

REGULAR MEETING OF KISSIMMEE UTILITY AUTHORITY TO BE HELD
WEDNESDAY, SEPTEMBER 10, 2014 AT 3:30 PM, BRINSON BOARD ROOM,
ADMINISTRATION BUILDING, 1701 WEST CARROLL STREET, KISSIMMEE,
FLORIDA

Present were Chairman Hardee, Vice-Chairperson Jeanne Van Meter, Director George Gant, Director Kathleen Thacker, Director Ethel Urbina, Mayor Jim Swan, General Counsel Grant Lacerte, General Manager James Welsh, and Recording Secretary Leticia Rivera.

A. MEETING CALLED TO ORDER

Director Hardee called the meeting to order @ 3:30 pm.

B. PLEDGE OF ALLEGIANCE TO THE FLAG

The Board and staff recited the pledge of allegiance.

At this time Director Hardee advised that item G has been requested to be moved to this point in the agenda.

John Quinones, County Commissioner, District 2, Osceola County came forward to speak to the Board. Mr. Quinones thanked the Board for allowing him the opportunity to speak and informed them that back in April 2013, the City of Kissimmee announced the elimination of the fire special assessment fee at the same time a revised transfer fee was approved by the KUA Board of Directors. Mr. Quinones stated the fee increased the KUA utility bill for all KUA customers of Osceola County. The transfer fee became effective October 1, 2013. Mr. Quinones stated that the fire fee which only applies to the citizens of Kissimmee costs approximately \$3M dollars. Mr. Quinones stated the new transfer fee raises approximately \$4.7M more than the previous transfer fee did, in essence a \$1.7M increase over the elimination of the fire fee that took effect October 1, 2013. Mr. Quinones stated this increase amounted to a \$17.59 per month increase to residential/commercial customers.

Commissioner Quinones advised in his opinion, unincorporated areas of the County could actually see a larger increase without a direct benefit to them. KUA's data shows that 55% of its customers live in unincorporated Osceola County. He stated that these customers were unrepresented at the time of the Board's decision.

Commissioner Quinones went on to say that KUA can argue that this was an agreement with the COK but he feels this agreement is against public policy. It is essentially taxation without representation. The 55% of the customers that fall within the unincorporated area receive no direct benefit from this tax. There is reciprocity when it comes to the fire departments and park & recreations but it does not amount to approximately \$4.7M in additional revenues.

Commissioner Quinones asked that KUA protect fundamental principles and repeal this subsidy in Osceola County.

Chairman Hardee asked Grant Lacerte, vice president & General Counsel to provide his opinion on the legality of the Board's action in April 2013. Mr. Lacerte advised that in his opinion the labeling of the transfer change as illegal taxation without representation is a misnomer. Last year, in April when the KUA Board adopted the transfer change, Chairman of the Board was living outside the City limits as a KUA customer so County rate payers absolutely had representation.

Mr. Lacerte advised that he disagrees with the characterization of the transfer change as a tax increase. The transfer is not a tax, Article 7 of the state constitution only allows the state legislature to authorize taxes that includes ad valorem taxes that are assessed by local governments. The transfer is a utility fee that comes through the

provision of electric services. This type of transfer is made by nearly every single municipal electric utility in this State. Cities and their agencies are allowed to charge reasonable fees for services subject to the exercise of their discretion. Only taxes that are authorized by the legislature are allowed to be assessed. Those taxes are subject to statutory and constitutional limits on their rates and often require voter approval. Case law in Florida and in our own district court of appeals, the 5th DCA, supports the legality of the action the Board took last year. The 5th DCA has upheld the right of City utilities to earn a profit on their operations. In fact, it allowed to stand a profit of 16% of a municipal utility from which that City derived substantial revenue. Other case law in Florida is consistent with this decision. The 4th district court of appeal also held that City utilities are entitled to derive a reasonable profit from utility operations and absolutely entitled to fund other municipal purposes with those profits.

Mr. Lacerte clarified that the action the Board took last April was legal and far from taxation without representation.

Mayor Swan provided hand-outs to the audience of what was explained by Mr. Lacerte. Mayor Swan advised that KUA was established via voter approval March 26, 1985 in exchange for the transfer of the City's electric utility to KUA a transfer fee was established for the City's return on its equity for all the previous years it developed its utility. As of FY 2011 the initial transfer reflected 4.9% of KUA's operating revenues, while at the time the statewide average for municipal utility transfers was 9.4%. The City Commission and KUA Board updated the fee for the first time in FY 2011, increasing the fee to 5.4% of KUA's operating revenues. In April 2013 the City Commission and KUA Board again updated the fee for FY 2014, increasing the fee to 7.6% of KUA's operating revenues. This move was intended to bring the fee in line with the 7.72% average for municipal utilities in Central Florida but still well below the statewide average of 9.4%. Revenues from the transfer fee are not designated to fund a specific item in the City's Budget, the revenues go into a general fund which can be spent fittingly by the City.

Mayor Swan added that the City of Kissimmee make parks & recreation programs available to all county residents at no additional charge. The City also fully owns and operates the Fortune Road Athletic Complex within the unincorporated area near Buenaventura Lakes. The City also participates in the ownership and operation of Shingle Creek Regional Park, part of which is located in the unincorporated area, in partnership with the County.

The City of Kissimmee provides fire and rescue services to the unincorporated area surrounding Kissimmee Fire station 14 that includes Osceola Corporate Center, the Loop Marydia, Tropical Park, Renee Terrance, the Highlands and other unincorporated neighborhoods. Though the County contributes annually to fund this service, the funding amount has not been updated since 2004 and may not be reflective of the actual cost. The City of Kissimmee also provides water and sewer services in partnership with Osceola County through our joint ownership of the Toho Water Authority. As authorized by the legislation adopted in 2003 and based on co-ownership, both the City and County receive a transfer fee for these utility services as well. Mayor Swan concluded that he is disappointed that this created a media circus.

Commissioner Quinones advised that this issue was brought forth to the Commission on April 2014 after learning of a press release from the City of Kissimmee which directly mentions that they are replacing the fire fee of \$68.00 a year for City residents with the transfer fee. Commissioner Quinones advised that he is here for the residents as their rates have been unfairly increased. He stated that there is an additional \$1.7M increase to not only to the City of Kissimmee residents, but also to Osceola county citizens and commercial customers which he feels is unfair. He also stated that the only notice was through a press release dated April 5, 2013. Commissioner Quinones stated the customers deserve a day in a public form and ask that KUA consider repealing this fee.

Commissioner Quinones closed with reading Chapter 366.06 of the Public Utility Commission.

Chairman Hardee thanked Commissioner Quinones for his comments and informed the audience that if there is any rate payer that has a question on their bill to speak with customer service representatives who are here to assist them.

Commissioner Quinones asked if any action is going to be taken. Mayor Swan advised no that this Board has a contract with the City of Kissimmee. Chairman Hardee recommended that he meet with the Mayor but advised that based on the KUA lawyer's opinion that the Board made the decision in best interest of the rate payers.

Meeting recessed at 3:51 pm.

Meeting resumed @ 4:00 pm

C. AWARDS AND PRESENTATIONS

1. 5-YEAR SERVICE AWARD – SAMANTHA ROBERTS, IT ASSISTANT, INFORMATION TECHNOLOGY
2. 20-YEAR SERVICE AWARD – VICTOR SANCHEZ, FIELD SERVICE SPECIALIST, CUSTOMER SERVICE
3. EMPLOYEE OF THE MONTH FOR SEPTEMBER 2014 - BOB CHYWSKI, PP OPERATOR / MECHANIC, POWER SUPPLY

Mr. Welsh congratulated Sammy and Victor for their dedication and hard work.

Mr. Welsh also congratulated Bob for being selected employee of the month for September 2014.

4. CERTIFIED PUBLIC MANAGERS GRADUATE RECOGNITION

At this time each CPM graduate was congratulated by the Board and a group photo was taken.

Chairman Hardee informed the CPM group that he took this opportunity to establish what hopefully will be an ongoing award. This is an award presented by the KUA Chairperson based on the chairperson's personal observations or by those of another member, the Employee Organization Committee (EOC), or by the president and general manager who may, from time to time, nominate a KUA employee for this award. To determine the two initial recipients of this award, staff asked each of the two CPM classes to choose the classmate who in their estimation best contributed to their learning, growth and development during the course of the CPM program. The awardee chosen by the 2012 CPM class is Bud Ajdukovic and Mike Koss for the 2014 CPM class.

D. HEAR THE AUDIENCE

At this time, Director Hardee asked if anyone from the public would like to address the Board on an item that is not on the agenda. In hearing none, the Board moved to the next item.

E. CONSENT AGENDA

ACTION: Director Van Meter made a motion, seconded by Director Thacker to approve item 1.

MOTION PASSED 5 – 0

1. APPROVAL OF MINUTES FOR AUGUST 6, 2014 REGULAR MEETING

F. PUBLIC HEARING - None

G. INFORMATIONAL PRESENTATIONS (REQUIRING NO ACTION)

1. KUA TRANSFERS - This item was address at the beginning of the meeting.

H. NEW BUSINESS - None

I. OLD BUSINESS - None

J. STAFF REPORTS

1. DELEGATION FEEDBACK & DIRECTION

Mr. Welsh, president and General Manger reminded the board that at the August 6th meeting some board members expressed concern about him always being available for the needs of KUA even during a vacation. As mentioned last month, a completely delegated period took place. Mr. Welsh named the program, Fostering Aspiring Chief Executives (FACE).

Larry Mattern, vice president of Power Supply provided an overview of the week as he was the assigned aspiring chief executive.

2. FINANCE & RISK MANAGEMENT DEPARTMENTAL QUARTERLY REPORT

Joe Hostetler, vice president of Finance & Risk Management provided an update on the current fiscal year.

3. 500 MCM COPPER WIRE EMERGENCY PURCHASE

Felix Escobar, acting vice president of Engineering & Operations provided an overview of the emergency purchase. Director Van Meter asked why this purchase had to be done. Mr. Escobar explained that the current delivery lead time on this stock as being 23-24 weeks (about 6 months). This could cripple operations and delay area developments.

Director Hardee asked how this emergency purchase affects the budget. Joe Hostetler, vice president of Finance & Risk Management advised that it's an inventory item and covered in the material and supplies budget.

K. HEAR ATTORNEY, GENERAL MANAGER, DIRECTORS

Grant Lacerte, vice president & General Counsel thanked the Board for the privilege of joining the CPM class.

Mr. Welsh shared the reminder of upcoming events with the Board and advised that the will be doing a complete delegation during the week of September 15-19.

Dr. Gant commented that the subject that occurred earlier has been around for many years and if the Board feels as though it needs more information to ask Mr. Welsh.

Director Van Meter advised that October is Domestic Violence Awareness month, and the Help Now website has many things listed that will be going on.

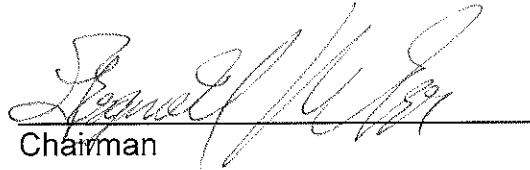
Director Urbina thanked Mayor Swan for his participation with the earlier issue.

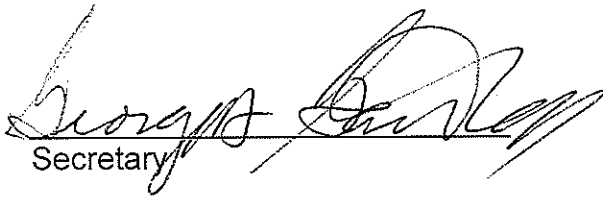
Mayor Swan commented that the earlier issue has been around for years and years.

Director Hardee thanked the Mayor as well and advised he supported the Board action then and continues to support it now. Director Hardee asked to think of the service men and those who lost their lives in the 9/11 tragedy.

L. ADJOURNMENT

Director Hardee adjourned the meeting at 4:54 pm.


Chairman


Secretary