

**CHARTER REVIEW COMMISSION
AGENDA**

Charter Review Commission- Tuesday, February 27, 2018 - 6:00 p.m.
City Hall - Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **MINUTES**
 - a. Approval of minutes from the November 14, 2017 meeting.
 - b. Approval of minutes from the January 23, 2018 regular meeting.
4. **OLD BUSINESS**
5. **NEW BUSINESS**
 - a. Approval of final Charter Review Commission report for public input and transmission to City Commission.
6. **PUBLIC COMMENTS ON FINAL REPORT - (5 minutes per person)**
7. **SET NEXT MEETING DATE (if necessary)**
8. **ADJOURNMENT**

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (772) 467-3065 at least 48 hours prior to the meeting.

Charter Review Committee Public Input Meeting
6:00 p.m.

3.a.

Meeting Date: 02/27/2018

Re:

SUBJECT:

Approval of minutes from the November 14, 2017 meeting.

Attachments

11.14.2017

MINUTES OF THE CHARTER REVIEW COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, HELD IN THE SECOND FLOOR CONFERENCE ROOM, 100 NORTH U.S. #1, FORT PIERCE, FLORIDA, AT 4:00 P.M. ON TUESDAY, **NOVEMBER 14, 2017.**

1. **CALL TO ORDER**

Chairman Bryan called the meeting to order at 4:00 p.m.

2. **ROLL CALL**

Present: Frank Fee, III; Eddie Becht; Darrell Drummond; Ben Bryan, Jr.; Harold Smyth; Bob Burdge

Absent: Gloria Johnson

Staff Present: James Messer, City Attorney
John Tompeck, Director of Utilities
Linda Cox, City Clerk
Nicholas Mimms, City Manager

Ms. Johnson arrived at 4:02 p.m.

3. **MINUTES**

- a. Approval of minutes from the October 18, 2017 regular meeting and the October 24, 2017 public input meeting.

Motion was made by Eddie Becht, seconded by Frank Fee, III to approve both sets of minutes

AYE: Ben Bryan, Jr., Darrell Drummond, Eddie Becht, Frank Fee, III, Gloria Johnson
Passed

4. **NEW BUSINESS**

- a. Presentation by Jim Hartley, CPA, FPUA Auditor

Jim Hartley presented a report showing Statement of Net Position for FPUA showing a 5 year analysis. He was asked to speak on Unrestricted assets and reported his focus was on 2016 which showed 25 million in unrestricted cash and 31 million in adjusted unrestricted assets.

He discussed the number of days of cash liquidity and reserves reported that the bonds requires 45 days, which is 9.2 million; GFOA recommends 60 days which would be 12,329 million; the best practices for some entities can be 90 days or 18,493 million. FPUA is currently at 120 days. When discussing who makes the determination of how many days the UA holds in reserves, it was suggested that staff makes a recommendation and the Board approves. Mr. Tompeck indicated that no specific decision is made as to how many days of cash they have on hand. The annual CAFR is the true up with the City and there are no charter requirements as to the

amount of reserves.

Mr. Becht indicated he was prepared to discuss bringing the UA into the city as a department. Mr. Drummond inquired about an annual retreat where they discuss a 5 year projection and capital plans and how excess funds were handled; Mr. Tompeck indicated that no strategic plan has been done in 3 years, however they are initiating developing a strategic plan immediately.

Discussion continued regarding FPUA growth, City growth, having a mechanism in place for planning for the growth of the city and the UA through a strategic plan. Such plan could address a formula for what is right and fair to the UA in terms of their reserves and when, how and for what purpose those funds be distributed. It was noted that both the County and Port St. Lucie have seen growth with their utility improvements where the City of Fort Pierce has not enjoyed the same growth.

Mr. Hartley then reviewed the Statement of Cash Flows which showed operating revenues of 21,754 million, which is a decrease in cash of 3 million over 2015.

Discussion continued as to evaluating what items can be worked out between the city and the UA without charter amendments. Mr. Tompeck indicated a willingness to include revenue from FPUANet into the transfer.

5. **OLD BUSINESS**

- a. Transfers to General Fund Survey Conducted by FMPA.
- b. Distribution Calculation for FY 2017
- c. Utility Tax and Surcharge Information
- d. Discussion on memorandum presented by City Attorney James Messer which outlines issues raised at prior meetings including the following: 1. Distribution of Gross Revenue, 2. FPUA Membership and Management, and 3. Strategic Plan and Business Purpose.

Chairman Bryan recommended that the information in items a, b, and c be discussed at the same time as item d which is the memorandum prepared by Mr. Messer. In reviewing the memorandum, the board agreed to take the three parts of the memo in reverse order.

As to Section 3 regarding Strategic Plan and Business Purpose, consensus was that a joint strategic plan is appropriate looking at both long term and short term strategies on an annual basis. It was recommended that Mr. Mimms and Mr. Tompeck get together to develop a method to get a strategic plan moving forward and to address how we might lead FPUA to grow.

As to Section 2 regarding FPUA Membership and Management, additional information was requested. Chairman Bryan did recommend that the selection of Board members be modified to insure that there was at least one member representing each of the

election districts of Fort Pierce. Additionally, the group sought more information about how directors were appointed in other utilities along with the reporting structure.

As to Section 1 regarding the distribution of gross revenue, much more additional information was requested. In summary, the following additional information will be gather for consideration by the Board at the next meeting:

- Number of FPUA customers for each year in order to demonstrate growth or not
- What does FPL pay to municipalities as a franchise fee
- What does FPL pay to municipalities in property and tangible taxes
- What are the rates being charged in PSL, Vero, Stuart, Ocala, Orlando, St. Pete, Tampa; primarily electric but wastewater as well
- How are the independent utilities set up in their respective Charters and Ordinances
- What are the rates of autonomous utilities compared to those organized as a city department
- How is the selection of utilities director accomplished in other cities with an autonomous utility and to whom does he/she report; structure of the relationship with the municipality
- What are the cash reserves of the Port St. Lucie Utility
- Is there an average of number of days of cash for a utility which is a city department versus an autonomous
- What is the distribution of reserves among the various funds (water, wastewater, etc.)
- What is the plan for the use of the restricted funds

- e. Population Numbers as requested based upon the 2010 Census: District 1 - 21,487
District 2 - 20,103

6. **PUBLIC COMMENTS (3 minutes per person)**

There was no public comment.

7. **ADJOURNMENT**

The meeting was adjourned at 5:59 p.m.

ATTEST:

CITY CLERK

CHAIR

Charter Review Committee Public Input Meeting
6:00 p.m.

3.b.

Meeting Date: 02/27/2018

Re:

SUBJECT:

Approval of minutes from the January 23, 2018 regular meeting.

Attachments

01.23.2018

MINUTES OF THE CHARTER REVIEW COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA,
HELD IN THE SECOND FLOOR CONFERENCE ROOM, 100 NORTH U.S. #1, FORT PIERCE,
FLORIDA, AT 4:00 P.M. ON TUESDAY, **JANUARY 23, 2018.**

1. **CALL TO ORDER**

Chairman Bryan called the meeting to order at 4:00 p.m.

2. **ROLL CALL**

Present: Gloria Johnson; Eddie Becht; Darrell Drummond; Ben Bryan, Jr.; Harold Smyth; Bob Burdge

Absent: Frank Fee, III

Staff Present: James Messer, City Attorney
John Tompeck, Director of Utilities
Linda Cox, City Clerk

Mr. Fee arrived at 4:25 p.m.

Mr. Burdge left the meeting at 5:00 p.m.

3. **MINUTES**

- a. Approval of minutes from the November 14, 2017 meeting.

Approval of the minutes was postponed until next meeting.

4. **OLD BUSINESS**

- a. Information gathered in response to requests of November meeting - City Attorney's Office

Everyone has received a lot of information.

5. **NEW BUSINESS**

- a. Discussion and decision on recommendations to be included in the final report to the City Commission in accordance with Section 11 of Resolution 17-R17.

Chairman Bryan indicated that Mr. Messer prepared suggested issues for consideration. They are not intended to be all inclusive or limited to just the items. Chairman Bryan distributed the listed items which are as follows:

1. Whether the City of Fort Pierce should be directly involved in hiring and/or terminating an Executive Director of the FPUA.
2. Whether the definition of "Gross Revenue" for purposes of the 6% transfer should include all revenue without exceptions, including the PCA.
3. Whether the City and FPUA should meet annually in a mandatory Joint Planning Session to set mandatory Capital Improvements' budgets and Strategic Goals.
4. Whether there should be an automatic increase in any utility rate using a formula based on a State or National data collection entity.
5. Whether 50% of audited funds should be transferred from the unrestricted cash reserves of the FPUA to the City in order to enhance the City's capital improvement budget.

6. Whether the Charter should be revised to include additional criteria for the appointment or removal of the FPUA Board Members.

Chairman Bryan indicated that he will be very flexible with these items; the items are intended to be a starting point.

Mr. Becht indicated that at the last meeting, the Board discussed number 3.

Motion was made by Eddie Becht, seconded by Darrell Drummond to send item #3 less the second mandatory to the City Commission as part of the package, as follows, "The City and FPUA should meet annually in a mandatory Joint Planning Session to set Capital Improvements' budgets and Strategic Goals."

AYE: Ben Bryan, Jr., Darrell Drummond, Eddie Becht, Gloria Johnson
Passed

Mr. Tompeck explained that FPUA already has the ability to adjust rates utilizing the Public Service Commission indices as suggested in item #4 without city approval so a recommendation is not necessary on Item #4. Item #4 was deemed moot.

Next, item #1, whether the City of Fort Pierce should be directly involved in hiring and/or terminating an Executive Director of the FPUA was discussed.

Motion was made by Darrell Drummond, seconded by Frank Fee, III made a motion that the hiring and/or firing of the Executive Director should remain with the Utilities Authority.

AYE: Ben Bryan, Jr., Darrell Drummond, Frank Fee, III
NAY: Eddie Becht, Gloria Johnson
Passed

As to Item #2, whether the definition of "Gross Revenue" for purposes of the 6% transfer should include all revenue without exceptions, including the PCA. Motion made by Becht, seconded by Johnson to advance item #3. Discussion ensued regarding the history of the PCA levels, whether it is actually a revenue or not and how it can be used to manipulate the base rate. Discussion continued regarding developing a formula to establish a percentage cap of PCA in relation to the base rate, to determine when the base rate must increase or decrease accordingly. FPUA pays the employees at the Energy Center through their payroll so the question as to whether the reimbursement from FMPA to the FPUA would also be considered revenue upon which the 6% would be imposed.

Mr. Becht withdrew his motion.

Mr. Fee made a motion to advance Item #2 excluding the PCA, "the definition of 'Gross Revenue' for purposes of the 6% transfer should include all revenue without exceptions"; seconded by Mr. Drummond. Chairman Bryan clarified that years ago the City and the FPUA agreed to go with "gross income" so there was no longer an argument as to what is included. Because there are still outstanding questions as to what makes up gross income, Chairman Bryan suggested that this item be put to the side to allow those with the knowledge work out the definition of gross income.

Mr. Fee withdrew his motion.

Mr. Becht made a motion to recommend to the City Commission that they enter into mandatory arbitration between the parties to define gross revenue; seconded by Ms. Johnson.

Mr. Becht withdrew the motion.

Motion was made by Eddie Becht, seconded by Frank Fee, III to recommend that the City Commission and FPUA work together to establish a formal dispute resolution process that would be far simpler and more efficient and expedient than the statutory process,

AYE: Ben Bryan, Jr., Darrell Drummond, Eddie Becht, Frank Fee, III, Gloria Johnson
Passed

Motion was made by Ben Bryan, Jr., seconded by Eddie Becht to adopt a policy that would allow one member who is a resident of District 1 to be appointed to the FPUA Board by the Commissioners of District 1 by mutual agreement; in the event they did not agree on an appointment, each District 1 Commissioner would make a recommendation and the Mayor would select one of the two nominees as the FPUA Member. The next year, the Commissioners of District 2 would do the same thing for a resident of District 2. For the remaining two appointments, the Board as a whole would select the FPUA Members. For clarification, Ms. Cox stated that one person would be from District 1, one person from District 2 and the remaining two seats would be filled by city residents without regard to district of residence. In summary, Seat 1 is held by District 1 resident; Seat 2 is held by District 2 resident; Seats 3 and 4 are city residents and Seat 5 is the Mayor.

AYE: Ben Bryan, Jr., Darrell Drummond, Eddie Becht, Frank Fee, III, Gloria Johnson
Passed

As to #5, whether 50% of audited funds should be transferred from the unrestricted cash reserves of the FPUA to the City in order to enhance the City's capital improvement budget, Mr. Becht made a motion to hire a consultant to be shared jointly with the FPUA to develop a formula fair to both the City and FPUA for the definition of unrestricted cash reserves and the transfer in an orderly fashion of a percentage of the unrestricted cash reserves. Motion died for lack of a second.

Ms. Johnson asked for a Profit and Loss by fund or department. Unrestricted funds are not broken down by fund.

As to #6, whether the Charter should be revised to include additional criteria for the appointment or removal of the FPUA Board Members. Discussion included qualifications of board members, having a better application to provide more background and qualifications and how members are selected. Chairman Bryan passed the gavel to Vice Chairman Drummond.

Vice Chairman Drummond returned the gavel to Chairman Bryan.

The Charter Review Commission asked that the City develop a revised application form to include greater qualifications. Mr. Becht suggested making a training session mandatory for all new board members. Mr. Tompeck confirmed that every new board member goes through training; they have never had an issue with getting new board members to attend. It was suggested that a statement acknowledging required FPUA training be included on the application. Mr. Smyth expressed his disappointment in #1 not being advanced, stating that FPUA should be run like a corporation.

6. PUBLIC COMMENTS (3 minutes per person)

There were no public comments.

7. SET NEXT MEETING DATE

- a. Schedule public input meeting on Final Report prior to submission to the City Commission as required by Section 8 of Resolution 17-R17.

Mr. Messer suggested that the next meeting date should be the mandatory 2nd meeting where this board seeks public comment on the final report. Once that is accomplished, this Board business is complete and the final report would be presented to the City Commission. If necessary, any member could to raise any additional issues to be addressed at the public meeting and a follow up meeting could be held on that issue(s) for inclusion in a final report.

The mandatory meeting for public comment will be held on Thursday, February 15 at 6:00 p.m. in Commission Chambers.

8. ADJOURNMENT

Meeting adjourned at 5:58 p.m.

ATTEST:

CITY CLERK

CHAIR

Charter Review Committee Public Input Meeting
6:00 p.m.

5.a.

Meeting Date: 02/27/2018

Re:

SUBJECT:

Approval of final Charter Review Commission report for public input and transmission to City Commission.

Attachments

Final Report

CHARTER REVIEW COMMISSION DRAFT FINAL REPORT

The City Commission adopted Resolution 17-R17 on August 7, 2017 establishing the Charter Review Commission, hereinafter called the “CRC”. That resolution set the scope of their review to the following Charter provisions of Article XII, Fort Pierce Utilities Authority:

- 1) Section 169, relating to the relationship between the Authority and the City;
- 2) Section 176, relating to the enumeration of specific powers and duties, including but not limited to service territory; and
- 3) Section 178, relating to the percentage of revenue paid to the City and/or methodology for calculating amount paid to the City.

The Charter Review Commission held its organizational meeting on September 27, 2017. At that meeting, they developed an extensive list of information they deemed important to their future discussions.

They met again on October 18, 2017 where they reviewed the information that was received and discussed potential revisions and recommendations that could be made to the City Commission.

As required by Resolution 17-R17, the CRC held their initial Public Input Meeting on October 24, 2017.

At their meeting on November 14, 2017, the CRC met with FPUA’s Auditor, Jim Hartley, CPA, to discuss the unrestricted assets reported in the audit as well as cash liquidity and reserve requirements. The City Attorney provided a memorandum summarizing issues discussed by the CRC at prior meetings including: Distribution of Gross Revenues, FPUA Membership and Management, and Strategic Plan and Business Purpose. Additional information was requested.

At their meeting on January 23, 2018, the CRC considered the following suggested issues for discussion:

1. Whether the City of Fort Pierce should be directly involved in hiring and/or terminating an Executive Director of the FPUA.
2. Whether the definition of “Gross Revenue” for purposes of the 6% transfer should include all revenue without exceptions, including the PCA.
3. Whether the City and FPUA should meet annually in a mandatory Joint Planning Session to set mandatory Capital Improvements’ budgets and Strategic Goals.

4. Whether there should be an automatic increase in any utility rate using a formula based on a State or National data collection entity.
5. Whether 50% of audited funds should be transferred from the unrestricted cash reserves of the FPUA to the City in order to enhance the City's capital improvement budget.
6. Whether the Charter should be revised to include additional criteria for the appointment or removal of the FPUA Board Members.

Following a lengthy discussion and based upon the information previously gathered, the CRC voted to submit the following issues to the City Commission as their final report:

- a) The City and FPUA should meet annually in a mandatory Joint Planning Session to set Capital Improvements' budgets and Strategic Goals.
- b) The City Commission and FPUA should work together to establish a formal dispute resolution process that would be far simpler and more efficient and expedient than the statutory process.
- c) The City Commission should adopt a policy that would ensure that one person would be a District 1 resident, one person would be a resident of District 2 and the remaining two seats would be filled by city residents without regard to district of residence. In order to accomplish this, the Charter Review Commission suggested the following appointment process: one resident of District 1 should be appointed to the FPUA Board by the Commissioners of District 1 by mutual agreement; in the event they do not agree on the appointee, each District 1 Commissioner would make a nomination and the Mayor would select one of the two nominees as the FPUA Board Member. The next year, the Commissioners of District 2 would do the same thing for a resident of District 2. For the remaining two appointments, the City Commission as a whole would appoint the FPUA Board Members. Nominations should be received using a revised application form that would contain more background information on the candidates and the candidates should acknowledge their willingness to attend a training session.

In order to comply with the requirements of Resolution 17-R17, the CRC reports that the proposed recommendations will not require amendments to the charter, will not have budgetary impacts and will not have an impact on existing city laws.