

BOARD OF PUBLIC UTILITIES

January 21, 2014

The adjourned regular meeting of the Board of Public Utilities held on the 21st day of January, 2014, was called to order at 4:00 p.m. with CHAIRMAN POCOCK presiding and the following COMMISSIONERS present:

COMMISSIONERS SULLIVAN, MOFFITT, SHAVER, SHAW AND SCHNEIDER

Also Present: SECRETARY SALLIS, ASST CITY MANAGER BROWNLEE AND OTHER KEY STAFF

APPROVAL COMMISSIONER SCHNEIDER MOVED, SECONDED BY COMMISSIONER
AGENDA SHAW, to approve the agenda. Motion carried by the following vote:

AYES: CHAIRMAN POCOCK, COMMISSIONERS SULLIVAN,
MOFFITT, SHAVER, SHAW AND SCHNEIDER
NOES: NONE
ABSENT: NONE

APR MINS: COMMISSIONER MOFFITT MOVED, SECONDED BY COMMISSIONER
SHAW, to approve the minutes of the regular meeting held November 20, 2012.
Motion carried by the following vote:

Nov 20, '12

Nov 19, '13

Nov 19, '13

(spec jnt)

Dec 3, '13

AYES: CHAIRMAN POCOCK, COMMISSIONERS MOFFITT,
SHAVER, SHAW AND SCHNEIDER
NOES: NONE
ABSTAIN: COMMISSIONER SULLIVAN
ABSENT: NONE

COMMISSIONER MOFFITT MOVED, SECONDED BY COMMISSIONER
SHAW, to approve the minutes of the regular meeting held November 19, 2013;
the minutes of the special joint meeting with the city council and Needles Public
Utility Authority held November 19, 2013; and the minutes of the special joint
meeting with the city council and Needles Public Utility Authority held December
3, 2013. Motion carried by the following vote:

AYES: CHAIRMAN POCOCK, COMMISSIONERS SULLIVAN,
MOFFITT, SHAVER, SHAW AND SCHNEIDER
NOES: NONE
ABSENT: NONE

CORSPNDN: None

PBLC APRN: Kim Mitchell, business office supervisor, explained that she has a partial report on the customer overcharge on the utility users tax (UUT) which is 1700 pages long and cannot be converted to Excel format. She recently attended an HTE

conference and they suggested that residential accounts be given X credit and commercial be given Y credit or hire a consultant to assist in resolving the issue. Funds are not available to retain a consultant.

CHAIRMAN POCOCK requested that the UUT overcharge issue come back as an agenda item and that Supervisor Mitchell get a bid to have a consultant do what's needed. He felt strongly that we have an obligation to do accurate billing and if it's not correct, there's an obligation to correct it. Supervisor Mitchell agreed that an adjustment can be given to the customers but the bills for those periods (April - September 2013) cannot be reprinted.

COMMISSIONER SULLIVAN expressed that he is not in favor of getting a bid for a consultant as we can make an assessment internally with staff and a couple of Board Members.

UNF BUSNS: Asst City Manager Brownlee explained that there is no clear definitive way of determining the differences in the five responses we received to the request for proposals (RFP) for potential refinancing of the Revenue Bonds, 1997 Series A. There is no commonality between any of them. COMMISSIONER MOFFITT noted that the underwriter is not representing the city/NPUA, but only himself, and we really need a financial advisor to review the responses and get all on the same playing field. Discussion followed on the five responses received and the need to review all with the same information for comparison purposes.

RESPNS TO
RFP FOR
RE-FUND
REVENUE
BONDS, '97
SERIES A
UTILITY
ACQSTN
PROJECT

COMMISSIONER SCHNEIDER made reference to page 12 of the staff report and the excerpts from the proposal submitted by Southwest Securities/Stinson Securities/ Urban Futures/Norton Rose Fulbright. They raised the issue of new laws going into effect since the 1997 bonds, specifically Prop 218, which do not allow combined system revenues to be pledged unless their pledge can be associated to a specific amount of the debt service. Asst City Manager Brownlee responded that Stinson Securities was the original underwriter of the 1997 bond issue and City/NPUA Attorney Pinkney agrees there are Prop 218 issues with any refunding and we'd have to true-up water and wastewater.

COMMISSIONER SCHNEIDER explained that the current bonds are a 35 year issuance, we're 17 years in and now paying principle. He questioned how to determine what savings are acceptable on the refunding and how much will it cost to get there. Discussion followed on refunding the bonds, the issues with Prop 218, the need for a bond rating to reduce the interest rate, and that there will be no cost to the city/NPUA except the approximate \$10,000 to see if we're eligible for a bond rating.

COMMISSIONER SHAVER (former Mayor in 1997) cautioned to be very careful/cautious as it may be possible to save some money but it could raise issues that were not there in 1997 with the original bond issue. The system right now is working as it should.

CHAIRMAN POCOCK requested that staff check with the law firm of Best Best & Krieger, as bond counsel, to see if they will issue an opinion on Prop 218 to determine if the city is in a tenable position with the understanding that they will not be paid if the bond refunding does not go forward. CHAIRMAN POCOCK felt there is a third option and that is to recommend not proceeding at all due to the possibility of the ramifications of the Prop 218 issue.

REMAIN COMMISSIONER SCHNEIDER MOVED, SECONDED BY COMMISSIONER
STATS QUO SHAVER, to recommend sticking with status quo and continue with the 1997 bond issue as-is and do not make any changes. If someone wants to entertain a proposal with numbers that can be guaranteed, we would be open to that. Motion carried by the following vote:

AYES: CHAIRMAN POCOCK, COMMISSIONERS SULLIVAN,
MOFFITT, SHAVER, SHAW AND SCHNEIDER
NOES: NONE
ABSENT: NONE

NEW BUSN: COMMISSIONER MOFFITT MOVED, SECONDED BY COMMISSIONER
ELCTN OF SULLIVAN, to leave the Chairman (POCOCK) and Vice Chairman (SHAW)
CHAIR & status quo for the ensuing year of 2014. Motion carried by the following vote:
V CHAIR

AYES: CHAIRMAN POCOCK, COMMISSIONERS SULLIVAN,
MOFFITT, SHAVER, SHAW AND SCHNEIDER
NOES: NONE
ABSENT: NONE

USE OF Jack Lindley, electric dept supervisor, spoke on the protection of the circuit
ELECTRIC reliability program and potential problems that could cause outages. The
FUNDS FOR Overland Motel is a major concern and a fire could cause several hundreds
DEMO OF of thousands of dollars worth of damage to the electric system, loss that is
OVERLND hard to quantify in both economic and fire damages. He spoke on the cost to
MOTEL demolish the Overland (estimated at \$100,000) and the cost to upgrade/ under-
ground the electric utilities in this area (estimated at \$250,000) which would
eliminate future concerns.

COMMISSIONER SHAW noted that demolition of the motel will open up the alleyway and the power poles in the back causing another eyesore; the cost of demolition could not be recovered; and he felt that use of electric funds was not feasible at this time.

COMMISSIONER SCHNEIDER explained that utilities will remove hazards, trees, etc. affecting their systems but the city does not own this property. He does not see the justification with the utility demolishing the motel as there's only been two fires in 6-1/2 years. He felt it would be better served by putting the utilities underground which would also help with the aesthetics of the downtown area. He questioned the authority to go in and tear the motel down. If we use \$100,000 to

tear it down and for \$150,000 more, the system could be undergrounded, undergrounding is the way to go and would eliminate the threat.

Supervisor Lindley acknowledged that it is a stretch in using electric funds but it was a way to get the building taken down and that was the common goal, to remove the eyesore and threat. CHAIRMAN POCOCK felt that this is a city issue and if the city believes the motel is an eyesore, they could go through a condemnation process. Electric funds might be able to assist on a prorated share based on location of the power poles and how far they should be away from a structure.

COMMISSIONER MOFFITT felt that dealing with the Overland Motel is not a utility issue. If there's concern, pay \$250,000 and go underground with the electric system.

Tom Darcy, councilman, explained that it's not a case of if the motel will burn but when and when it does burn, it will knock out the power. Normally, the city would get its costs back from insurance but this building is not insured.

COMMISSIONER MOFFITT suggested that if the utility needs to make a decision, use electric asset replacement funds and go underground with the system. Supervisor Lindley responded that it will take an estimated 4-6 months to underground this area but there are other current projects ready to go that the crews are working on. Were this to be made a priority project, it could be done by maybe June 2014.

Discussion was held on the condemnation of the structure, use of the receivership to demolish it with court authorization, and the property being up for tax sale by the county in May 2014.

Councilman Darcy pointed out that at the last council meeting, there were a number of bids to demolish the property and the low was about \$60,000. He felt the Board needs to find out the process of condemnation/demolition.

COMMISSIONER SCHNEIDER explained that the Board needs to determine if the code violations are severe enough to warrant use of utility funds. He agreed the utility could participate in the demolition effort if and when it comes but we also need to look at getting some of the utilities undergrounded.

MOT TO
TABLE

COMMISSIONER SCHNEIDER MOVED, SECONDED BY COMMISSIONER SHAW, to table this matter for more information and request a status on where it's at (receivership), what it will take to condemn the property, tax sale/acquisition, etc.

COMMISSIONER SCHNEIDER asked that the electric department supervisor provide a priority projects list and indicate where this underground would fit into that list. Jerry Porter suggested checking the building code for setback requirements as if it's demolished and someone comes in to rebuild, we could be in the same position with the above-ground electric system.

Motion to table carried by the following vote:

AYES: CHAIRMAN POCOCK, COMMISSIONERS SULLIVAN,
MOFFITT, SHAVER, SHAW AND SCHNEIDER
NOES: NONE
ABSENT: NONE

REVIEW OF UTILITY RATE POLICY(IES) W/IN DEFERRED ZONES/ AREAS COMMISSIONER MOFFITT noted that he requested this discussion on the need to review the utility rate policy(ies) to address the cost of providing service(s) within different zones/areas. There are customers outside the city limits that do not pay the utility users tax (UUT) while those inside the city limits do so we need to figure out how to recover the costs of providing services in the outlying areas.

COMMISSIONER SCHNEIDER spoke on the EES cost of service/rate study that was done in 2007 which, at that time, everyone decided to go with a single electric rate structure for all customers. If we are now considering the possibility of different rates, we are looking at another rate study. The cost of providing service is encompassed in the base rate and shared by all. CHAIRMAN POCOCK felt we might be able to charge a fee to the outlying customers based on mileage and load. Supervisor Lindley pointed out that there are increased costs for the customers in both Park Moabi and north Needles due to the BLM fees for the right-of-ways over federal lands. These fees increase our costs by several thousand dollars each year and are only outside the city and in outlying areas but do add to the utility's cost to serve these customers. Supervisor Mitchell explained there are approximately 374 customers around Park Moabi and we're losing about \$10,000 per year in UUT. Discussion followed on setting a charge outside the city to cover the additional costs to provide service to those areas making the rates more equitable to all ratepayers.

COMMISSIONER SCHNEIDER agreed with the BLM right-of-way fees being a direct cost to customers in outlying areas but he had concern with looking at existing customers that are on our distribution system, a system that was built out years ago.

MOTION TO TABLE COMMISSIONER SCHNEIDER MOVED, SECONDED BY COMMISSIONER MOFFITT, to table this matter pending further information on the right-of-way fees and increases in such fees since 2007. Motion carried by the following vote:

AYES: CHAIRMAN POCOCK, COMMISSIONERS SULLIVAN,
MOFFITT, SHAVER, SHAW AND SCHNEIDER
NOES: NONE
ABSENT: NONE

PROPOSAL FROM EXPERIENCED ENGINEERING ENTERPRISE Asst City Manager Brownlee explained that the proposal from Experienced Engineering Enterprise, LLC to assist in developing a rate structure based on equivalent dwelling unit (EDU) of measurement for water and sewer service is a follow up to the discussion of the \$3 fee for the asset replacement fund. Staff

MEASURE FOR WTR & SWR SVC is not able or qualified to figure the commercial accounts and he explained the different multiples between residential and commercial in EDUs. He is asking for permission to retain Robert Schulz, Experienced Engineering Enterprise, LLC to do the study at a cost not to exceed \$6,000 and the cost benefit will be significantly more. He noted CHAIRMAN POCOCK might have a conflict as a commercial business owner.

CHAIRMAN POCOCK explained that once we start using water usage to figure sewer costs most will have to be borne by the city as they are the largest user of water. He also noted that he does not have a financial conflict as his business pays based on usage and he has no financial gain.

Discussion ensued on the \$3 per month sewer asset replacement fee and how that fee is being assessed to hotels, hospitals, and schools.

CHAIRMAN POCOCK noted that this proposal from Experienced Engineering will not fix the issue of the asset replacement fee and how that's applied. When staff first came to the Board with the \$3 fee, the revenue was based on a per customer charge and he feels that some customers have been overcharged and should be refunded. Asst City Manager Brownlee responded that we have old infrastructure and are in need of the asset replacement funds. CHAIRMAN POCOCK agreed going forward to look at the rates and include the asset replacement but not what's already been collected and the refunds for overcharges. COMMISSIONER SCHNEIDER agreed that we need to refund the over-collection based on any additional \$3 charged over the one customer (i.e. hotels collected per room and hospitals per bed - not just one \$3 fee as one customer). COMMISSIONER SULLIVAN requested staff provide the Board's original motion and information on the \$3 asset replacement fee.

COMMISSIONER SCHNEIDER suggested that the consultant backup whatever he comes up with compared to the rest of California and the end result should be similar to the State of Ohio attachments included in the Board packet.

Asst City Manager Brownlee clarified that Experienced Engineering will only be doing the EDUs for the asset replacement and did not include the sewer rates. More discussion on the use of EDUs for rates and/or asset replacement fee. COMMISSIONER SCHNEIDER suggested doing a standardized EDU study and figure where the EDUs come out and compare to proportionality. Ask the consultant to do the study and provide comparative numbers on how other cities break out their EDUs.

COMMISSIONER SCHNEIDER MOVED to recommend accepting the proposal of Robert Schulz, Experienced Engineering Enterprise, LLC, at a cost not to exceed \$10,000 as he will be asked for a comparison of EDUs from other cities within the State of California. After another brief discussion, COMMISSIONER SCHNEIDER WITHDREW HIS MOTION.

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MOT TO TABLE COMMISSIONER SCHNEIDER MOVED, SECONDED BY COMMISSIONER SHAVER, to table this item until we get a proposal for sewer EDUs only and comparisons from other California jurisdictions. Motion carried by the following vote:

AYES: CHAIRMAN POCOCK, COMMISSIONERS SULLIVAN,
MOFFITT, SHAVER, SHAW AND SCHNEIDER
NOES: NONE
ABSENT: NONE

BRD RQSTS: CHAIRMAN POCOCK inquired about the status of the NPUA audit. Asst City Manager Brownlee responded that staff received drafts one and two and we should have a final within a week to share with the Board.

ADJOURN: COMMISSIONER MOFFITT MOVED, SECONDED BY COMMISSIONER SULLIVAN, to adjourn. Motion carried by the following vote:

AYES: CHAIRMAN POCOCK, COMMISSIONERS SULLIVAN,
MOFFITT, SHAVER, SHAW AND SCHNEIDER
NOES: NONE
ABSENT: NONE

CHAIRMAN POCOCK declared the adjourned regular meeting of the Board of Public Utilities held on the 21st day of January, 2014, adjourned at 6:20 p.m.

ATTEST: _____
Chairman

Secretary