would be a win/win situation for both the Utility and the City, if we could offset these costs. Energy Structures & Systems, Inc. is presently implementing a pilot plan through the private sector to offset peak demand loads of large commercial and industrial sectors of local businesses thus reducing the operating costs of each business and reducing the peak demand for the utility. Mr. Eckhart said he feels the financing mechanism they have in place and in working with FPUA, this plan would be highly successful. He said energy efficiency and conservation programs are another important part. Energy efficiency is the first fuel in the race for clean and affordable energy because it is the cheapest and fastest to the plug. By combining energy efficiency with renewable energy, this would offer FPUA a sustainable energy future that provides greater energy security, cost less, pollutes less, and supports economic growth in job creation other than the FPUA current course. If FPUA expanded its energy efficient measures and invests in renewable energy applications, it could cut demand loads by 20% by the year 2015 without relying on conventional power sources such as natural gas, oil, coal, and nuclear. Savings that FPUA could recoup could then be used to fund an energy conservation program, solar rebate programs for the residential and commercial ratepayers, plus lowering the costs and creating jobs. Mr. Eckhart said that however FPUA decides to move forward on energy production and energy efficiency conservation, ESS, Inc. stands ready to offer its continued assistance.

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

1. Approval of the Minutes of the Regular Meeting of August 3, 2010.
2. Approval of POA #11620 for additional funding for use of Accountemps to staff one Utility Accountant position in the Department of Finance, not to exceed \$10,918.60.

John Tompeck, Superintendent of Gas Operations, presented the Gas Rate Stabilization Fund August 2010 update. He said staff has rerun the sensitivity analysis which includes the June data and some preliminary July data and the curves are tracking as we predicted. There is one financial adjustment that was made in June that affects the overall status of the Rate Stabilization Fund (RSF). We have been participating in Public Gas Partners (PGP) Gas Supply Agreement No. 2 since 2009. In this agreement we have been participating with producers in drilling undeveloped, but proven areas and our original investment in this was \$992,000. Since our entry into that program, we have received monthly statements from FMPA, which identifies our nets costs (credits) based on performance of the project. We have applied these costs (credits) to our cost of gas supplied. Since this asset was purchased in 2009, it has not been amortized. The amortization for 2009 is a little over \$41,000. Since we have applied our costs (credits) to our physical costs of gas, the amortization is also being charged to that account and was booked in June 2010. What is seen on the curve is the black line shows that it has taken a little plunge in June and that is the \$41,000. It has been taken into account in terms of the projection for the RSF. Mr. Tompeck said

the August uncorrected curve is close to the July and original March one with the only difference being the price of gas which changes on a monthly basis. The corrected curve with the \$0.05 increase that went into effect in June is also tracking as predicted and would require us to make an adjustment to the PGA in May to June 2011 time frame. The average cost of gas over the last four months has been about \$0.73 per CCF and that is a bit higher, but it takes into account the amortization we took in June. Considering our \$0.30 PGA and the \$0.33 that is included in our rates, we are still under collecting on a monthly basis. Mr. Tompeck said all indications are that natural gas will remain fairly steady with the normal winter spike and that is based on the fact that production has been steady, storage of natural gas is on pace for the year, shale gas production is up, and the number of producing rigs is up. He said our hedge position for 2011 is good at an average price of \$5.70 per MBTU, we are \$1 less than what we are this year. It was about \$6.72 this year and that \$1 translates into about \$300,000 for the year because we use about 289,000 in MBTU. We expect the gas bill to be less next year, assuming gas prices remain the same. This information is informational, and no action is requested of the Board. Mr. Tompeck said staff is requesting that in the future, this update be presented every two months rather than monthly. He said the methodology is working well, the prices are fairly stable, and we do not expect any major changes short of some sort of catastrophic event. If there are any major changes, it will be brought back to the Board the first scheduled meeting.

Mr. Summerhays asked the members of the Board if they had a problem with getting this information bi-monthly.

The Board Members said they did not have a problem with it.

Mr. Summerhays said that would be acceptable to the Board.

Nina Hurtubise, Finance Director, presented the Quarterly Financial Operating Results for June 2010. She said we are three quarters of the way through the year. We have a year-to-date increase in Net Assets of \$2.3 million and that does look fairly good. A large part of that relates to receivables booked from the Fort Pierce Redevelopment Agency (FPRA), which we have not received any of the funds that have been billed to FPRA at this time. It also includes the Non Cash Contributions, the \$1.3 million from St. Lucie County for a force main. In general, we are doing alright, but it is not necessarily as good as it looks. We are continuing to see the increases in Units Billed compared to last year, but generally down from 2008. We did see another increase in our cash position. As of June 30, we have about 62 days of operating cash and preliminary numbers look like it is going to go down a little bit in July. Ms. Hurtubise said since we last spoke, we have spent about \$510,000 in Capital money. We are still lagging behind what we anticipate to spend in Capital. We are getting down to the last three months of the year and it seems likely we will spend a good chunk of it, but unlikely that we will make it to the \$10.5 million we were projecting. These numbers are through today and not through the end of September. In the month of June we reported some additional depreciation of about \$1.1 million in which we are reducing the value of water assets. Water main lives are being reduced down to 40 years for some of the older

assets to accurately reflect the value of the assets we have on our books. Our year-to-date operations, our Units Sold overall are generally up for 2010 compared to 2009, but still down from 2008. Percentage wise, electric is a 5.3% increase over 2009, but down 7.5% from 2008; water is up about 1%, but is down 4% from 2008; wastewater is down 3% from 2009 and down 11% from 2008; and natural gas is up 3.6% from 2009, but down slightly from 2008. Ms. Hurtubise said the dollars associated with the amounts sold to our customers, electric shows to be down 1%, they are actually up 5% if we take out the decrease in the power cost adjustment (PCA). Our power costs have decreased as have our gas costs. Because our expenses are going down, so are our revenues and the idea is there is no profit involved. When we remove the PCA, we are up about 5% in the electric area. Water is up about 2.5%, wastewater is down about 2.5%, and natural gas is up about 4%, but if we pull out the PGA, which reduces our revenues, the natural gas revenues are up about 8.8%. Overall our Operating Revenues companywide were down about ½%. Debt Service Coverage, we have had consistent revenues and the graph shows our Operating Income over a rolling 12-month period. As of the end of June for the rolling 12-months our debt service coverage is 3.02, which is well above our 1.25 debt service requirement. Ms. Hurtubise said the big changes from last year to this year are that our Operating Income is up \$2.3 million and if we take out the PCA and PGA, Operating Revenue is up \$2.2 million. We are not recording OPEB at the level we were last year so that is another favorable thing that makes this year look better and makes last year look worse. Our Employee Compensation and Benefits actuals of what we have spent this year versus last year is down almost \$900,000. Our Capital Contributions continue to run down about \$1.5 million as compared to last year, which is 26%. Those things are all positive; the Depreciation year to-date is up \$2.2 million. This is for information only and no action is required of the Board.

Ms. Hurtubise presented the Rate Comparison for June 2010. She said the comparison for 1,000 kWh shows that FPUA is number six this month, which is one position higher than it was last month. It is important to note how very close all the cities that fall just to our left. If we would be able to reduce our rates \$3.00 it would move us six positions to the left. Ms. Hurtubise said she personally thinks it looks worse than it really is. We are not too far out of the running. She said since May, six utilities have increased their bills and nine have decreased their bills. Havana had an increase of \$10.94 and Quincy reflects an increase of \$12.40, which offsets their decrease of \$12.70 in May. They are trying to track their costs very closely to what they are paying and their customers see a difference in their bills every month. On the 2,500 kWh comparisons, FPUA is the eighth highest, which is one level to the left from last month. As requested last month, we have changed the color scheme of the charts and the red bars are the Non All Requirements Members and the green and blue bars are the cities that belong to the Florida Municipal Power Agency's All Requirements Project. Ms. Hurtubise said the local comparison prepared by staff for Fort Pierce, Port St. Lucie, St. Lucie County, and Vero Beach has no changes as compared to May. She said this is for information only and no action is required of the Board.

Mayor Benton asked if St. Lucie County Utilities' electric is all FPL.

Ms. Hurtubise said that St. Lucie County Utilities is all FPL and the reason it is lower than Port St. Lucie is because there is no franchise fee.

Ms. Hurtubise presented the Status Report on the Electric Power Cost Adjustment (PCA) for July 2010. She said these are preliminary results for July and as anticipated for the months of May and June, FPUA gave back about \$2 million to the customers. This was partially a result of the reduction of our PCA to \$44. July power costs from FMPA were billed to FPUA at rate of \$93.13 per 1,000 kWh and that was a decrease of \$11.61 as compared to June. As a result, the under collection was only \$62,000 and there is still a small over collection of \$150,000. We carried a fairly large over collection through the year, but at this point, we are rapidly approaching zero. We are very pleased to see that there have been no radical changes or any really bad errors in the estimates. If anything, the estimates we have been provided are higher than the actual costs have come through and that is a good thing. Ms. Hurtubise said the next chart shows the amount we are billing to the customers and what we actually paid to FMPA is almost exactly the same at the month of July. She said in recent months the projections have been higher than what the actuals have turned out to be. Through the past months of November to January that was not case, but that was a long time ago and the further out those estimates are, the worse they were. FMPA has changed their methodology. The 50% confidence level numbers are on the top of the table and 80% confidence level is down below. The 80% confidence level numbers are more conservative and they are coming pretty close to the 50% confidence numbers. Ms. Hurtubise said what that means moving forward is the current projection is \$992,500 over collection projected for the end of September, which is an improvement from last month's projection. She said there are two other projections for FY 2011 starting October 1, 2010. The first one is that at 70% confidence level, which is more conservative than where the projections are coming in now. It indicates that in order for us to break even with our PCA at the 70% confidence level about a \$47 per kWh PCA would be required. There would be a small increase if that were the confidence level we would use. At the 50% confidence level last month we said we could hold the line, but it is actually looking like we will be able to decrease the PCA slightly if we wish to rely on the 50% confidence level projections that FMPA has provided to us. Certainly the low and stable price of natural gas is driving us to this, it is market driven. Ms. Hurtubise said we will continue to monitor this on a monthly basis.

Mr. Drummond said when we looked at this back in February and were trying to set our strategy, we did not want to go with the 50% confidence and had something that was blended. We were looking at possibly in October of an increase in the PCA.

Mrs. Hurtubise said we would re-evaluate it at that time.

Mr. Drummond said we have been tracking very closely to the 50% confidence level and it shows that we are actually coming in less than the 50%, which is a very good thing. He said if we trended that forward, we probably would not have to have any sort of increase until 2011. Ms. Hurtubise is saying that we have the 70% confidence and

the 50% confidence that the staff is taking a look at. Mr. Drummond said he is of the opinion that we can go a few more months under this 50% being fairly accurate and we might want to come back and further reduce the PCA a couple of more dollars.

Ms. Hurtubise said that is exactly what these projections are indicating this month. We have been watching to make sure we want to rely on the 50% confidence.

Mr. Summerhays said we need to let it go a couple of more months.

Ms. Hurtubise said that it has been trending less than the 50% confidence in recent history anyway. We will continue to hold the PCA through the end of September, which is another 1 ½ months and perhaps next month we will bring to you some good news.

Bill Abramowicz, Customer Service Manager, presented Resolution No. UA 2010-08 rescinding, revising, and restating Resolution No. 2006-16 concerning the Schedule of Commercial Security Deposits for Utility Services furnished by Fort Pierce Utilities Authority. He said this is revising our commercial deposit resolution which came out originally in 1999 and we have had minor changes over the years. The major change to the resolution we are requesting today is removal of the reduction or refund of deposit for active commercial accounts in order to protect the interest of FPUA. A minor change is the refund of money held by the Utility when we are unable to find the accountholder; those monies are turned over to the State of Florida so we wanted that mentioned in the resolution. There are other minor housekeeping revisions to the Resolution as noted in red.

Mr. Drummond said this has caught him off guard in terms of the revision of the removal of the ability to refund the deposit of the commercial. He said we certainly do not want to get to the point that we are not perceived as a business friendly utility and asked for an example of what is driving us to not want to have some kind of incentive for businesses that always pay their utility bills on time.

Mr. Abramowicz said on the residential side, we do refund deposits with good credit history after two years so that is not part of this resolution and is a separate resolution. He said on the commercial side, what we tend to do and this resolution has held is that we retain an average two-month bill for our commercial customers. In 1999 the current manager and director decided to separate the resolutions and have a residential and a commercial deposit resolution since they were so different. On the residential, if we were to refund the deposit and the customer were to default, at the most we could look at is a \$1,000 write-off. On the commercial side, we have some very large commercial customers, some of them with multiple accounts, so our risk is quite high. One of the instances that came to light is we did have a customer that was eligible for a refund of deposit, had an excellent payment history, owned the property, and luckily they had not been refunded, but they did go into bankruptcy. We would have been liable for about \$40,000 at that point for that one particular customer had it gone into bankruptcy and we were not adequately deposited. Mr. Abramowicz said in looking at that and in light of the list we have of the commercial accounts, we decided that was probably not the

risk we wanted to take. He said we do have customers that have been credited their deposit back and we have put in the clause of them being grandfathered in as long as their payment history remains adequate and they do not have cut offs or returned checks. The risk was \$40,000 on commercial write off and our year-to-date write offs for eleven months on the commercial side is about \$43,000, so that one hit would have been all of my commercial write off for the entire year. If it were multiple accounts or larger accounts, the risks would have been greater and those write offs are passed off to the rest of the ratepayers. Mr. Abramowicz said basically the average two-month bill is to cover the last two months worth of billings when the account closes. We apply that deposit against the account and any balance owed will be refunded to the customer. Customers also have the opportunity to not place cash deposits with us. They can place a letter of credit or bond which is less than 1% of the amount we are requesting annually that they would have to pay a bank or an insurance company. Basically, we are trying to protect the rest of the Utility and not have to pass any of those costs to other customers. We are trying to keep our write offs down and this is one of the ways we believe it should be addressed.

Mr. Drummond said to be fair, the letter of credit or the bond is typically going to be available to the larger businesses. The smaller business would not have that as an option.

Mr. Abramowicz said we do pay interest on cash deposits and we do not make any money on that deposit. Whatever interest we acquire, Finance annually adjusts that amount and it is passed directly back to the customers.

Mr. Drummond said he appreciates the gross amount driving this, one customer greater than the entire year of uncollectables, but at the same time that represents a very small percentage of FPUA's business customers out there. This one potential customer is driving the entire policy. We do have another tool in our tool box, if you will, is that we now have the ability to lien these properties if they are owned by the customers.

Mr. Abramowicz said that is correct and is part of the resolution in order to qualify for a refund on the commercial side, you have to own the property. However, in the case of the bankruptcy, we would not have the ability to lien the property for the balance. That balance has the potential to be discharged entirely.

Mr. Thiess said we have a lot more than the one case. There were several near misses that we had, maybe three or four of them that would have been tens of thousands of dollars in the recent months.

Mr. Abramowicz said it does create a panic situation on our end and we have to start looking at the balance. We try to adjust the commercial deposits on a regular basis and we tend not to touch too much on the customers that are long time, good paying customers to adjust their deposits. A report is run for credit issues and if we see that they have been cut off or had a return check, we tend to adjust those deposits.

Mr. Perri said that going up and down the street and looking at all these businesses that are closed down and shuttered, this is probably a prudent thing to do even though it might be distasteful. In the future, if the economy turns around and we do not have quite as many failures, maybe we can go back to the old way.

A motion was made by Mr. Perri, seconded by Mrs. Cully, and unanimously carried to approve Resolution No. UA 2010-08, rescinding, revising, and restating Resolution No. 2006-16 concerning the Schedule of Commercial Security Deposits for Utility Services furnished by Fort Pierce Utilities Authority.

Mr. Thiess said our budget went the City Commission last night and it has been carried forward to September 7th.

Mr. Summerhays said that it is nice that they are waiting for Mr. Perona to return.

Mr. Thiess said we will get another shot at that presentation on September 7th and will meet the deadline for getting into the new fiscal year with the budget in place.

Mr. Thiess said staff is gearing up for another round of strategic planning. We have had two or three of them with some pretty intensive all day sessions and we are going back to review what we have done, what we have accomplished, and what we still need to accomplish of the tasks we set up for ourselves back then. Mr. Thiess said we are going to look at some new things and different ways to reduce the cost and perhaps rates even further. He said as we prepared the last two years' budget, we went over the budget assumptions in the workshops and the assumption has always been no visible impact on the customer or the employee. We are going to re-evaluate those assumptions and look at things that might get into that a little bit. Not necessarily the quality of service overall, but some customers might notice some differences. We are going to work that out at staff level and have all the numbers for the Board so the next strategic planning session will be focused a lot on cost reduction. We hope to be doing it this fall. Mr. Thiess asked staff to begin this task last week and get back with him in 30 days. Once we get that to where we are comfortable with it, we will plan on setting a date out there in the fall.

Mr. Koblegard said Mr. Thiess asked him to give a short report on the status of the Harbour Isles lawsuit on the Capital Improvement Charges (CIC). He said he filed it in May of 2009 and has used up the better part of a year trying to resolve it without going forward. Mr. Koblegard said he met with the developers and staff several times, but we were never really able to resolve it so he asked them to go ahead and file an answer so we can try to move it through the court system. We are in the process of doing that at this time. They filed their answer which they call an affirmative defense giving reasons why they say they do not owe us some \$400,000 in CIC. In a nutshell, what they are saying is based on their current capacity or consumption of water, they have paid all the CIC they should be required to pay. Mr. Koblegard said that back in 1998 when the resolution was passed, it is what we used to determine what we thought were the

appropriate CIC for them to pay over and above potable water charges. He said what it boils down to because of the economic situation today, he thinks, the best he can tell, they are probably at 30% occupancy. That means they are only using about 30% of the water they would be using if they were 75% or 80% occupied. That is where their argument fails because if we based it on that today and then say you do not owe any charges and then in three or four years when things turn around, they would be using way more water and would not have paid for that capacity. Mr. Koblegard said he thinks they will have a hard time convincing the court. There are always two sides to a story, but that appears to be their main argument. What they are saying also is the resolution that we passed after we invoiced them should be used. That resolution does calculate the CIC and use of water differently than the resolution we used that was in force at the time we did it originally with them. They are saying under that scenario, they may not owe as much as we say and also that we should use the new resolution, but use the old CIC. The new resolution increases the CIC and if you apply the new CIC to the new way of determining the formula, they still owe about the same amount of money. Mr. Koblegard said he thinks that does not get them very far and they will not be able to convince a court that FPUA has to use something that was passed today and was not in force at the time. They would reverse it if it was in our favor and we are in a strong position now. We are in the discovery process right now and he has sent a request for admissions which they have answered and they have sent us interrogatories, which are sworn questions for us to answer and he said he sent them all the documents they have asked for. Right now we are subpoenaing Culpepper and Terpening Engineering records for their irrigation subcontractor records to try and get an idea of what they have discussed among them and how they were going to bypass us and feed their irrigation off the potable water system without us finding out. Once we get that information, we will start depositions and then Mr. Koblegard said he would give the Board a better reporting of where we will go with this. He said he does not see anything right now that makes him feel any less confident that we are doing the right thing and we should prevail.

Mr. Perri said he went to FMPA and they talked about an Electricity Conservation Advisory Program. They are currently trying to get together all the parties that are interested in developing a team so they might go forward with the Advisory Program when the peak might be high so that people can refrain from using high draining appliances, air conditioners, and so forth. They are going to have a meeting on the 25th of this month and he wondered if anybody has talked about attending the meeting.

Mr. Thiess said he has not talked to Mr. Richards about it, but that we are certainly interested in it. He said they are going to try to devise an agency-wide program to look at the notification process and the demand reduction in ways that are feasible like generation behind the meter, by lowering demand at peak hours with big commercial customers, and everything else that is a tool in demand response management. It is moving forward and there have been a lot of heated discussions on it. Some utilities are moving ahead with it real fast. During the cold spells FPUA has succeeded in hitting the peak hour in January and February by lowering voltage and running our generation in our plants. We are very interested in it and when that program moves

ahead, we will be participating to the extent that we can. It may also involve the Publix stores and the bigger customers such as the hospital and the people that have generation. We may be signing them on to run their generation, but to do it as an agency, it has to be dispatchable and a very organized program. Mr. Thiess said he will talk with Mr. Richards because he may be attending this meeting. If we cannot make it up there in person, we can probably get on line.

Mr. Perri said that the FPL transmission tariff they are trying to revise their tariff sheets effective July 1st. FMPA has intervened and protested and the matter was set for a settlement hearing and the first step in the process is a technical conference at the Federal Energy Regulatory Commission and it takes place tomorrow. Hopefully they will prevail and we will not be hit with higher transmission costs that we have to pass on to our ratepayers.

Mayor Benton said as a follow up to last week, the Board does not have a letter in front of them because things are moving a little bit quicker than he expected, and because of the Sunshine Law we had to discuss this publicly at this meeting and at the City Commission meeting, we have already set a meeting with myself, Mr. Thiess, Mr. Richards, and Mr. Recor to go to Juno Beach to sit down with representatives with FPL and start any discussions we might have and find out what they can do for us, if anything.

Mayor Benton said after hearing that we could lower the PCA and knowing this is the peak of hurricane season in the next month or two, his concern would be if we would have lowered it today whenever there is a storm in the gulf all of a sudden gas prices seem to go up. If we can get to October and things continue the way they are going at lower than 50%, he would hope and he wanted to let the public know why they are not lowering it now. In the past if we had the opportunity, we jumped on it, but because in this hurricane season with the projections of how many hurricanes we are going to have, there could be problems with gas supply. Hopefully they are way off.

Mr. Summerhays said that is why he said to watch for two months.

Mayor Benton said that maybe in October or the last meeting in September we can take a look at reducing it. He just wanted to explain to the public why we did not do it today when we could have.

There being no further business, the meeting was adjourned.

ATTEST:

SECRETARY

CHAIRMAN