

PUBLIC WORKS COMMISSION
MEETING OF WEDNESDAY, OCTOBER 26, 2016
8:30 A.M.

Present: Evelyn O. Shaw, Chairman
Wade R. Fowler, Jr., Vice Chairman
D. Ralph Huff, Secretary
Darsweil L. Rogers, Treasurer

Others Present: David Trego, CEO/General Manager
Karen McDonald, City Attorney
Jay Reinstein, Assistant City Manager
Jim Arp, City Council Liaison
PWC Staff

Absent: Kenneth Edge, County Liaison
John Ellis, Hope Mills Liaison
Media

CALL TO ORDER

Chairman Shaw called the meeting of Wednesday, October 26, 2016, to order.

SPECIAL RECOGNITION OF EMPLOYEES / DEPARTMENTS FOR STORM RESPONSE

Chairman Shaw recognized PWC employees in attendance that were part of the initial response to Hurricane Matthew. Commissioner Shaw presented David Trego, Chief Executive Officer to introduce the employees.

Mr. Trego stated the Commissioners wanted to make certain that employees knew the Commissioners appreciated their efforts during and after Hurricane Matthew. Mr. Trego also stated he felt it was important to acknowledge the employees and departments who were part of the initial response to the hurricane. Though all the employees who assisted could not be in attendance, Mr. Trego stated the following employees were here representing their respective departments.

Joseph LaMadrid – Utility Field Services	Michael Willis – Utility Field Services
Scott Enloe – Electric Substations	Rene Denis – Telecommunications
Michael Sharpe – Customer Programs	Barbara Gonzalez – Customer Service
Ray Jackson – Legal Risk Management	Tony Rooks - Warehouse
Debbie Sturgis – Customer Programs	Danny Jordan – Facilities Maintenance
Nicole Stiff – Comm./Community Rel.	Floyd Chandler – Fleet Management

Keith Young – Water Reclamation
Mike Willis – WR Construction
Dewayne Jernigan – Electric Construction
Mike Wright – W/WW Fac. Maintenance
Joel Valley – Electrical Substations

Milton Stevens – Water Treatment Facilities
Stacy McFadden – Electric Line Construction
Wendy Dunaway – Watershed Programs
Keith Reid – Electrical Engineering

Commissioners' Comments

Commissioner Evelyn Shaw stated PWC employees were extraordinary and the citizens appreciate how PWC employees maneuvered and navigated all the energies from their respective departments to keep the citizens safe and to keep them pretty much with power and water. She stated though she experienced a couple hours without power and water, she used it to teach her grandchildren the art of reading by candlelight. She went on to say the employees are fantastic and the Board of Commissioners wanted to see their faces and to personally say 'thank you'.

Commissioner Wade Fowler stated he had the opportunity before the storm to speak to a Kiwanis group about the value of public power and tell the story of the great work PWC does. He stated they got a chance to see it first hand when the storm came. He went on to say it is fantastic to see what could have happened and did not because the PWC employees were willing to go out and work in the middle of the storm, through the nasty conditions. Employees did it when their homes were in the same trouble as those whom they were assisting. Commissioner Fowler went on to say this is the value we need to get out into the community. He noted while some PWC employees were out helping others, their cars were flooded in the employee parking lots; others came in voluntarily to see what they could do to help. Commissioner Fowler said it is this kind of spirit that makes for a great organization. He went on to say the employees were fantastic and thanked them.

Commissioner Ralph Huff stated he is so impressed and marvel at the efficiency and the depth of this organization. He stated it has been an eye-opening experience to see this organization perform like clock-work. He attributes this to the management and every employee who works at PWC. Commissioner Huff stated his message is the same as Commissioner Fowler's. He went on to say the employees really stood up when the ox was in the ditch and every citizen in the county should appreciate what PWC employees have done.

Commissioner Darsweil Rogers said that the spirit that PWC is exhibiting is flowing throughout our community. This sense of cooperation and the sense that we are stronger together are really going to be key factors that will propel us to the realm of success he believes we should have been achieving all along.

Mr. Trego also commented on the heroic efforts of Mike Willis. He stated Mr. Willis was doing routine patrols when he came upon a truck blocking the roadway. The driver in the truck stated there was another truck driver who was in a flood zone and the water was coming up to the cab of the truck. Mr. Willis swam to the driver to assist him. The driver assured Mr. Willis he knew how to swim, but upon exiting the vehicle, the driver sank. Mike Willis went under water to retrieve the driver, helped him get to the roof of the cab of

his truck and waited with him until help arrived. Mr. Trego stated, in his eyes, Mike Willis is a hero.

APPROVAL OF AGENDA

Upon motion by Commissioner Rogers and seconded by Commissioner Fowler, the Agenda was unanimously approved.

CONSENT ITEMS

Upon motion by Commissioner Rogers and seconded by Commissioner Huff the Consent Items were unanimously approved.

- A. Approve minutes of meeting of October 12, 2016
- B. Approve canceling the November 23, 2016 and December 28, 2016 Commission Meetings

(Note: order of discussion was changed due to Gray Styers being delayed)

GENERAL MANAGER REPORT

David Trego, CEO/General Manager requested for Mick Noland, Chief Officer of Water Resources to give an update on the Interbasin Transfer. Mr. Noland stated the hearings are completed. The briefs and the rebuttal to the briefs are also completed. The judge has all he needs to make a decision. The schedule is 45 days or December 5th to receive a decision. Mr. Noland stated that there needs to be a return requirement, similar to what was in the 2001 certificate. Mr. Noland went on to state that either side can appeal the decision of the Administrative Law Judge which is binding. Council Member Arp commented on the need to ensure water is put back into the Cape Fear River. Discussion ensued.

Mr. Noland responded to questions regarding the Neuse River from Commissioners.

Mr. Trego played a video to show the flows we experienced at the Glenville Lake Spillway during Hurricane Matthew. Mr. Noland stated the Glenville Plant was shut down during the hurricane to prevent flooding, although the Hoffer Plant was running. Additional discussion ensued.

Commissioners, Council Member Arp and staff discussed the flooding in the lower Murchison Road area. Mr. Trego also mentioned the possible availability of grant money for preventative measures on the storm water side for the City to look into. Discussion ensued.

Mick Noland asked Joe Glass to relay comments from the North Carolina Department of Transportation related to PWC. Mr. Glass stated he had a conversation with Bob M., the Deputy Director of the Public Water Supply. He commended PWC for being proactive in issuing the boil water advisory so quickly and also for lifting it so quickly. Mr. Glass stated it is a monumental task to get it lifted on the first try.

Council Member Arp apologized for being a little late to the meeting but he wanted to comment on the work PWC performed before, during and after the storm. He stated the feedback he received was very positive. Council Member Arp stated it was possible because of the work of everyone in the room. He thanked Carolyn Justice-Hinson for the information disseminated on Facebook and Twitter. On behalf of the City, he said ‘thank you’.

Mr. Trego updated the Commission on the bids received regarding the Market House project. He stated the bids were considerably over our estimate of \$650,000. Actually they were \$250,000 over. Mr. Trego stated the bids were not according to our specifications and were not compliant. PWC will reject the latest bids. He also discussed additional dialogue with the Downtown Alliance to consider changing the phases from four to two. This change may increase the bidders for the project. Discussion ensued.

Mr. Trego also updated the Commission on the Atlanta Coast Pipeline. Its completion date will be delayed from 2018 to 2019 due to the regulatory process at FERC. He stated it should not have an impact on our look at the different options for power supply.

Mr. Trego requested for Rhonda Haskins, Director of Financial Planning to update the Commission on the Hope Mills refunds. Ms. Haskins stated we have received almost 25% (3,000) of eligible claims. 415 have been paid and the others are in the ready status. This amounts to \$2.2 million. Ms. Haskins also stated 33 were not eligible claims and were denied. Mr. Trego stated we continue to receive the claims. Since we had the flood we will wait to see what is coming in. We plan to send out another communication to the customers to inform them they are eligible and need to submit the form to PWC.

PUBLIC AUTHORITY OVERVIEW AND TRAINING

Presented by: Gray Styers, Smith Moore Leatherwood

Katye M. Jobe, Smith Moore Leatherwood

Mr. Trego presented Gray Styers of Smith Moore Leatherwood. Mr. Styers introduced Katye Jobe, a fellow attorney working with him.

Gray Styers began the presentation by stating the keys to success for any organization are: working together or teamwork; anticipation, planning and preparation; embracing challenges, evaluation, and resilience and finally celebrating successes. He stated he has observed Fayetteville PWC, its staff and board work and they have exemplified these successful characteristics.

Mr. Styers stated the new charter hopefully provides clarity as it relates to PWC’s relationship with the City and the City Council. He stated he will not detail the history of

the litigation as many have lived it with him and others have read about it in the newspaper. Most of the language in the former charter was written in 1905. A lot of the language has not changed but some of it has been clarified to provide clarity to the relationship with the City Council and provide clarity of what the Commissioners' responsibilities are. He stated, to the extent we were working with 1905 language we had problems with what the Commissioners' responsibilities were under the law. Hopefully under the charter we have clarity of those responsibilities. This was the objective of then Chairman Darsweil Rogers and former CEO/General Manager Steven Blanchard.

The clarity that came from it is PWC is now a Public Authority under North Carolina law. In North Carolina and under our statutes, the constitution of our state creates the State of North Carolina; creates the General Assembly and the governor of the council state. In subparts subdivision of the state is a function and creation of the General Assembly. The City of Fayetteville is created by the General Assembly like every other municipality. Gray Styers went on to say we are created by statute. The issue with PWC was, we are a part of the Charter of the City of Fayetteville but exactly what is/was the PWC was an undefined and disputed issue that has now been clarified. The Fayetteville PWC is a Public Authority under the Local Government Budget Fiscal Control Act (LGBFCA). As such PWC is now a legal entity that is regulated under the rules of the Local Government Commission.

Mr. Styers stated the relationship between the City and the Commission regarding budgets and contracts were in dispute which were documented for the last 20, 30, if not 100 years. Now we have clarity. David Trego, CEO/General Manager asked for Gray Styers and his team to speak to the board regarding that clarity under the new charter.

The general fiduciary obligations to the ratepayers, customers, various constituents or stakeholders are: duty of care; duty of diligence; duty of governance and duty of loyalty. Commissioners also have the duty of financial management. They are stewards of PWC's assets. They have obligations of budget / monitoring financial status; ratemaking (revenues) / prudent cost management; planning (short-term and long range / strategic); comply with Open Meetings and Public Records requirements.

Individually, Commissioners are required to be prepared; participate in meetings; avoid conflicts of interest; maintain confidentiality, when required by law. Discussion ensued regarding conflicts of interest.

Council Member Arp asked if annual training is required for a Public Authority. Mr. Styers responded it is not required but it may fall under best practices. Karen McDonald, City Attorney, stated the City of Fayetteville does have a Conflict of Interest Ordinance and requires the boards and commissions members participate in the training.

Mr. Styers reiterated although the PWC is a Public Authority, it is very much in a relationship with the City and City Council. Mr. Trego also stated the Charter states that Commissioners are to act in the best interest of the City of Fayetteville.

There are minimum standards of service required by law and the Charter, although PWC has high standards of service which is consistent with the PWC mission and tradition or 'best practices'.

What does it mean to be a Public Authority under the LGBFCA? “Public authority” is defined in G.S. Chapter 159. PWC must comply with LGBFCA (Charter § 6A.7(1)) . The LGC oversees PWC’s financial management (budgeting and accounting). The LGC is staffed by Department of State Treasurer. This Commission approves issuance of debt for all units of local government and assists units of local government with fiscal management. The act requires a greater accountability and transparency of records.

PWC still has the same obligations under the same bond documents. PWC still sets the rates for its customers (electric, water and sewer). Contracts involving real property still require City Council approval. Real property is owned by the City of Fayetteville.

Gray Styers detailed the changes in the Charter related to the budget, budget officer, filings, and publication of the budget. He also detailed the need for public hearings, and public notice before the budget ordinance is adopted as well as required timelines for the adoption of budget ordinance. Mr. Styers detailed the special provisions in the Charter related to charitable contributions and economic development. He noted PWC retains control of contributions related to public education (related to conservation and utility use).

Mr. Styers and staff discussed the audit process and filings with the LGC. Discussion ensued.

Authorization for expenditures over \$10,000 is no longer needed. PWC generally has the right to enter into contracts (as long as 3 Commissioners approve the contract), unless it falls into the following categories: contracts above the statutory public bidding requirement (\$500,000 for construction and repair work and \$90,000 for equipment and supplies; contracts involving any real property interest; bond documents (financing). Discussion ensued regarding real property leasing as well as legal requirements of ownership and management of real property.

The Charter (§ 6A.21) is clear there can be Shared or Centralized Services. This provision is governed by the LGC rules. Services are provided only at or below prevailing market rates.

Mr. Styers also reiterated PWC’s Mission (Fayetteville PWC Strategic Plan: 2016-2021) which is to be a safe, highly productive utility; investing in team, facilities and infrastructure; supporting the interests of the City of Fayetteville; and helping customers make informed choices.

Commission thanked Gray Styers and Katye Jobe for the detailed discussion.

ADDITIONAL DISCUSSION

Following this discussion Commissioner Rogers asked for clarity on PWC’s Economic Development projects that have to go to City Council. Mr. Trego stated there are only two pieces of our budget that have to go to City Council for approval (Supporting Fayetteville Cumberland Economic Development Group and Southeastern Partnership). He stated anything

we do that have to do with rates is in PWC's purview. Discussion ensued on charitable giving and sponsorships.

Mr. Trego also distributed the revised budget calendar to Commissioners.

Council Member Arp stated, as we go through the budget process, there an opportunity to make sure we are building in synergy with both budgets. He stated as much as we can it would be good to sync up in an effort to not miss the opportunity for synergy. He also invited Commissioners to attend the Council's Strategic Planning Session.

Commissioner Huff informed the Commission he will call-in for the next meeting due to health reasons.

REPORTS AND INFORMATION

Commission acknowledges receipt of the following reports and information.

- A. Purchase Order Detail Report – September 2016
- B. Approved the N.C. Department of Transportation Encroachment Agreement:
 - Encr# 18459 – Erosion Control – a 2" SDR-21 fire line –SR 1344
- C. Position Vacancies

ADJOURNMENT

Upon motion by Commissioner Rogers and seconded by Commissioner Fowler and unanimously approved the Commission meeting was adjourned at approximately 10:40 a.m.

Following Adjournment:

New Commissioner Orientation which included City Council Orientation and a review of the PWC Guide.