

MINUTES OF REGULAR MEETING OF KISSIMMEE UTILITY AUTHORITY, HELD
THURSDAY, JULY 23, 1987, AT 6:00 P.M., CITY COMMISSION CHAMBER,
MUNICIPAL ADMINISTRATION BUILDING, KISSIMMEE, FLORIDA.

Present at the meeting were Chairman Van Meter, Vice Chairman Hord, Secretary Bobroff, Assistant Secretary Jones, Director Price, Attorney Brinson, General Manager Welsh, Recording Secretary Reubelt.

A. MEETING CALLED TO ORDER at 6:00 P.M. by Chairman Van Meter who noted that Director Gant would be absent and Director Hord would be delayed.

B. AWARDS AND PRESENTATIONS

1. EMPLOYEE OF THE QUARTER - NICK PASSAFUME

Mr. Welsh introduced Mr. Passafume to the members of the Board and reviewed his tenure as an employee with the Kissimmee Utility Authority. He noted Nick's pride in his work and in making KUA's Power Plant so attractive to the community and our employees.

Chairman Van Meter extended congratulations on behalf of the Board to Nick on being selected by his fellow employees and presented him with the Employee of the Quarter plaque.

2. 5 YEAR SERVICE AWARD - CAROLE CASTO

Mr. Welsh gave a brief history of Ms. Casto's employment and the contributions she has made to KUA. Carole was unable to be present at the meeting and Ken Lackey, Manager of Distribution Operations, accepted the Service Award in her stead.

C. HEAR THE AUDIENCE

Archie Gordon, President of Buenaventura Lakes Community Association, expressed concern over the surcharge imposed on customers residing outside of the City, especially since KUA now has "customers" as opposed to the City having "citizens and customers outside the City". Mr. Brinson will review this situation and the topic will be placed on the August 27 agenda.

D. INFORMATIONAL REPORTS (REQUIRING NO ACTION)

1. PROGRESS REPORT ON ENGINEERING PROJECTS

Ken Davis, Manager of Planning & Engineering, highlighted the Progress Report which was included in the Board packets and noted that the Substation Site Project would be addressed again later in the meeting.

The Construction Superintendent on the Administrative Office Building Renovation Project has been relieved of his duties and the Project Manager has assumed those responsibilities. The architects have been notified of the situation and Ken Davis will be on the site daily.

Director Hord joined the Meeting at 6:18 P.M.

2. MONTHLY CONDENSED FINANCIAL REPORT

Ken Killgore, Director of Finance, reviewed the Condensed Financial Report and answered questions of clarification.

3. COST OF POWER ADJUSTMENT

Mr. Welsh stated that he anticipates recommending advertising for a public hearing to adjust rates at the meeting after next (September) based on the trends we have been seeing.

Max Alderman, Manager of Transmission & Generation, detailed the actual COPA rate of positive \$0.00041/kWh as compared to the estimated COPA rate of negative \$0.00336/kWh. He explained that the primary reason for the increase was the generally increasing cost of fuel. Next month's report (August) will provide the first full month figures on Stanton.

In response to a question from Director Hord concerning the possibility of the COPA balance going negative in August, Mr. Welsh explained that the COPA account was always envisioned going positive and negative. Director Hord suggested that the Board consider holding the public hearing at the August meeting in view of the dropping balance in the COPA account. Following discussion, the Board decided to schedule the public hearing for the August 27, 1987, meeting. Staff will have more information available for discussion at the August 13 Rate Restructuring Workshop.

E. OLD BUSINESS

1. ANNEXATION OF KUA PROPERTY

Ken Lackey, Manager of Distribution Operations and Project Manager for the North Bermuda Avenue site, reviewed the report requested by the Board at the July meeting and which was included in the Board packets.

Director Bobroff moved that we seek annexation of our North Bermuda Avenue property into the City of Kissimmee and also seek appropriate zoning. Director Jones seconded the motion.

Motion carried 5 - 0

F. NEW BUSINESS

1. REQUEST FOR EASEMENT FROM KUA

Mr. Welsh gave background information on the request for easement which was included in the Board packets. In response to a question from Director Jones regarding possible liability of KUA, Attorney Brinson stated he could not visualize what type of event could cause liability of KUA by granting an easement.

Director Hord asked about the possibility of selling the property to Mr. Veal and our seeking the easement. Since this situation appears to be a "first" for KUA, the Board members felt it is important to determine the best approach to it.

Director Hord moved to table this item for one month and direct staff to review the alternative of selling this property to Mr. Veal, contingent upon RUA obtaining the necessary easement to service our lines and poles. Director Bobroff seconded the motion.

Motion carried 5 - 0

2. ADOPTION OF BUDGET RESOLUTION NO. R87-6

At the Board's request, the Personnel Department, in conjunction with KUA Managers, researched the market adjustments for four classifications. Kathy Gaylor, Personnel & Labor Relations Director, reviewed the written report and recommendation.

Ken Killgore, Director of Finance, outlined the process used by staff and the Board in developing the Budget and highlighted the budget document section by section. Director Price referred to Section 6, "Authorized number of employees is set forth and no changes will be made", and asked if the General Manager has authority to reclassify positions without Board approval (i.e., eliminate a lineman and add someone in finance). Mr. Welsh stated that there can only be minor pay plan adjustments and minor reclassifications.

Chairman Van Meter stated that this is a public meeting and invited those present to comment or ask questions on the proposed Budget. There were none.

Discussion continued regarding Director Price's question. Director Hord asked if there are written guidelines outlining what is allowed and what is not allowed and what is left to the discretion of the General Manager. Mr. Welsh will check into this. Chairman Van Meter stated that there are a certain number of budgeted positions and Board approval is needed to create new positions. Mr. Welsh noted that filling vacancies and promoting people does not entail Board approval and that flexibility for special adjustments is provided for in the pay plan.

Director Bobroff moved approval of Resolution R87-6, adopting the Budget for the fiscal year beginning October 1, 1987, and ending September 30, 1988, and revising the Budget for the fiscal year beginning October 1, 1986, and ending September 30, 1987. Director Hord seconded the motion.

Directors Hord and Van Meter asked for more information regarding the revisions referred to in the Resolution. Mr. Schuster detailed the procedure/methodology in use. He explained that essentially the aim is to forecast the year-end position (which is also the year-starting position of October 1) and, specifically, in reference to the designations and restricted assets where balances are accumulating. The goal is to provide more accurate projections, using a revised, actual given balance. In response to a question from Chairman Van Meter, Mr. Welsh replied in the affirmative that any changes in the budget must be submitted to the Board for approval.

Motion carried 5 - 0

Chairman Van Meter commended Ken Killgore, Jim Schuster, Jim Welsh and all the staff for producing such a fine document.

3. KISSIMMEE INDUSTRIAL PARK - LINE EXTENSION CONTRACT

Mr. Welsh gave background on this item which was the City Commission last Tuesday. The Commission felt that KUA had accepted the liability regarding Kissimmee Industrial Park when the electric was transferred to KUA.

Mr. Brinson noted that this is an important item and calls for careful consideration. There are basically two questions: 1) What is the responsibility of the governmental body to the Kissimmee Industrial Park? 2) Has that responsibility, if any, been transferred to KUA? He reported that as a result of the meetings held with City staff and at the General Manager's request he prepared a letter, dated July 20, which he read to the Board, Copy attached, (Exhibit A). Mr. Brinson believes that we have a defensible position in not assuming responsibility in this case.

Lengthy discussion took place on the various issues involved in this situation. It was the general feeling of the Board that if indeed a commitment has been made, it needs to be honored by one party or another and that negotiation may be possible. The possibility of arbitration was discussed. Mr. Brinson expressed the belief that it is up to the City to initiate any arbitration process.

Director Hord moved that Kissimmee Utility Authority provide power to Webb Industrial Park Building #1, total cost to be borne by KUA, through the transformer and to his building and from that point forward any future installations or applications that he submits to the Kissimmee Utility Authority will follow the normal guidelines of the KUA as they exist at the time of application. Director Bobroff seconded the motion.

Discussion continued on the various approaches to this situation.

Director Hord withdrew his motion. Director Bobroff agreed.

Director Bobroff moved to table the item. The motion died for lack of a second.

Director Price moved to direct the General Manager to ask the City to sign our normal line extension contract for the Kissimmee Industrial Park line extension contract. Director Jones seconded the motion.

Attorney Brinson felt that passage of this motion will allow some breathing room for all parties.

Director Price stated that he feels that we have an obligation to provide the power as diligently and as soon as possible.

Motion carried 5 - 0

4. NO. 2 FUEL OIL PURCHASE

Mr. Welsh distributed a revised agenda item to the Board containing bids and a staff recommendation. Max Alderman detailed the report and answered questions.

Director Bobroff moved to purchase 100,000 gallons of #2 diesel oil from Belcher Oil as recommended by staff. Director Price seconded the motion.

In response to a request by Director Hord, staff will contact Belcher Oil to discuss the possibility of spreading out the payments for this purchase on a fixed price basis.

Motion carried 5 - 0

G. CONSENT AGENDA

Director Bobroff moved acceptance of the Consent Agenda. Director Price seconded the motion.

Motion carried 5 - 0

1. APPROVAL OF MINUTES OF JUNE 18, 1987, MEETING
2. BID #17-87, WOOD POLES

H. HEAR GENERAL MANAGER, ATTORNEY, DIRECTORS

GENERAL MANAGER

Mr. Welsh informed the board that Orlando Utilities Commission has received approval to proceed with the Indian River Gas Turbine project and the Florida Municipal Power Agency has sent a non-binding letter of intent regarding their participation in this project. He stated that the Board will probably receive a recommendation from staff next month for KUA to send a non-binding letter of intent concerning at least 10 megawatts of the project. We are also looking at additional megawatts, which involves a more elaborate evaluation as part of our Power Supply Study.

Mr. Welsh distributed an updated calendar to the Board.

Mr. Welsh gave additional information regarding substation site acquisition.

Director Price moved to place substation site acquisition placed on the Agenda. Director Hord seconded the motion.

Motion carried 4 - 0

Director Bobroff not present for the vote

Mr. Welsh distributed a memorandum from Ken Davis detailing this issue and an attached letter from Mr. Roberts, the General Manager of Osceola Memorial Gardens.

Discussion took place regarding the amount and type of available area which is needed, obtaining an appropriate appraisal and an appropriate purchase price.

Director Hord moved to direct staff to negotiate for purchase of the site near the cemetery of approximately three acres of dry land and to authorize the Chairman and Secretary to sign a negotiated contract at a purchase price not to exceed \$50,000 contingent upon having written assurance of necessary access. Director Bobroff seconded the motion.

Motion carried 5 - 0

Mr. Welsh discussed the difficulties of searching out appropriate sites, such as the substation sites. KUA has been approached by parties, some from out of state, who specialize in right-of-way acquisition and are interested in providing their services. Staff has explored this situation and the possibility of using a local real estate person who would work on a contract basis as our right-of-way agent and the possible use of the KOA Substation Site as an experiment with this concept.

Director Price moved to direct the General Manager to engage the services of Osceola Brokerage to act as our agent to find suitable land for our KOA Substation at a net fee of 5%. Director Hord seconded the motion.

Motion carried 5 - 0

ATTORNEY

Mr. Brinson gave a brief report on a KUA case he argued recently before three of the judges in Daytona regarding whether or not we have to pay interest on overcharge. While there has not yet been a ruling, he felt optimistic about the way it went.

DIRECTORS

Director Jones stated his feeling that the Board should look very closely at the way they review budgets. He felt Board members were put in an awkward position during the past budget review of the pay increases and adjustments. Chairman Van Meter stated the concern was over the KUA Pay and Benefit Package. Director Hord stated that he felt that report should have been brought to the Board under goals and objectives before even starting to put it in the budget. These topics should not be presented to the Board for the first time in the budget. The General Manager agreed with the views expressed and will follow through accordingly.

Director Hord asked, considering the new substations and all the lines we're going to be running, how we avoid a St. Cloud type problem. Mr. Welsh responded that so far we have not had one because we've been up front with everyone we've dealt with, had public hearings on right-of-ways, talked with nearby property owners, and tried to act in a sensitive manner. Mr. Hord stressed the need to continue in those efforts and to be as thorough as possible during this period of rapid growth.

The Board decided to hold a workshop on the General Manager's Review at 5:30 P.M. on August 27, 1987, prior to the regular Board Meeting.

I. ADJOURNMENT

Meeting adjourned at 9:58 P.M.

ATTEST:


Chairman


Secretary

EXHIBIT A

EDWARD BRINSON
CRIMINAL LAW
TRIAL PRACTICE GENERAL

NORMAN J. SMITH
NANCY Y. SMITH
FRANKLIN R. STARR
C. D. LEWIS JR.

DONALD D. LETTOW
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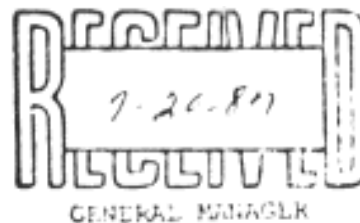
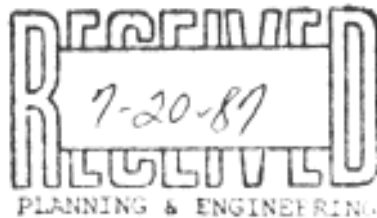
POST OFFICE BOX 549
KISSIMMEE, FLORIDA 32742-0549

POST OFFICE BOX 1234
ST. CLOUD, FLORIDA 32769

REPLY TO

Kissimmee

Cory K. Davis
Jim Schuster
Bob Berlinghoff



Mr. Jim Welsh
General Manager
Kissimmee Utility Authority
P.O. Box 2148
Kissimmee, FL 32742-2148

Dear Jim:

Following our several meetings concerning the Development Agreement between the City of Kissimmee and Kissimmee Industrial Park, Inc., you have asked me to render, in writing, my legal opinion concerning whether or not the Kissimmee Utility Authority has assumed the City's obligation with reference to certain utility improvements pursuant to the Development Agreement. As you know, when I was City Attorney, I rendered an opinion to the then City Manager that it was my feeling that in the Development Agreement the City of Kissimmee assumed the obligation to furnish such electric service to the development as may be reasonably required **at the rates and charges usually** customarily charged by the City for such service. The City's obligation was further defined in a document called "Preliminary Master Plan Policy Statement", Section Four, when it was said that the City will provide **the** necessary infrastructure, including transformers, switch stations, transmission lines and poles. It was my understanding that the City would provide the sufficient capacity to the development and construct the major circuits within the development such as poles and transformers, confining said construction to the easements provided on the developer's plan. Any additional electrical work would be done at the developer's expense such as underground services to the buildings.

Future interpretations of the obligation the City has to the developer, I leave for interpretation by the City's attorney. Based on Jim Schuster's concern that electric funds could not be used for industrial development because the same would be in violation of KUA Bond Covenants and the fact that in the Assumption Agreement between the City and KUA, the Development Agreement was not mentioned, it is my opinion that KUA should

Mr. Jim Welsh
July 20, 1987
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not furnish the required electric service without assurance from the City or the developer, that KUA's Line Extension Contract be executed.

Although, I am prepared to advocate the above position on behalf of KUA, I must point out certain concerns in the event that KUA's position is not upheld. There is a possibility that if KOA would be determined to have the responsibility to make the improvements and their failure delayed the developer, that the KLA could be responsible for damages in addition to the cost of the construction.

Very truly yours,

EB:rb

BRINSON, SMITH & SMITH, P.A.



Edward Brinson