MINUTES OF A SPECIAL MEETING OF THE FORT PIERCE UTILITIES AUTHORITY, WEDNESDAY, DECEMBER 19, 2018, 3:00 P.M., FPUA ADMINISTRATION BUILDING, 206 SOUTH 6TH STREET, FORT PIERCE.

Members Present: Chairman Darryl Thomas-Bey; Secretary Daniel DeIulio; Deputy Secretary Charlie Frank Matthews; and Mayor Linda Hudson.

Absent: Vice Chairman Glynda Cavalcanti

Others present: John K. Tompeck, Director of Utilities; Rupert N. Koblegard III, FPUA Attorney; Nina Penick, Director of Financial Services; Paul Jakubczak, Director of Electric & Gas Systems; and Acting City Attorney Buck Bryan.

The meeting was called to order by Chairman Bey.

The Pledge of Allegiance was recited.

The roll was called and a quorum declared.

No Comments from the public.

Mr. Tompeck apologized for dragging everybody back today. He said we had to make some revisions to some of the documents that were signed yesterday. The first one is Resolution UA 2018-13 and the change is there was a couple of minor edits in terms of Florida Power & Light wanted an ampersand rather than "and" between Power & Light. They also added the third Special Warranty Deed, one you signed yesterday only had two Warranty Deeds. Those are the only changes to the resolution.

Attorney Koblegard said the exhibit of the third Warranty Deed adds the legal description and he told you yesterday we thought they were to convey to FPUA. He said last night they sent documentation that said back in 1993 and 1994, the City had actually conveyed an easement and a deed to FPUA for that Exhibit C. They now want us to convey it back to them and then FPL will give us back an easement, which is okay, it is understood they are going to do this.

Mr. DeIulio asked if it is the same easement.

Attorney Koblegard said Exhibit C is part of what is deeded interest and part of that he believes an easement interest.

Mr. Jakubczak said part of that he said actually this goes a little bit to Amendment 2, but he will go ahead and hand this out now. He said this is what was discussed yesterday regarding that small portion of property that is just south of the substation and this gives it a little bit clearer clarification. He said he likes drawings.

Mr. Matthews asked how big a piece of property it is.

Mr. Jakubczak said he does not know the total acreage of that, but what Mr. Koblegard is talking about is these three parcels shown on the map he just handed out, shows where the FPL substation is in the top left-hand corner that is actually in Indian River County. Where he has labeled Parcels 1, 2, and 3, and 3 is actually for three different areas, but it is all covered under the same parcel and same owner. These five areas needed to be deeded back to FPL and in Amendment 2 when we get to it, there is a portion of it that they give us the form to use for them to get the easements back from them. It all has to do with the way they closed the Vero Beach sale.

Mr. DeIulio said so we give these to them and then they give it back to us.

Mr. Jakubczak said it does not make any sense to him either, but yes that is what they are asking for.

Mr. DeIulio asked if it is the same property.

Mr. Jakubczak said it is the same property, same easement size, same everything.

Attorney Koblegard said they used the same legal descriptions over again.

Mr. Bey asked if we have the easement so we can have access to the property.

Mr. Jakubczak said so we can have access to our line that goes across the property, yes.

Mr. Matthews said so we take action today, they record it with the County Clerk, then months from now they come back and give it back to us where it is going to be operated.

Mr. Jakubczak said yes other than they are not deeding property to us, they will be deeding an easement to us for access to the property.

Attorney Koblegard said as far as the resolution goes, we changed the way we referenced Florida Power & Light and attached Exhibit C. He said otherwise it remains the same. The Owner's Affidavit we had to change that.

Mr. Tompeck said lets finish with the resolution first and make a motion to vote on it.

Mr. DeIulio asked Attorney Koblegard if he is fine with this.

Attorney Koblegard said yes he was.

Florinda Mazzarella, Executive Assistant for the Director of Utilities, read the title of Resolution No. UA 2018-13 into the record as follows: "A resolution of the Fort Pierce Utilities Authority, authorizing and requesting the City of Fort Pierce to execute certain deeds on the Fort Pierce Utilities Authority's behalf in favor of Florida Power & Light, Inc., pursuant to the Asset Purchase Agreement entered into between the Fort Pierce Utilities Authority and Florida Power & Light, Inc. and providing for an effective date."

Mayor Hudson asked if this was a request from FPL.

Attorney Koblegard said yes.

Mayor Hudson said that is why we are meeting at the request of FPL because we have additional things. She said for the record, if they want to close this year, there better not be any more request from them because then it would have to close next year. From what she sees and from the standpoint of the City Commission and perhaps from this Board, this is the way she feels, this should be the last.

Mr. Tompeck said he agrees with her and if there is any additional request we are not going to torture you the rest of the year.

Mayor Hudson said she wants to say that for the record, in case you need to convey to somebody at Florida Power & Light how at least one person feels.

Mr. Matthews said he will go on the record for the same thing. He said he can just imagine if all of us look at new people coming on all at once would wonder what in the world went on with this one particular period of time. He knows the legal situation and he is not saying they did not do a good job, but somewhere along the line business is not done all at once, it does not look good to him.

Mr. Tompeck said he will also put this on the record that he thinks both FPL and FPUA were delinquent in preparing the closing documents in advance of the Vero Beach/FPL sale. He said we all knew that they wanted to close on this quickly after the sale. We got ourselves in a position where we were probably two weeks behind in preparing closing documents and he apologized for that. It was a joint effort.

Mayor Hudson said what we are doing is making an effort to accommodate them to close before the end of the year. She said this is about all of the accommodations.

Mr. Tompeck said he agrees and after we have this meeting, we have a conference phone call with FPL at 4:00. He said he thinks this will wind up the pieces and are hopeful as soon as the City Commission votes tomorrow we can close on Friday, which is what we are hoping for.

Attorney Koblegard said in reference to what John said he agrees. He said we should have done this sooner than we did. One reason we didn't is the title commitment from Chicago Title they had all of their requirements for FPUA to execute all of these different deeds and it is dated March 21, 2018. They sent it to us last week.

Mayor Hudson said then you did not see it until last week.

Attorney Koblegard said if they had sent that to us earlier, we would have known the title policy called for us to do these different things. He said in the Asset Purchase Agreement, it does have a section in there where it says Fort Pierce Utilities Authority will execute the necessary deeds to transfer title to FPL. It is his understanding that Paul was waiting on them to send us what they wanted us to do, we did not have the title policy to know what it was. They did not get that to us until last week and we have dropped pretty much everything we have been doing to accommodate them.

Mayor Hudson said she is not pointing fingers, she is just saying this is where she is at this particular juncture and if they want their money before the end of the year, there is going to be no more special meetings of the City Commission.

Mr. Tompeck said FPUA wants their money by the end of the year.

Attorney Koblegard said he doubts the City Commission wants to have another meeting.

Mayor Hudson said that is who she is speaking for, she is not speaking for this Board. She is speaking for the City Commission.

Mr. DeIulio said he does not have any feelings for it either way with regards to if something comes up in the next day or two, he can understand how everybody else feels here. He said if it is a super emergency and it is something that needs to be done, he will be around over the holidays and will leave it up to you all as to whether we have to come back. Mr. DeIulio said he fully understands that it does feel rushed.

Mr. Tompeck asked if anybody can imagine what it must have been like for the FPL/Vero Beach closing. He said they were working on it for months and months to get the paper work together.

Mr. Matthews said he is just hoping the City Commission understands to move on down the road with that location. He said who with FPL will come and play the game with us and kick it back to us again.

Mr. Tompeck said they have their legal team together and we have been talking with them the last week or so to try and get some of these pieces together. He thinks we are in agreement and had a conference call this morning at 8:00 to go through the details and that is what generated a

lot of this paperwork. Mr. Tompeck said he does not see any other glitches, but he cannot promise that.

A motion was made by Mayor Hudson, seconded by Mr. Matthews, and unanimously carried to adopt the revised Resolution No. UA 2018-13 to add an additional legal description and edits to the names of the parties therein.

Mr. Tompeck said the second item is the Owner's Affidavit.

Attorney Koblegard said the Board approved this form of the Owner's Affidavit yesterday and it was signed. He said they wanted us to add Exhibit C for the other parcel and we had to change it just to add Exhibit C; that is the only change. We need to have it approved again and have it signed by the Chairman and Secretary.

Mr. DeIulio asked if Mr. Koblegard said Exhibit C.

Attorney Koblegard said we are calling it here as Composite Exhibit 1, which consists of Exhibit A and the new Exhibit C.

Mr. Matthews asked if there was any changes in the language.

Attorney Koblegard said none at all.

Mayor Hudson asked if it was just the addition of Exhibit C.

Attorney Koblegard said yes.

Mr. Matthews asked if this is the Owner's Affidavit.

Mayor Hudson said right.

A motion was made by Mayor Hudson, seconded by Mr. Matthews, and unanimously carried to approve the revised Owner's Affidavit, Non-Foreign Certificate, and Request for Taxpayer Identification Number.

Mr. Tompeck said the next item is the revised Second Amendment to the Asset Purchase Agreement. He said he thinks there is only one change there.

Mr. Jakubczak said last night's amendment we had and Exhibit C, which was the parcels that he just gave the Board Members the map for. He said they are in St. Lucie County and they are going to grant us easements. Those are now part of Exhibit B so they just combined them and

eliminated Exhibit C and combined them into Exhibit B. The rest of the Exhibit D shows the standard format they want the easement forms to be requested in when we get to that point after we are closed with this. Other than that there is no other language change in Amendment 2.

Mayor Hudson asked if B includes what was C.

Mr. Jakubczak said yes that last night there was two exhibits. He said there was Exhibit A, which had the parcels in Indian River County and the parcels outside by the Emerson Substation. He said they had labeled Exhibit C as those parcels for the drawing which he has given the Board today. That was part of Exhibit C last night and they combined Exhibit C into Exhibit B and have one overall which is three pages for Exhibit B.

Mayor Hudson said that now there is no A, a B, no C, and there is a D.

Mr. Jakubczak said that is correct. He said it is not the standard alphabet.

Attorney Koblegard said everyone should have a copy of the Hold Harmless Agreement, which is what we have agreed to give the City where Buck and he worked on today. He said Buck has approved it and the Board authorized it yesterday, now you actually see the document itself. The Secretary and Chairman need to sign that. We will deliver that to Buck and he will provide it to the City Commission.

Mayor Hudson said we need to have a motion on the Second Amendment to the Asset Purchase Agreement first.

Mr. Mathews asked if the Hold Harmless and the Second Amendment are approved as one.

Mr. Tompeck said no that Mr. Koblegard jumped ahead a little and we need to look at the Amendment first.

A motion was made by Mr. Matthews, seconded by Mayor Hudson, and unanimously carried to approve the revised Second Amendment to Asset Purchase Agreement.

Mr. Tompeck said the last thing is what Mr. Koblegard was talking about the Hold Harmless Agreement.

Attorney Koblegard said that is the actual Hold Harmless Agreement that he would like to ask the Secretary and Chairman to execute today. He will get the executed copy to Buck so he can explain it to the City Commission that FPUA has agreed if anything comes up and they try to involve the City when they sign the three Special Warranty Deeds for FPUA, we will take care of it and hold them harmless of any action.

Mayor Hudson asked if Attorney Koblegard worked with Attorney Bryan on that and asked if both of them are comfortable with the language.

Attorney Koblegard said Buck is okay with it. He said he got Linda Cox to give him a form that the City likes to use and he always tries to do that when he can. He took that and made edits to it and she has the documents the Board has now.

Mayor Hudson asked if we have to take action on this.

Attorney Koblegard said no that the Board approved it yesterday.

Attorney Bryan said it might be helpful if you approve it one more time. He said it would be better to approve it twice than have somebody say it should have been approved.

Mr. Bey said he agrees and asked if there is a motion or any other questions or comments.

Mr. Matthews said he has a question and a motion. He asked Attorney Koblegard if any language has been changed from yesterday on the Hold Harmless Agreement.

Attorney Koblegard said it was not drafted yesterday, it was just drafted this morning. He said the Board approved the Hold Harmless Agreement that he was going to then draft based upon approval of the City Attorney and present it to the Board for signature.

Mayor Hudson said this is what Attorney Koblegard promised the Board yesterday.

Mr. Tompeck said you have not seen that until today.

Attorney Koblegard said he would like to say one more thing about what Dan said. He said we have a conference call at 4:00 and if for some reason they have not gotten the resolution, the third special warranty deed, and the revised Owner's Affidavit, if they tell us there is something else they want us to change, if it is for form and not substance and we have done this before, he would like to ask the Board's permission to present that to Darryl and Dan without having to call another meeting. He said it would only be if it was an edit as to the form like spelling or something like that and has nothing to do with the meaning of the agreement. They have asked us to do that and we have done that many times before.

Mayor Hudson asked if that would have to involve the City Commission.

Attorney Koblegard said no.

Mr. DeIulio asked if that would affect the Mayor and asked if she would be all right with that.

Mayor Hudson said absolutely.

Mr. Tompeck said non substantial changes.

Mr. Bey said he is good with that and asked if we need to approve that.

Mr. Matthew said we need approval of the Hold Harmless first.

Mr. Bey asked if we need to approve that if there is something wrong we need to have the two of them to sign.

Attorney Koblegard said we probably should, it would be to form and not substance. He said the document could be redrafted and signed by the Chairman and Secretary.

Mr. Bey asked if someone wanted to make a motion.

Mr. Matthews said we have to approve the Hold Harmless first.

Attorney Bryan said that is the only thing he is worried about.

A motion was made by Mr. Matthews, seconded by Mayor Hudson, and unanimously carried to have the Board to approve and the Hold Harmless Agreement for the City of Fort Pierce for handling the actual signing of the deeds on our behalf.

A motion was made by Mayor Hudson, seconded by Mr. Matthews, and unanimously carried that if there are changes as to form and not substance that we give the approval to proceed with the signatures of the Chairman and Secretary.

Attorney Koblegard said he keeps getting ahead of himself because he is trying so hard to keep this thing moving. He said it is possible, he has not sent the City's reservation to the title company because Buck and he are still working on that. Amy is drafting it right now and if they want us to make any changes, we will make them before the City's meeting. If in fact the meeting takes place and the City approves their resolution and sign the deeds and they then come back after that for edits, they have asked us to agree if there is any edits as to form and not substance that we agree to cooperate with them in trying to get that resolved after the fact if that comes up. Attorney Koblegard said we are not saying we will do it, we are saying we will cooperate with them and try to resolve it, where things that do not have to be done necessarily before the end of the year. He does not know if there will be any.

Mayor Hudson asked if that is something for the City Commission to deal with.

Attorney Koblegard said yes.

Mayor Hudson said they can deal with that tomorrow.

Attorney Koblegard said he just wanted to bring that up.

Mayor Hudson asked Attorney Bryan to help her remember that.

Attorney Bryan said he does not promise to help people remember, but he will do the best he can.

Mayor Hudson said she will let him off the hook. She said she will remind him to remind her.

Mr. Bey asked if there was anything else they need to deal with this.

Attorney Koblegard said no everything is covered until the 4:00 p.m. conference call.

Mr. DeIulio asked if that is today that they will contact us.

Mr. Tompeck said he will give everybody a call afterwards.

Mayor Hudson said they need to sign some things today.

Mrs. Mazzarella said she needs signatures from Attorney Koblegard, Mr. DeIulio, and Mr. Bey today.

Mayor Hudson said nothing from her until tomorrow.

Mr. Bey said he is in town until Saturday if something comes up he needs to sign.

There being no further business, the meeting was adjourned.

ATTEST:

Deputy SECRETARY

CHAIRMAN