

MINUTES OF THE REGULAR MEETING OF THE  
BOARD OF PUBLIC UTILITIES  
CITY OF NEEDLES

Tuesday, April 15, 2014

The regular meeting of the Board of Public Utilities held on the 15th day of April, 2014, was called to order at 4:00 p.m. in the Council Chambers at 1111 Bailey, with CHAIRMAN POCOCK presiding and the following COMMISSIONERS present: COMMISSIONERS SCHNEIDER, SHAW, MOFFITT AND SULLIVAN.

Also Present City Manager Rick Daniels and City Clerk Dale Jones.

**Public Appearance - None**

**1. Approval of Agenda**

COMMISSIONER MOFFITT MOVED, SECONDED BY COMMISSIONER SCHNEIDER, to approve the agenda as presented. Motion carried by the following vote:

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

**2. Approval of Minutes**

COMMISSIONER MOFFITT MOVED, SECONDED BY COMMISSIONER SHAW, to approve the minutes of the adjourned regular meeting held April 1, 2014. Motion carried by the following vote:

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

**3. Correspondence – None**

**4. Public Appearance – None**

**5.a. Resolution No. 4-15-14 BPU FAILED clarifying the \$3.00 sewer asset replacement fee is charged on a per customer basis, correcting the Schedule of Rates for Wastewater Service Fees Effective December 21, 2012 for those affected classes and refunding the over-collection for hotels, motels and hospitals; and request staff schedule a Prop 218 workshop when the city/utility attorney is in Needles - Suspend the \$3.00 fee effective May 1, 2014 and schedule a Prop 218 workshop for April 22, 2014**

Chairman Pocock informed the Board that he met with City / Utility Attorney Pinkney to discuss the Prop 218 process and the sewer asset replacement fee and Chairman Pocock voiced his concerns over the Prop 218 process that was followed In November 2011. The rates have to be based on the cost to provide the service and he is hopeful that the EDU study will clarify the rates being charged.

Commissioner Moffitt voiced his opinion that the sewer asset replacement fee should be proportioned to the cost of the service. Considerable discussion ensued that the Prop 218 process was reviewed by the City Attorney; should the asset replacement fee be based on a percentage increase per customer class; should the Board request a refund on the over collection

for hotels, motels and hospitals or request that all fees collected be refunded; what was the \$3.00 fee based on; that a previous study indicated that the utilities should be collecting \$350,000 a year for water and wastewater for their asset replacement funds; the asset replacement fee was based on the rate payers ability to pay; the need to replace our infrastructure; concerns if the Prop 218 process was done correctly; are we out of compliance; what is a fair and legal resolution; and eventually the rates will have to be restructured based on the EDU study.

Continued discussion regarding the Prop 218 notice that was mailed to the customers in 2011 and it not reflecting the intent of the Board which was to charge each customer not each room or bed and that the wording in the notice is conflicting.

**COMMISSIONER SULLIVAN MOVED, SECONDED BY CHAIRMAN POCOCK** to refund the \$3.00 based on the original intent of what the assessment was which was to charge \$3.00 per customer (not per hotel room or per hospital bed) and to stop charging the \$3.00 fee to all customers.

Continued discussion questioned if all of the fees collected for the asset replacement fund were in that fund. Chairman Pocock informed the Board that he backed out the \$3.00 fee and reviewed and recalculated the suggested new rates which are included in the packet. Commissioner Schneider voiced his opinion that it would be fair to rebate all or nothing at all; to stop charging the \$3.00; admit an error was made; hold onto the money until we know what we are doing; and that there is more impact on the sewer infrastructure from a hotel than from a residence.

City Manager Daniels informed the Board that the study from a few years ago showed that there should be \$350,000 set aside for asset replacement and encouraged the Board to continue collecting the \$3.00 fee. City Clerk Jones informed the Board that Attorney Kelly Salt from Best, Best & Kreiger assisted with the Prop 218 hearing in 2011, the documents were reviewed, the notices were mailed to all property owners and customers, the notice was published in the newspaper, the public hearing was held where there were approximately two protests and that the Prop 218 process was followed.

The vote was taken on the aforementioned motion. **Motion FAILED** by the following vote:

<b>AYES:</b>	<b>CHAIRMAN POCOCK AND COMMISSIONER SULLIVAN</b>
<b>NOES:</b>	<b>COMMISSIONERS SCHNEIDER, MOFFITT AND SHAW</b>
<b>ABSENT:</b>	<b>COMMISSIONER SHAVER</b>

Commissioner Schneider suggested waiting until we get the EDU study to determine how to apply any refunds, however in the meantime we can suspend collecting the \$3.00 and hold onto the revenue generated. Continued discussion that city staff should place in the asset replacement fund all fees collected for that purpose and that any refund should be based on the new rates from the EDU study and refunded appropriately. Commissioner Sullivan encouraged that it be done correctly including water. Chairman Pocock said that we need to fix water also and to place a water EDU study discussion on the next agenda.

City Manager Daniels reiterated against suspending the fee and then adding it back in. Based on the audit reports, water and wastewater are not covering expenses and a new rate study should be done which may result in lower electric rates. Commissioner Moffitt felt we should wait for the results of the EDU study. Chairman Pocock explained that over the last several years we have been told that water and wastewater have been positive in addition to electric but the audit says we are losing money. The electric rates have been calculated based on the actual cost to provide the service and he is surprised that electric is overfunded when it should be breaking even: how

is there money to cover the losses in wastewater and water? Commissioner Shaw also felt we should wait until after the EDU study to make any adjustments.

CHAIRMAN POCOCK MOVED, SECONDED BY COMMISSIONER SCHNEIDER to suspend the \$3.00 fee effective May 1, 2014. Motion carried by the following vote:

AYES: CHAIRMAN POCOCK, COMMISSIONERS SULLIVAN AND SCHNEIDER  
NOES: COMMISSIONERS MOFFITT AND SHAW  
ABSENT: COMMISSIONER SHAVER

Chairman Pocock requested to place on next agenda a discussion item to suspend the water asset replacement fee.

City Manager Daniels informed the Board that City / Utility Attorney Pinkney is available to hold a Prop 218 workshop on April 22 or April 23 and the Board agreed to Tuesday, April 22 at 3.p.m.

**6.a. Did not approve the Debt Liquidation and Optional Purchase Pre-Payment Schedule to pay the current liability due to the City of Needles (as shown in the Audited Financial Statements of the NPUA for the years ending June 30, 2013 and June 30, 2012) in the amount of \$808,154 and set an Optional Pre-Payment Disbursement Plan for fiscal year 2013-2014 through fiscal year 2018-2019 - Recommend that the city increase the utility user tax to generate the \$685,000 revenue for the next five years**

City Manager Daniels informed the Board that there is a current liability due to the City of Needles as shown in the Audited Financial Statements of the NPUA for the years ending June 30, 2012 and June 30, 2013 in the amount of \$808,154. He reviewed the sale of the utility asset to the NPUA in 1997 with a sixty year payback and at that time some of the assets were fifty years old. He further reviewed depreciation of the assets. City Manager Daniels informed the Board that he is working on a five year plan as depicted in the packet and the Budget Committee has discussed the NPUA retiring the debt by making additional payments.

Commissioner Schneider referred to various audit reports regarding the "Due To / Due From" numbers saying that the numbers are doing all kinds of weird stuff and that we really do not owe \$800,000. Chairman Pocock felt that a remedy would be to change the depository agreements when necessary; a rate increase is not needed to balance a journal entry; that the city should be using the funds received from the NPUA to replace the asset and if the general fund needs an additional \$650,000 a year, raise the utility user tax (UUT).

Considerable discussion ensued that the bonds still have to be paid off; the financial status of the city if the debt was retired and that a profit and loss statement should be done on wastewater and water to show that they are not in the hole.

City Manager Daniels reported that we are \$294,000 short in wastewater and will be bringing the budgets to the Board for discussion. He responded to Commissioner Schneider that he understands why the Board is frustrated. Discussion continued as to "where is the money" that is being over collected on electric since the electric budget was over estimated by \$1 million; the Board would like a reconciliation of the prepayments; the rates are based on the cost of doing business; if we collected excess revenues then we would have funds to make a prepayment; if the city needs more money raise the UU and submit an itemized bill for the \$800,000. The Board requested a detailed "Due To / Due From" at the next meeting. City Manager Daniels informed the Board that he will request Finance Director Miledi for a detailed Due To / Due From which he will send to the Board members tomorrow; also a detailed prepayment history and a detailed report on the \$800,000. Chairman Pocock reviewed the NPUA Audit page included in the packet.

CHAIRMAN POCOCK MOVED, SECONDED BY COMMISSIONER SCHNEIDER to recommend that the city increase the utility user tax to generate the \$685,000 revenue for the next five years. Motion carried by the following vote:

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

**6.b. Sanitation should NOT fall under the jurisdiction of the Board of Public Utilities**

Commissioner Schneider placed this item on the agenda for discussion as the Director of Public Utilities signed the contract with Allied Waste. Assistant City Manager Brownlee explained that it is a service and not a utility. City Manager Daniels informed the Board that sanitation is considered a city service.

COMMISSIONER MOFFITT MOVED, SECONDED BY COMMISSIONER SHAW that sanitation should not fall under the jurisdiction of the Board of Public Utilities.

Motion carried by the following vote:

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

**7. Commissioner Requests**

Commissioner Sullivan requested the "Due To / Due From" Report.

Commissioner Schneider inquired about the transformer that is leaking at Eagle Pass. Electric Line Supervisor Lindley reported that Mountain West is fixing the problem at no cost to the utility.

Commissioner Schneider inquired if the new well by the bridge should have a cover over the well and switch gear.

City Manager Daniels informed the Board that they will be receiving an aging on the utility bills including the bad debt write off.

**8. Adjournment**

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

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

CHAIRMAN POCOCK declared the regular meeting of the Board of Public Utilities held on the 15th of April, 2014, adjourned at 5:55 p.m.

ATTEST: \_\_\_\_\_  
Chairman

\_\_\_\_\_  
City Clerk