

MINUTES OF A REGULAR POSTPONED MEETING OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, HELD IN THE CITY HALL COMMISSION CHAMBERS, 100 NORTH U.S. #1, FORT PIERCE, FLORIDA, AT 7:00 P.M. ON TUESDAY, JANUARY 18, 1994.

Mayor Dannahower called the meeting to order.

Rev. Trevor Banks, Ressurrection Life Family Worship, gave the invocation.

The Pledge of Allegiance was recited.

Upon Roll Call, those present were: Mayor William R. Dannahower; Commissioners Mary Ann Bryan, Robert J. Burdge, Darrell J. Drummond, and Reginald B. Sessions; City Manager James A. Powell; City Attorney John T. Brennan; and City Clerk Cassandra Steele. Those absent: None.

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Mayor Dannahower proclaimed the Month of January 1994, as "National Opticians Month". Fabian Bastidas was present to receive the proclamation.

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Mayor Dannahower proclaimed January 23-29, 1994, as "Florida Law Enforcement Torch Run for Special Olympics Week". Bob Provost was present to receive the proclamation.

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Mayor Dannahower proclaimed February 20-16, 1994, as "National Engineers Week". Hector Arias was present to receive the proclamation.

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The following letters will be kept on file in the City Clerk's Office:

Memorandum of telephone call received from Mrs. James Harris thanking Director of Public Works Bob Morgan and the Public Works crew for the great job they did.

Letter from E. M. Bengyak, #1 Jewelry, Inc., in appreciation of the help received from Fort Pierce Police Officer Ronald Chabot.

Letter from Ann Dunshee in appreciation of the Fort Pierce Police Department for all the good things they do and the risks they take and the hours they work.

Letter from Sunny Gates thanking Fort Pierce Police Officer Fred Pate for his additional efforts.

Letter from Linda Van Natta, Neighborhood Housing Services, thanking Director of Public Works Bob Morgan for his cooperation, assistance, and support.

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The next item on the Agenda was Approval of Minutes of the Regular Meeting on December 20, 1993, and the Minutes of the Special Meeting on January 3, 1994.

Motion was made by Commissioner Drummond, seconded by Commissioner Burdge, to approve the Minutes of the Regular Meeting on December 20, 1993, and the Minutes of the Special Meeting on January 3, 1994.

Mayor Dannahower said for the record, those who were not members of this Commission at the time of those meetings should vote "Present" rather than yes or no.

Those voting in favor of the motion: Commissioners Burdge, Drummond, and Dannahower. Those opposed: None. Commissioners Bryan and Sessions answered "Present".

The next item was the Consent Agenda. Mayor Dannahower asked would anyone like any items to come off the Consent Agenda?

Commissioner Drummond said he would like Item 8C (concerning bid from Gator Ford for Multiple Purpose Water Truck) to be removed for later discussion.

Motion was made by Commissioner Drummond, seconded by Commissioner Burdge, and unanimously carried, that the following items on the Consent Agenda be approved:

- A. Approve Minutes of the Regular Meeting on January 3, 1994.
- B. Accept lowest and best bid received from RMI-F for 860 90-Gallon Refuse Containers at \$40 per unit for a total of \$34,400.00. Bid No. 4230
- D. Approve Change Order #1 to contract with M & N Enterprises, Inc. for 10th Street Park Renovations, to extend the contract time for an additional 15 calendar days.

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The next item on the Agenda was Mr. Harry Schindehette, Director of Fort Pierce Utilities Authority, to report on Utilities Authority Resolution No. U.A. 94-2, Amending the Budget for Fiscal Year 1992-93; the Water/Wastewater Rate Study; and the Natural Gas Rate Study.

Mr. Harry Schindehette, Director of Fort Pierce Utilities Authority, said since his appointment as the Director in 1985, he has stood before this Commission eight times presenting a final budget amendment for the fiscal year of the Fort Pierce Utilities Authority. He is here tonight presenting the final budget amendment, which is technically Budget Amendment #2 for the U.A.'s FY 92-93 budget year. During the course of a fiscal year, the U.A. may present one, two, and sometimes three budget amendments to this Commission for its approval. Sometimes there is only one budget amendment, which is the final budget amendment. But whenever the U.A. closes out its business year, they have to present a final budget amendment. The external auditors cannot close the books out technically until the Commission approves the final budget amendment. What they have before them tonight is the last amendment for the budget year 1992-93. The same information presented tonight has been presented to them in all the previous final budgets. It is important for the public's benefit and the Commissioners who did not hear the discussion at the recent U.A. Board meeting that they give the background as to where the U.A. comes up with the transfer to the City because that seems to be the main item of discussion this year. It is important that each Commissioner fully understand the transfer formula as it is now established in the U.A. Bond Covenants and the Charter. (Mr. Schindehette handed the Commissioners a copy of Section 140 of the Charter and pages taken from the Official Statement of the U.A. Bond Resolution, Section 3.03, hand-labeled "Flow of U.A. Funds, i.e. Transfer Formula"). He hopes to show tonight there are no conflicts in his opinion between what the Charter says should be followed as the transfer formula and what the bond covenants say. Section 140 of the Charter was established long before the Utilities Authority was established. The Utilities Authority was established in 1972 by referendum vote of the citizens. Section 140 of the Charter was in existence at that time because reference was made to Section 140 of the Charter when the U.A. was formed. He has underlined critical sections in the Charter which correspond to the bond covenants. Technically this is the Charter of the Utilities Authority, because Section 140(b) of the Charter says that bond covenants of the U.A. override the Charter. The point he is trying to make is he does not think there are any conflicts and he hopes to show that to them. The transfer formula that the U.A. has followed to his knowledge since it was formed is laid out in the covenants, Pages C-18

through C-22, taken from the Official Statement of the U.A. Bond Resolution. He will summarize what they have in the handout. The transfer formula starts out with the gross revenues as defined in Section A, Revenue Funding. Then they go into the disposition of those revenues. They start out with the gross revenues and then distribute the money commencing in the following manner in the following order of priority. This is how they follow gross revenues down to the net income line. The first thing that is taken out of the gross revenues are capital improvement charges. These are in essence impact fees, the first thing the U.A. is required to take out of the gross revenues. The next item to be taken out is operation and maintenance expenses. They present every year an O & M budget, that is what they are talking about. The next three taken out is bond funds. There are bond sinking fund, amortization fund, and a parity bond fund. These are requirements the bond holders have and the U.A. must meet these. Then they have three reserve funds. These have been the crux of all the discussions over the past three or four weeks. They are the Renewal & Replacement Fund, the Emergency Reserve Fund, and the Rate Stabilization Fund. There is also a special fund put in there specifically to cover the St. Lucie Nuclear Power Plant Contract, under unconditional service contracts. Technically it is covered in the O & M expenses because it is a contractual obligation. The bond holders want to be sure that the Florida Municipal Power Agency, which actually purchased part of the St. Lucie County Nuclear Plant on behalf of Fort Pierce, if that agency should ever go out of business the Fort Pierce Utilities Authority would still be obligated to pay their share for the ownership of the plant. That is why that is there. It is a very unique unusual paragraph. Generally speaking, the three reserves are covered under Renewal & Replacement Fund, Emergency Reserve Fund, and Rate Stabilization Fund. Going back to the Charter, based on what the bond attorney has told them about the equivalent sections in their bond covenants, they do not feel there are any conflicts. Once they take out those funds from the gross revenues, they get down to what is called the net income as defined. He has drawn a line across there and will refer to this throughout the evening as the line, above the line and below the line. Gross revenues less the expenses or reserves gives the net income. The bond covenants and the Charter say once they get to the defined net income, 40% of that figure is transferred to the City and 60% remains in the U.A. This is generally the formula. Part of the problem they have been having is, the three reserve funds were laid out to be funded from above the line. The way it is shown in the covenants, this is the way it is to be funded and this is the way the U.A. has funded it since he has been Director. They follow this formula. When they get to this point, if the U.A. Board felt it was necessary to fund the Renewal & Replacement Fund, they would fund it right after the bond funds. If they felt it necessary to fund the Emergency Reserve Fund, they would fund it right after the Renewal & Replacement Fund. If they felt it was necessary to fund the Rate Stabilization Fund, they would fund it right after the Emergency Reserve Fund. Then what was left became the net income and the City got 40% of that. They have heard City Staff and the City Manager say as far as they are concerned, this was the City's money and should not have gone into these reserves and it should have gone to the City first. The point he is trying to make is, this is the way it was laid out and the way it has been done. The question is just now coming up. If this had been a question eight years ago, they could have addressed all these problems back then; but it was not raised then. The point is, in his opinion the U.A. Board has been following this formula exactly.

Mr. Schindehette said because of the objections that have been raised, they have been able to work with bond counsel and Mr. Elam, their external auditor, and figure out a way to do what they feel would resolve the City's concern about what they feel is their money. It depends on how they look at this. If they

follow the procedure he explained, some people say everything above the line is the U.A.'s money and it is not technically the City's money until it gets below the line; but he is not going to argue the mechanics of the word. The point is, they tried their best to figure out a way... But the U.A. Board is concerned about the levels of these reserves. The City's Finance Director, Mr. Bergalis, has said he thinks they are over-funded and he is envious. He disagrees with Mr. Bergalis. He thinks the Emergency Reserve Fund is inadequately under-funded. It depends on what viewpoint they are speaking from. The whole point is, they tried to figure out a way to where the U.A. Board would be satisfied with the levels of the reserve funds and still get the money down to the City so the City would not think the U.A. was holding or deferring their monies in these funds. In this budget amendment they have come up with that solution, they think. In essence they have not changed the transfer formula. He wants that clear. The formula stays the same. The only thing going to happen is the U.A. Board will no longer in the future place monies in the reserves coming down the list. After the first three (capital improvement charges, operations and maintenance expenses, and bond funds) are funded, they will bypass the reserve funds and get the City its 40%; and then what 60% is remaining, then the U.A. Board can decide whether they want to use some of this money to put back up in these reserves, kind of going through the back door. It is legal. If this were an issue that had been raised by the Finance Director or the City Manager eight years ago they could have resolved this then. But this is the way it has been done and nothing has been said. He does not feel the U.A. Board has done anything out of line with what they were supposed to have been following. They now have figured a way to resolve the City's concerns and still maintain the U.A. Board's concerns. That is basically the generic flow of funds that the U.A. has followed.

Mr. Schindehette said at their special meeting on January 3rd, the City Commission was presented with the first final budget amendment the U.A. Board had passed. It was rejected by the City Commission and returned to the U.A. The very next day the U.A. voted to send it back to the Commission as is; but they did not have enough time to sit down, less than 24 hours, and really look at maybe a way to compromise. After that meeting on January 4th, the U.A. Board held a special meeting held on January 13th. That is when they were able to come up with this compromise plan which they are presenting tonight. The U.A. Board in essence voted to rescind the original budget amendment and present them tonight with a second version.

Commissioner Burdge asked was Mr. Schindehette's understanding to offer a compromise to this Commission from the understanding of a past City Commission at a special meeting that happened on January 3rd, right? The January 3rd special meeting gave him a feeling that something had to be changed. Is that true?

Mr. Schindehette said that is correct.

Commissioner Burdge said but this Commission that sits here now, Mr. Schindehette has not received any expression from them on whether there is a desire to change anything.

Mr. Schindehette said that is correct. They have not met with this Commission since that January 3rd meeting.

Commissioner Burdge asked what led Mr. Schindehette to believe that this Commission desires a change?

Mr. Schindehette said the impression he got was the City Commission was not pleased with it and sent it back to the U.A. He did not try to think ahead what would the new Commissioners think. The City Commission rejected it and the U.A. went back to try to figure a compromise.

Mayor Dannahower said they are getting off the point. That budget amendment was rejected by a unanimous vote on January 3rd. Is that correct?

Mr. Schindehette said that is correct, 5-0 vote. The budget amendment in their packet, Final Revised Budget Amendment No. II, on Page 1 is really a summary of that formula. Start with Operating Revenues and Operating Expenses at the top; come down and add Interest Income and Depreciation; less Debt Service, the Renewal and Replacement (R&R) Fund, Emergency Reserve Fund, and Rate Stabilization Fund. His point here is, this is the exact same page that has shown up in every final budget amendment this Commission has been presented with in the past eight years he has stood here before them. They will notice the R&R, Emergency Reserve, and Rate Stabilization funds this year have negatives in front of those numbers. That means the U.A. is withdrawing monies from those reserve funds. They did the same thing last year. Last year's final budget amendment, nothing was done to Rate Stabilization, no money was put in or taken out. Nothing was done to the Emergency Reserves. Some monies were taken out of the R&R Fund in addition to some monies being taken out of the Capital Improvement Funds. That was done to stabilize the transfer and meet the budgeted projection. In previous years, about five years prior to that, all of these figures showed positive figures, which meant the U.A. Board was putting money into those funds. That was what they were doing, building the funds to what they felt were respectable levels. Originally what was presented to the Commission on January 3rd just summarized gross revenues less a lot of expenses; and the Board decided they wanted to put \$865,000 into the Rate Stabilization Fund. That meant below the line the net income would have been \$6.889 million for the U.A. Take 40% of that, and the projected transfer at that time for the first budget amendment would have been \$2,755,000 to the City. That was the one the City rejected and sent back to the U.A.

Mr. Schindehette said the budget amendment they have tonight is a compromise. Basically, in order to eliminate the objections the U.A. Board has voted to clean these three reserve accounts, take out all the monies that are associated with the City's 40%. Bear in mind, these three reserve funds have two ways in which they can be funded by the U.A. Board. They can be funded by putting bond-related proceeds into them; and they can be funded by putting revenue stream money in. Now with the new method there is actually going to be a third way. They can now come back with below the line 60% monies and come in and fund it from the back door. So there are really three ways to fund these reserve funds. Up until this issue came to light, they have only been using the two ways. What the U.A. Board has said is the monies that are in these funds that are derived from bond proceeds are not subject to the 40% transfer. In the R&R fund they put some bond proceeds money in there; and when the monies come out, they will not enter into the 40% calculation. The only thing that will enter into the 40% calculations are the revenue stream monies that have been put into here. When they come out, they are subject to 40%. The U.A. Board has said to take them all out right now and pass the 40% on to the City and fund it in future years from below the line so they won't have this argument again. This will not be an issue any more. Bear in mind they are still talking about a subsection of the big picture. The big picture is, City Staff has requested the overall transfer formula - this whole thing - be revised. That is still pending. The City Commission will do something about that. They are taking just a small portion of that existing transfer formula and doing something different. They are not changing this formula at all. The U.A. Board said get all of the monies that have been deferred out of there, pass it on to the City and then from now on - if this is the formula that is left - they won't have this argument again. What they have done in this budget amendment is, those three funds - Renewal & Replacement, Emergency Reserve, and Rate

Stabilization - the Board is taking money out. In the Emergency Reserve and Rate Stabilization, they have taken out all of the monies available that were contributed by revenues. Those are all the monies in those two funds that are subject to the City's 40%. Therefore, the City will be getting all of their 40% monies, if they accept this budget amendment, out of those two funds. There will be no more in those funds. There will only be bond proceeds in those funds. The R&R Funds are slightly different. It has some stringent restrictions on it. The money can only be used for capital assets. All they can take out of that fund this year is \$447,000. The U.A.'s intention is to take the remaining portion out of the R&R Funds next year, which is the remaining \$1.6 million, and they will pass that money on back to the City. That will clean up this issue. It will take them a two year period to take all of the 40% monies out of the three reserve funds and pass them on to the City. What the U.A. Board did was vote to refund and replenish those reserves with like monies from their 60% below the line funds. In essence, what will happen is they come down to gross revenues, but instead of putting money into the Rate Stabilization Fund which was proposed in the first amendment, the Board has said take \$1.4 million out of the three reserve funds. What that does it technically and realistically raises the net income as defined from \$6.889 million to \$9.198 million. When they take 40% of that, the U.A. Board is proposing transfer of \$3,679,281 this year. Next year when they clean out the remaining portion of the R&R Fund, there will be an additional approximately \$600,000. That will be it.

Mr. Schindehette said this is a very important point that the Board members want the Commission to fully understand. This is a two-edged sword. There are good and bad points to this. By retaining monies in these three reserve funds that were derived from revenues - in essence deferring the income to the City - when there is a bad financial year faced by the U.A. such as last budget year when they had a very low financial year and their transfer would have been lower than their budgeted projection, they were able to take monies out of these funds and stabilize the transfer and get it back up. Once these 40% monies are removed from these funds, which they are proposing doing over the next two years, there will never again be the ability for the U.A. to stabilize the transfer to the City. The City will have all the 40% monies and what they do with it is up to them. If next year or the year after there is a bad financial year and they are hit with a big storm or disastrous spill or whatever, and their financial net income is low, the City will only get 40%. In a very disastrous year they could get nothing because there is no way to bring out monies to help increase that fund in the future. The bottom line is, the original budget that was presented to this Commission in the beginning of the budget year 1992-93 projected \$2.66 million. They had a budget amendment last summer because they were having a bad year up until then. It dropped that projection to \$2.3 million. Either way they look at it, the projected \$3.679 million under this budget amendment is substantially higher than what was anticipated in the City's budget and even what was originally scheduled. He meant to say in the beginning that he saw in the audience their external auditor, Mr. Elam, and if he has said anything that was incorrect he hopes Mr. Elam would have corrected him. Did he say anything that was wrong?

**Mr. Jim Elam**, of Berger/Harris/Toombs/Elam/& McAlpin, said since Mr. Schindehette asked, he feels he does need to say they do believe that Section 140(a) of the Charter is somewhat in conflict with the bond covenants. He does not know that it is relevant to what he has presented here; but they believe Section 140(a) does not allow for the reduction of revenues for funding the reserves. They think it is very clear the bond covenants do provide that revenues are reduced for funding the reserves. Other than that, there is nothing he heard that was not accurate.

Mayor Dannahower asked as the auditor, does Mr. Elam have any problem with the budget amendment as presented?

Mr. Elam said no, he does not. He has also conferred with bond counsel and they both concur that everything presented here tonight is within the bond covenants. He does not see anything that is inappropriate that is being presented.

Mayor Dannahower said he wants to make a couple of comments and then they will turn to the Commission. First of all, there was some mention about the levels of the reserve. He wants to make it very clear and wants confirmation, the reserve levels of the Utilities Authority are not being affected by the increased transfer to the City. Is that correct?

Mr. Elam said the amount of monies in the reserves that are available to the U.A. are not being affected. That is correct. Mr. Schindehette has just said to him that the unrestricted funds, by replenishing the reserves, is going to be less.

Mayor Dannahower said that is basically because they are taking out income they had earned from prior years. The reserve will not be affected. It will not affect the rates in any way, is that correct?

Mr. Elam said he does not see that affecting the rates, no.

Mayor Dannahower said he wants to make that very clear so there is not any misunderstanding that the City is taking money or bleeding the Utilities Authority of money that is not technically and legally the City's money. What has happened is, along with the U.A. holding its own money in reserve accounts, the U.A. has held the City's money in reserve accounts. The proposal in front of them is to take those monies out of reserve. There will be no effect to the reserves and no effect to the rates. Also, he does not believe it is the purpose of the reserve funds to be able to stabilize a transfer. That is not anywhere in the covenants. It is simply that it was convenient that it was there at that one time. So everyone fully understands what is happening, basically the City is removing money that is rightfully their own which has been delayed in being transferred.

Commissioner Drummond asked is he understanding correctly that those funds that would be coming out of those reserve accounts, the 40%, would not have been available to the Utilities Authority if indeed they did need to draw on those funds as an emergency case? The maximum amount the U.A. would have been able to draw out is 60% of those funds?

Mr. Schindehette said when they withdraw the portion of those funds that was funded by revenue streams, that is correct. If they took out bond-related monies that were put into those funds, the U.A. would have all that available to them.

Commissioner Drummond said in essence, even though those dollars are sitting currently in those reserve accounts, only 60% are available to the U.A. in the event those funds must be utilized.

Mr. Elam said that is the minimum amount. The way the formula is structured, it is not to exceed 40%. The 40% could be reduced; which means the U.A. would have and could have more than 60% of that. The 40% is not a fixed percentage. The 40% is the maximum percentage that can be applied from that income.

Commissioner Drummond said he is also reading in Section 140 that the U.A. is not to exceed 60%. It says "...which does not exceed the sixty per cent of the net revenues remaining after computation..."

Mr. Elam said in that instance, that 60% is not speaking of the remaining 60% after they take out the 40%. That is a calculation within the formula. Where it says "...except that up to 40% of the net revenues..." may be transferred to the City, that 40% can be reduced.

Mr. Schindehette said in other words, up to 40%... One of the U.A. Board members has said that in a very disastrous year, talking in terms of a hurricane, if the U.A. Board had to bring all of the monies out just to pay the bills, it looks like they could do this and vote only to pass 5% on to the City that particular year. He is sure that person would not be a Board member very long if he did that. But the point he was trying to make was it says "...up to 40%..." and it sounds as if the Board could reduce that for extraordinary circumstances.

Mayor Dannahower said he is not sure he agrees with that and he is not sure their attorney will agree with that. As he understands it, it is up to the City Commission by Ordinance to determine what the amount will be, but it cannot exceed 40%. Once the net income as defined figure has been arrived at, the City Commission by Ordinance will determine what that transfer will be, but not to exceed 40%. It is not up to the U.A. Board to say what it will be. Is that correct?

City Attorney Brennan said that's his opinion on that.

Commissioner Drummond said the other question he has, he recalls from the transfer from last year when they did have to remove some funds from the reserve to somewhat subsidize the transfer, the U.A. attorney made a comment that was a one time deal and it could never happen again.

Mr. Schindehette said when they first starting talking about the raising of the transfer last year, they were talking in terms of just taking impact fee money and using it to up the transfer. That is what the attorney said they could not continue to do, use impact money just to increase the transfer. After the discussion came about, they were told the way to do this is use some C.I.C. monies - impact fee monies - to retire debt and then come around the back door again and use R&R money to actually go into the transfer formula to up the transfer. It was a roundabout way of complying with the bond companies. All the attorney was saying was he did not want to see the U.A. using impact fee monies to directly increase the transfer amount.

Mayor Dannahower said that is correct. But actually they did two things last year. One was, they did take money from the impact fee fund and used that to reduce the debt; and that increased the net income. Because of that, they were able to get a greater transfer. The second thing that was done was money was taken from the R&R, and as that came out the City got 40% of that. There was a double technique.

Commissioner Drummond asked was the attorney only referring to the impact fees?

Mr. Schindehette said that's correct.

Mayor Dannahower said in terms of taking from the impact fees, they cannot take it directly; but if he understood correctly at a recent meeting, Mr. Schindehette indicated there is a policy now that some of the bond indebtedness is going to be reduced by impact fee money.

Mr. Schindehette said when the U.A. attorney, Mr. Bryan, made that statement, he brought to his attention that for the past few years they had budgeted and had been using some C.I.C. impact fee monies to retire some of the bond debt. Mr. Bryan said he understood that, but what he was saying they don't come in on an

extraordinary year and just all of a sudden increase that just to increase the transfer. They continued to use some of their impact fee money to reduce bond debt. Mr. Bryan told them that is all right, it was budgeted for and approved; but at the last minute don't come in and just all of a sudden increase it, because he felt they would subject themselves to problems with people that have paid impact fees.

Mayor Dannahower said he has talked personally with Mr. Bryan, and he concurs that Mr. Schindehette is stating that correctly.

Commissioner Burdge asked the three reserve funds - the R&R, Emergency Reserve, and Rate Stabilization - would those funds be available to the City if the City chose to leave its part in them? Would the 40% be available to the City at any time with a budget amendment?

Mr. Schindehette said he assumes if the U.A. Board in the budget amendment had it coming out they would get it. If it is not a line item, if it is zero, he does not know. Could they take money out of that fund, is that what he is asking?

Commissioner Burdge said no. Under the current, not what is proposed, but what is currently being done, would those monies in those three funds still be available to the City at any time?

Mr. Schindehette said as they were brought out.

Commissioner Burdge asked how quick could they be brought out?

Mr. Schindehette said they can technically be brought out any time during the budget year; but the money would not actually be transferred until the books were closed and the check was handed to the City at the end of that budget year.

Commissioner Burdge said the transfer usually happens in February.

Mr. Schindehette said whenever the final budget amendment is approved and the auditor can close the books on the U.A., the U.A. presents the City with a check.

Commissioner Burdge said so those monies would always be there, it just depends on whose account they are going to be in, whether they are going to be in the City's account or in the Utilities Authority's account being used as reserves in order to protect the U.A. in case of a possible catastrophe.

Mr. Schindehette said he agrees with what he is saying. Also, he does not think the intent of keeping monies in these reserves was to stabilize the transfer. That is how it has worked; but that was not the intent. He agrees with the Mayor on that. But if the City does leave monies in there, when those monies are drawn out, 40% would go to the City.

Commissioner Burdge said the U.A. has a basic purpose for those monies.

Mr. Schindehette said yes.

Commissioner Burdge said whether it's the U.A. money of 60% or the City's money of 40%, they have a basic purpose and it is designed and denoted on that chart - one is for Renewal & Replacement, another Emergency Fund in case of a catastrophe such as a hurricane or whatever, and a Rate Stabilization Fund. He can identify with that because he can easily understand where the monies could potentially be spent. But the Utilities Authority has voted to increase the projected transfer from what they anticipated and what the City has budgeted for - the \$2.3 million - to a \$3.6 million figure, which is some \$1.3 million more than

what the City anticipated. To this point he does not know, and he thinks this Commission has not understood, that other than putting the money in the bank or something, there has been no planning as far as this Commission is concerned on what they are going to do with that additional \$1.3 million. That somewhat scares him that they are going to have a big pile of money that is not going to be designated, it is not going to be determined or earmarked anywhere. He is really somewhat scared, knowing the past practices of the City and their spending habits and taxation habits, on where that money is going to end up.

Mayor Dannahower said that leaves him sort of flabbergasted here because at one of their most recent meetings Commissioner Burdge suggested they have a meeting to determine what they were going to do with it. He and at least one other Commissioner said their idea would be they would not do anything except hold it and have it there for what they needed it for. They have a budget process that is going to be starting very soon. They certainly are going to have to face a number of issues, including pay raises for employees. He does not favor spending any of it until they talk about it at budget time and he thinks it should be held until that time. Others may have different ideas. The point is, that is the City's money; and if Commissioner Burdge wants the U.A. to hold it, that is one opinion. But he thinks the City is as capable of holding its own money as the U.A. is.

Commissioner Drummond said he concurs and goes a step further. He is not interested in doing anything before the budget process either. What about the interest. It is one revenue source. He would not be opposed to getting it.

Mayor Dannahower said he would like to clarify that in fairness to everyone, on the interest question. He raised that point at a U.A. Board meeting. While they have held those reserve funds and have earned interest, the interest is going back over to the income stream and the City has been getting its 40% share of interest. If the U.A. were to hold it and keep it, the City would continue to ultimately get its share of the interest earned. So whether the City invests it or the U.A. invests it, the amount of money they get is basically going to be the same unless one is sharper than the other in terms of the way it is invested.

Commissioner Drummond said but the City would get it after the final budget amendment in the one check transfer after the close of the books in February.

Commissioner Burdge asked the new formula that is being presented in depleting the three reserve funds as far as the City's money is concerned, this will be basically this year and next year; and then the City should not anticipate any larger or will not, because there will be no money there, right?

Mr. Schindehette said that is correct.

Commissioner Burdge asked how will the transfer appear when the City is not receiving any additional dollars from those three funds? Does he understand? Gross revenues?

Mr. Schindehette said he thinks he does. For example, using 1996. At that point there will be no City monies in these funds. All the City's 40% monies will be out of that. In that particular year, they will have revenues and expenses; and if there are no monies removed from these funds whatsoever for the U.A.'s benefit, the net income would be revenues less expenses. If the U.A. decides to pull some emergency reserves out for storm damage, then it would not enter into this net income line. The U.A. Board could take monies out of these reserve funds, and the City money is gone, and it would not affect the bottom line. It would just bypass the revenue stream.

Commissioner Drummond said he might be misunderstanding, but that sounds a little misleading to him. Using Mr. Schindehette's example, with the proposal they are talking about tonight and they get to 1996, and have gross revenues less capital improvement charges, operation and maintenance expenses, and bond funds, then skip...

Mr. Schindehette said the U.A. Board does nothing to these reserve funds, just leaves them alone.

Commissioner Drummond said but what he is saying is, they skip on down to "the line", net income, which is what they are talking about tonight. It does not have a negative impact because of the fact they are not funding the reserves at that time to the City.

Mr. Schindehette said not in future years.

Commissioner Drummond said it sounded like Mr. Schindehette was saying if they don't fund the reserves, it is going to have a negative impact on the bottom line. By not funding it at that point, using their 1996 theory, the net income below the line at that point is larger than the current formula is. Is he wrong?

Mr. Schindehette said if the U.A. would have put money into these, that is correct; but last year they did not put money into those. They took it out. That is the only thing he was trying to point out. They could never do that any more. But what Commissioner Drummond is saying is correct.

Commissioner Burdge said let him get straight on this. For example, after net income if they go down and get to the reserve part, the U.A. will determine whether or not there is going to be any reserve monies placed in there.

Mr. Schindehette said from now on, the U.A. Board will come through this procedure, let the net income fall out as it may first, the City's 40%; and then the U.A. Board will decide if they want to take some monies out of their 60% share and do they want to continue to fund a reserve in any fashion. If they do it, is the U.A.'s 60% monies, and that will never again affect the transfer to the City.

Commissioner Burdge said the U.A. will determine whether or not they are going to place money in the reserves or not. The City won't care at that point.

Mr. Schindehette said right. If the U.A. wants to strip all its cash, that is another point. He has heard people say, "The U.A. has a \$15 million reserve account over there". That \$15 million they keep quoting is not in his opinion a reserve account. That is their operating cash account. It is just like having a checking account to run every day business and over there they might have a savings account for a rainy day. That \$15 million is their operating checking account. To call that a reserve in his opinion is incorrect because their normal operating costs are about \$5 million a month. So they have about a three month operating cash account, working capital. He personally does not think that is a very overly conservative operating cash account. And don't forget, \$3.6 million transfer is going to come out of that cash account too. So the \$15 million will already be down to \$11 million. If the U.A. Board said they don't feel comfortable with these reserves and they want to put \$5 million in those reserves out of their cash 60% monies and they are going to leave the U.A. with a \$5 million operating account, all it means is they have a one month operating account. That is pushing it pretty slim. The U.A. Board is going to have to decide how much of their cash working capital account do they want to put back in.

Commissioner Drummond said he is a little confused now. They keep saying the 60% U.A. monies and how they decide to replenish those reserves. Isn't that still a budgetary item that ultimately has to be approved by this Commission?

Mr. Elam said it would be taking surplus cash and moving it into a restricted account. It is going from the unrestricted revenue fund and moving into, for example, a Renewal & Replacement Fund or the Emergency Reserve Fund which is restricted on how it can come back out.

Commissioner Drummond said it sounds to him like once they get to the net operating fund at the end of the budget process such as what they have here, that line item suggests when they get to Renewal & Replacement, Emergency Reserve, and Rate Stabilization funds, that they are going to put a line item that they are going to fund those on an annual basis. That is going to be a part of what they present to the Commission in the annual budget. Is he misunderstanding that?

Mr. Elam said the way he looks at it, the budget process is taking the current year's revenues and then the expenditures out of those revenues. Since they are not dealing with a revenue here, just cash they have and it is not revenue in a current year, if it is a budget to show the expenditure of the current year's revenues, then it would not show up in that budget.

Commissioner Drummond said if the U.A. Board decided tomorrow to take the remaining \$11 million and place it all in the reserve accounts leaving nothing in the operating account that would not come to this Commission for approval.

Mr. Elam said he does not think it would, but he is not certain on that.

Mr. Schindehette said it would leave them where they could not pay their bills next week; but he does not think it comes to the Commission as a budget item.

Mr. Elam said he knows what he is asking. He really does not know how to answer either yes or no. He does not think it would.

Mr. Schindehette said every time they send a check to the vendor they don't bring it to the Commission. They are taking it out of the same cash working fund.

Commissioner Drummond said he understands that; but during the budget year, as they are planning for that line item for that vendor, it does come in the final budget for approval.

Mr. Schindehette said he thinks he understands what he is saying. Where that would show up would be in the year end financial report which shows the reserves increasing. Those three reserves would show an increase over previous years. That is where the money would have been put in there. It would show up.

Commissioner Drummond said as he interprets Section 140, the expenditures of the 60% were very restrictive as to where they could go.

Mr. Schindehette said he thought they were too and so did Mr. Bryan to begin with; but it's for any legal purposes.

Mayor Dannahower said one point that needs to be made is the R&R, Emergency Reserve, and Rate Stabilization funds, and the unrestricted cash, or whatever anyone wants to call that, basically they are all in a sense in the same category. They are all available to the U.A. in the event of an emergency. They could be used at any time for most any purpose. He is not sure how far down they could take the Emergency Reserve or the R&R

funds because of the bond covenants. But if there were a genuine emergency, all of those funds would be available. Correct?

Mr. Schindehette said the R&R and Emergency Reserve funds would only be available for capital expenditures.

Mayor Dannahower said in an emergency, they would certainly have some capital expenditures.

Mr. Elam said under that assumption, yes. If they had an emergency and had to replace power lines or whatever, those are capital expenditures; and they could strip them down to zero.

Mayor Dannahower said assuming this budget amendment passes and the transfers are made back into these funds by the Board, what will actually be available to the U.A. in the event of a genuine emergency? All the reserve funds plus the retained earnings?

Mr. Schindehette said hypothetically, if for some reason there is a major catastrophe such as a sewer spill in the river and there was a major fine by DER such as a \$5 million fine, could R&R Funds and Emergency Reserve Funds be applied to pay that fine?

Mr. Elam said he does not think the R&R Funds could. The Emergency Reserve Fund is, if they define a catastrophe as an Act of God.

Mr. Schindehette said what he is pointing out is a very odd ball situation; but would a fine be considered capital expenditure?

Mayor Dannahower said forget fines. Say a hurricane blew down lots and lots of good stuff that had to be replaced. How much money is there to replace it?

Mr. Elam said they would have all the cash they have.

Mayor Dannahower asked how much is that?

Mr. Schindehette said he will show them what they have. (Mr. Schindehette handed to the Commissioners papers showing "FPUA Analysis of Reserve & Transfers from Operating Revenue".) There are three reserve accounts prior to this budget amendment, and the three funds total \$7.636 million. Monies put into those funds from bond-related proceeds, those are monies that are not eligible to the 40%/60% split. So out of the \$7.6 million, \$4.581 is not eligible for 40% transfer.

Mayor Dannahower said he was not asking about the transfer. He was asking how much cash they are going to have in the funds and the retained earnings.

Mr. Schindehette said he is getting to that. On the chart he just handed out, it shows there is \$3.055 million which is 40%/60% eligible. That is the monies they are taking out over the next two years. After this budget amendment, assuming it gets approved by the Commission, they will have the same \$4.581 million from bond-related proceeds in those three funds. Notice the 40% monies are down to \$1.6 million. That is what they will be taking out next year. That leaves them at a total of \$7.1 million in those three funds which is totally available to the U.A. for emergencies plus whatever the operating cash account is.

Mayor Dannahower said they are estimating that to be something over \$11 million after the transfer. So basically they have around \$18 million that could be used in a really bad emergency. That would not leave the U.A. with much of anything to operate with and they would be in a mess and he understands all that. In a real emergency, they have some \$18 million. Is that correct?

Mr. Schindehette said that is correct.

Commissioner Burdge said in relationship to the monies that are going to be available to the City, the reason why he has not necessarily a problem with this, but the problem he has is the planning this Commission should be doing. The Mayor and Commissioner Drummond have indicated they are willing to wait until the budget for next year, which is some nine months away before it will start. It starts in October. His particular feeling is, if they are going to have this some \$1.3 million this year and anticipated \$600,000 for next year, it is close to \$2 million that this City is going to have in order to do some planning on. His point on all of this is not necessarily that the transfer is not correct or the method of transfer is not correct, but what is the City going to do with the money after they get it? That is the problem he has. He has tried to suggest to this Commission that this Commission start planning now on what to do with the money and not wait until June or July in the budget process, when not only do they have the budget process but they also have the heated element of taxation and the heated element of employee unions looking down the back of their necks. This time in a more calmer situation is the available time for this Commission to take its time with the Staff's help, with the Staff's input, with the Staff's recommendations on what to do with this unexpected influx of money they have had. That is the point he wants to make in all of this process. The process is working. The process should continue to work when it gets to the Commission level, that they need to take a responsible look on what to do with the money and not just leave it in the bank, but look at how they are going to plan for the use of the money. Naturally some of it will be left in the bank for reserves because the City's reserves have also been depleted to a critical point. That is the only point he is making on all of this, is the Commission has a responsibility now to start looking at the \$2 million they are going to be receiving from the Utilities Authority.

Commissioner Drummond said he is confused. He wishes Commissioner Burdge would stay on one side or the other. Commissioner Burdge has said he is frightened because he is worried they are going to start planning to spend it. So okay, fine, they won't spend it and they will wait until they get in the budget process. Now Commissioner Burdge is saying he does not want to wait until they get into the budget process but wants to plan now to spend it. He wants to know which one side Commissioner Burdge is going to stay on. He believes they are going to start at Staff level in February for preliminary discussions as to what the 1994-95 budget is going to look like and Staff will probably come to the Commission in some kind of workshop probably as early as May. He does not know how they can get to it any faster unless they are talking about a workshop next week. The City is currently fully funded as to what they are going to do in the 1993-94 budget year. He is comfortable with saying the money will be there for the budget process for 1994-95, unless he is missing something.

Mayor Dannahower said matter before them is not how or when or if they spend the money. The matter before the Commission is the Utilities Authority Resolution U.A. 94-2. And the basic difference they have in discussing it tonight than when they did at their special meeting on January 3rd is the transfer has been increased and what has been proposed in terms of the reserve accounts. They need to get back to that and get a resolution. Perhaps a way to start is to see if they can get a motion.

Commissioner Burdge said he does not have a problem with what Commissioner Drummond said, because his own particular position as he pointed out is he believes it is the Commission's responsibility to start the planning now. If Commissioner Drummond would like to set a workshop, he would gladly second a motion for a workshop. As he pointed out, he wants to start this process and start it now at Commission level. If Commissioner

Drummond thinks he is waffling or teeter-tottering as suggestions have been made before, no he is not. He wants to make a sound business decision on where this money is going to be spent - not in the heat of arguments later that might happen, but in the calmness of today. That is his point. Let them start the planning process. If Commissioner Drummond is aware of when the budget is going to be presented as he suggested it is going to be coming as soon as May, this Commissioner is unaware of that and not been made privy to that information. He does know at times the City Manager will start his budget process in February; but he is totally unaware of information that Commissioner Drummond has received that they are going to be looking at the budget as early as May this year. He has noticed in past practices when they as Commissioners have received it in July.

Mayor Dannahower said they are way off the subject. It does not seem it is real calm tonight; if anything, it seems it is not calm. The issue before them is Resolution No. U.A. 94-2. They are going to get to it. Several have stated their position. Some of them have made it clear they want some planning and budgeting. That is the way it is going to be as far as he is concerned; but whether it starts next week or two months from now is really immaterial to the matter in front of them right now.

Motion was made by Commissioner Bryan, seconded by Commissioner Sessions, to accept Resolution No. U.A. 94-2, Amending the budget of the F.P.U.A. for Fiscal Year 1992-93.

Those voting in favor of the motion were: Commissioners Bryan, Burdge, Drummond, Sessions, and Dannahower. Those opposed: None.

Mr. Schindehette said now that has been finalized, Mr. Elam - the external auditor - will finalize the books and they will prepare the Annual Financial Statement as they have in the past years and will come back to this Commission asking them to accept the 1992-93 Annual Report; and assuming it will get approved, they will have a check for the City when that is done.

Mr. Schindehette said before they get into the next item, he needs to address one more subject. This needs to be cleared up right now. A question has been asked by Mr. Bergalis and Mr. Powell, what methodology has the U.A. been using to determine the reserve funds? It is very simple. He would like to be sure this Commission understands what the U.A. Board has been doing for the past eight or nine years. The main objective has been to meet or exceed the budgeted transfer to the City, and with what was left over to try to increase their reserve funds because they have been inadequately low through the years. (Mr. Schindehette displayed a chart showing transfers to the City over the past ten years.) He feels they have fulfilled that objective. He arrived in 1985. For two years prior to that, the U.A. had not met its budgeted projection to the City. One year they were 12% below that projection and the next year they were almost 8% below that projection. That is when they made the decision they would make that their objective. The U.A. Board has known that and every year they try to meet or exceed what they have projected to them in the budget. When it was a good year, the rest of it was put into the funds to start building those reserve funds they talked about. Since 1985-86, they have been successful in meeting that objective. Every year it has been a plus. He just wants this Commission to know that is the methodology that was used.

Mayor Dannahower asked what was the gross receipts in 1983-84 compared to 1992-93? What has happened in terms of actual gross receipts, not transfer?

Mr. Schindehette said he does not have that. Does Mr. Elam have those available?