

PUBLIC WORKS COMMISSION
MEETING OF WEDNESDAY, JANUARY 24, 2018
8:30 A.M.

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

Others Present: David W. Trego, CEO/General Manager
Jay Reinstein, Assistant City Manager
Johnny Dawkins, Council Liaison
Melissa Adams, Hope Mills Town Manager/Liaison
Robert Van Geons, FCEDC President
PWC Staff
Media

Absent: Michael Boose, Cumberland County Liaison

REGULAR BUSINESS

Chairman Fowler called the meeting of Wednesday, January 24, 2018, to order.

APPROVAL OF AGENDA

Upon motion by Commissioner Rogers and seconded by Commissioner Huff, the agenda was amended to add a closed session to discuss legal matters pursuant to N. C. General Statutes 143-318.11(a)(3). Motion was unanimously approved.

Upon motion by Commissioner Huff and seconded by Commissioner Rogers the amended agenda was unanimously approved.

CONSENT ITEMS

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

A. Approve Minutes of meeting of January 10, 2018.

- B. Approve PWC Resolution # PWC2018.01 authorizing the condemnation of easements on eighteen parcels and delegating authority to execute real estate acquisition documents to the General Manager.

PWC has determined at this time that its utility operations should be extended, enlarged, and improved by the acquisition of eighteen (18) specified easements in the name of The City of Fayetteville, by and through PWC, and such acquisition is necessary and in the public interest for the benefit and use of the public, specifically by and through the establishment, extension, enlargement, or improvement (to meet the need for expanded or upgraded service) of an adequate and sound system of transmission and distribution of electricity, water supply and distribution, and sanitary sewer lines and system. PWC has further determined that it has the authority under Section 6A.8 of Chapter VIA of the Charter of The City of Fayetteville to delegate to the General Manager authority to execute contracts, settlement statements, instruments, and other legal documents necessary for the acquisition of interests in real property, which shall be titled in the name of the City of Fayetteville, by and through PWC and wishes to do so.

END OF CONSENT

UPDATE ON IBT CASE

Presented by: Mick Noland, Chief Operations Officer, Water Resources

Mr. Trego commended Mick Noland's efforts in taking on this case, working with the legal team and our General Counsel in getting a successful resolution for the community. He stated the community is better off because of Mr. Noland's efforts.

Mr. Noland stated the people in the Raleigh area simply cannot do what they want to do and not consider our needs regarding the Jordan Lake and water quality. He then gave the following timeline:

July 2013

- Legislature simplifies process to modify an existing IBT certificate. They had to go through a much less rigorous evaluation to get approval to increase an already existing certificate. He noted one sponsoring Legislator was from the Cary area. PWC looked at the bill, commented on it and felt like it was reasonable.

September 2013

- Cary-Apex (Towns) petition Environmental Management Commission (EMC) to increase their certificate from 22 MGD to 33 MGD.

January 2015

- State/EMC fast track review of Environmental Assessment and issues Finding of No Significant Impact. *(No public hearing on determination).*

Commissioner Rogers asked why there was no public hearing. Mr. Noland stated we challenged a lot of these decisions during the administrative hearing. He stated the judge was awesome and he understood the issues.

March 2015

- EMC issues 2015 Modified IBT Certificate requested by Towns.
- No requirement to return flow as had been contained in the 2001 certificate. Mr. Noland stated if there had been a requirement to return flow, we would have been okay.
- Wrong mitigation standard used (reasonable degree used instead of maximum degree practicable). Mr. Noland stated they used reasonable degree and not maximum degree practicable. There is a lot of difference between those two standards.

Mr. Trego stated because of the 2001 certificate they actually constructed a wastewater treatment plant that had the capabilities to return water back to the basin. They had a lot of the infrastructure there to comply with additional return, but they did not want to do it.

Mr. Noland stated they built the Western Wake Plant which cost nearly \$300 million. This plant is in operation. They stated they are using the plant and to trust them that the water will come back. Mr. Noland stated they fulfilled the obligations but he noted that the return needed to be in the certificate. He also noted that it took a long time to get information from them.

Commissioner Rogers asked if there is more than one water system in Wake. Mr. Noland stated this issue is regarding Carey/Apex. They supply the Cary, Apex, Morrisville and part of the Triangle. They serve a lot of the western part. He stated Raleigh is not a part of this IBT. They use Falls Lake and not Jordan Lake. (Discussion ensued.)

May 2015

- Suit was filed in Office of Administrative Hearings (OAH) challenging the issuance of the Certificate.

June 2015

- Pre-hearing filings initiated. (Court had to compel the Towns/State to produce requested documents). Mediation process initiated. (Towns Attorney-former EMC Chairman)

January 2016

- Lower Cape Fear Water and Sewer Authority and the Town of Eastover intervened.

Mr. Noland stated it was important we had someone on board besides just PWC/City to contest this. Lower Cape Fear Water and Sewer Authority represents the

Wilmington area and approximately six to eight counties. Mr. Trego stated when he and Mr. Noland attended a Closed City Council Work Session, and discussed this issue with them, the City stepped up and sent letters not only to them but to other entities downstream. Mr. Trego stated former Mayor Robertson sent letters to his peers. This helped to spur the conversation. He stated a lot of thanks go to the City in assisting.

Mr. Noland also stated Williams Mullen was our legal counsel. Keith Kapp was our litigator. Ruth Levy is an associate partner and did a tremendous amount of the work once we decided we needed to take this action. She did the research, the paperwork and put the briefs together. Mr. Noland also stated Amos Dawson was a 'key' to our efforts.

May 2016

- Towns and EMC propose to change mitigation wording in Certificate as a "clerical error".
- Hearing conducted to evaluate PWC's request to issue a Temporary Restraining Order (TRO) to stop the EMC action.
- Administrative Law Judge (ALJ) Overby denied the TRO but indicated NC General Statutes did not allow for correction of "clerical error".
- EMC changed the Certificate wording.

June 2016

- Seven day hearing conducted in OAH by ALJ Overby, June 13-21, 2016

Mr. Noland stated it took the judge twice as long to wade through all the information.

February 2017

- ALJ Overby overwhelmingly ruled in favor of PWC and downstream interveners. The hearing generated seven volumes of transcript (almost 1200 pages).

The judge essentially told the opposing side they did everything wrong.

March 2017

- Towns/State file appeal in Cumberland County Superior Court.

September 2017

- Settlement discussion re-initiated to resolve the lawsuit prior to Appeal Hearing.

Mr. Noland commended Mr. Trego on hiring Mr. West as PWC's General Counsel. Mr. Noland stated Mr. West gave us a shot in the arm. He recommended we attempt to settle the case. Between the technical staff here, our technical consultant (Paul Peterson of Arcadis), who was our MVP, and Cary/Apex and their technical staff, we

developed an approach that we were confident in and they were willing to do to settle the case and not go back to court.

January 2018

- Consent Judgment between State/EMC, Towns, and PWC/Downstream Interveners approved resolving the lawsuit.
- A reissued Certificate will contain a return requirement.
- A Compliance and Monitoring Plan will ensure corrective action is taken in a timely manner if the return requirement is not achieved.

Mr. Noland commented that Judge Daughton was very happy we were able to settle the case. He is planning to retire in March and wanted the case settled before he retired.

Mr. Noland stated as a summary the Certificate will be reissued and there will be a defined amount of water they will have to return. He stated one of the other things we received as a result of this is good detail in a Compliance and Monitoring Plan as part of the Certificate that dictates what they have to do if they do not meet it. It lays out engineering reports; submission of plans and specifications; times lines, and other reporting they have to do to keep us advised of the status of their compliance.

Mr. Noland stated it innocently started in July 2013 with the change of the statute and now five years later we have a good document in place to take care of things as we go forward. He stated situations can change rather fast.

He stated Raleigh is having troubles with their long-term water supply. They do not have any water left in Falls Lake and they are attempting to get some of their water storage in Falls Lake reallocated. Raleigh also received an allocation out of Jordan Lake for 5 million gallons a day (which is just a drop in a bucket). Additional discussion ensued.

Commissioner Rogers stated there appears to be certain protections in place in terms of their non-compliance. He asked what will be our approach in case they do not comply. Mr. Noland stated he believes a lot of the fault is with the state agencies; they should have done better and differently and we could have avoided all of this. But they decided they did not need to do all we asked them to do and stuck by the regulations and their interpretation of the statutes.

Mr. Noland stated we have had good faith dealing with Cary/Apex. They are rather responsible. But if the State lets them do something and they do not have to do anything more, they will stick with what the state lets them do. He went on to say, they spent over \$300 million putting a treatment plant in place. It took them more than 10 years because they ran into issues. Since they did not complete the project in the amount of time they stated they would, they entered into a contract with Durham to send some of their waste water to Durham for treatment and discharge back into the Cape Fear basin to stay in

compliance until they completed building the treatment plant. He stated they did it of their own volition.

Commissioner Rogers stated his point is that someone on the WR staff needs to make sure they are doing their job. He stated he is requesting that someone makes sure they are doing what they are supposed to do (discussion ensued).

Commissioner Rogers asked about the total of the legal bill. Mr. Noland stated the total legal bill was over \$700,000. The technical assistance bill was \$100,000. He commended Eastover for joining us in this battle.

Council Liaison Dawkins stated he never saw the required return amount. In essence they need to return 80% of the gallons used above 16 million gallons a day. He also asked when we will revisit this to make sure folks are complying. Mr. Noland stated part of the consent judgment requires them to submit a report for 2017 by May 1, 2018.

Commissioner Shaw asked if either Mr. Trego or Mr. Noland is aware if the legislators that represent the entities involved are fully up to speed on this issue. (Discussion ensued.)

Commissioner Rogers asked if staff can come back with a plan or a strategy to be more proactive, please do so. Mr. Trego responded now that we have this behind us, when we can speak to the head of the delegation (if not the entire delegation) regarding water issues, we will have this as part of that conversation.

Chairman Fowler thanked Mr. Noland and his team on a great job.

NCDOT RAEFORD ROAD PROJECT UPDATE

Presented by: David Trego, CEO/General Manager

James Michel, Water Resources Engineering, Engineer II

Keith Reid, Electrical Engineering, Field Engineering Supervisor

Mr. Trego stated as the Commission knows as we went through the budget last year, the single largest project we have been involved with DOT is the Raeford Road Project, which is pretty considerable. Since the Commission has approved for staff to get easements in the Consent agenda, he thought it was good to have this conversation now. Mr. Trego stated staff is now preparing the budget for next year and Mr. Noland has communicated to him that the State has decided to accelerate the Ramsey Street project. This impact can be larger on PWC than the Raeford Road Project. They are going to do a similar project on Ramsey as they are doing on Raeford. We may have to start engineering in the next couple years, though we may not be billed until after the five year horizon. From a financial standpoint the Ramsey Street Project may have a larger impact than Raeford Road.

Mr. Trego stated Mark Brown has been coordinating PWC's efforts, though he is away today. Mr. Trego stated NCDOT is widening Raeford Road. They are widening Old Raeford Road to Robeson Street - 6.5 miles. NCDOT requested PWC's assistance with

utility relocation planning in February 2015. Mr. Trego stated there are sections of Raeford Road that are extremely tight. He stated PWC is working closely with NCDOT, CoF, Piedmont Natural Gas, Time Warner, Century Link and others. Mark Brown has regular meetings on this project with that team. We bring electric and water representatives when needed.

Our focus is managing property owner concerns and the project schedule. While many of the water resources facilities are in the middle of the street, our electric facilities (in many cases) are in private right-a-ways and if they are in the public right-a-way, if they widen the road, our poles will have to be moved.

PWC hosted a well-attended property owner meeting on September 28, 2016 to go over what the process would be. There were representatives from DOT, the City and PWC to let them know the process. This is around the time the State issued the contract to determine what their ROW would be. Once the State determined what their ROW requirements were, we would then know what our needs would be. We wanted to step the landowners through the process so they would know who would contact them and what the requests would be. Obviously the landowners had a lot of concerns and a lot of questions. Yet, that was part of the purpose of the meeting to eliminate some surprises.

In addition, the PWC team has had over 30 individual meetings with property owners to discuss their individual concerns. We have set up a phone number to contact us if they have questions relating to PWC. He stated a lot of those are businesses. Some of their concerns involve signage because a lot of them have existing signs. And they wanted to know if they needed to move them. If we need to move our water or electric lines where their signs are, then that would be a problem. If we need to move our electric lines, there are requirements from the National Electric Safety Code on clearances, so we have to verify that their signage would not be negatively impacted. This trickled conversations with the City. Some of the signs are grandfathered, so the property owners wanted to know if they had to move them, would they continue to be grandfathered. (Discussion ensued.)

Mr. Trego stated PWC is acquiring 13 ROW for transmission lines. NCDOT is acquiring over 200 Public Utility Easements (PUE) for electric, water, sewer and natural gas relocations. NCDOT has scheduled construction to begin on September 1, 2018 and construction is expected to last at least four years.

The phases are:

- Phase 1: South Side Raeford Rd, west end to east end
- Phase 2: North Side Raeford Rd, west end to east end
- Phase 3: Median Raeford Rd, west end to east end

Mr. Trego then turned the presentation over to James Michel, Water Resources Engineer II. He is the Water Resources Project Manager for the Raeford Road Project. Mr. Michel stated there are 6.5 miles of roadway on the project. There are almost 12 miles of existing water line because they are generally on both sides of the roadway on that route.

He stated of 58,000 linear feet of existing water mains, they expect to install 51,000 feet of new pipe for a host of reasons. They include:

- ▶ 29,500 LF in direct conflict or doesn't meet DOT Standards
- ▶ 10,500 LF of new mains (betterment)
- ▶ 11,000 LF of replaced Cast Iron pipe

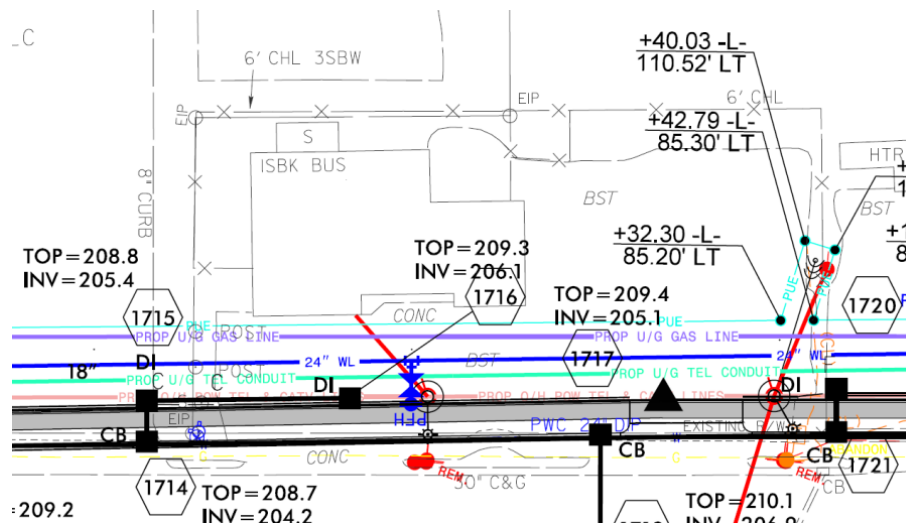
Mr. Trego stated the 11,000 linear feet were not in the original scope, but Mr. Noland informed him that this pipe would need to be replaced or relined in the next 5 to 10 years, so it would be prudent to replace it now while the street is opened up.

Mr. Michel stated on the sewer side it is not as impactful. There are 29,000 linear feet or 5.5 miles of existing sewer mains in the Raeford Road Project. Of that, 3,200 linear feet or .61 miles are in conflict with DOT.

Commissioner Shaw inquired about the pipe that no longer meets DOT standards. She asked if not for this project, would we have replaced the pipe or are they paying the difference. Mr. Michel responded, eventually we would have replaced it. That type of pipe is on our radar. DOT does not allow it to be installed anymore and we need to replace it from a long term and asset management standpoint. DOT will not reimburse us for the majority of this AC Pipe because when it was installed it was done by encroachment. It was installed inside a DOT ROW with their permission.

Mr. Michel stated considering the entire project, DOT will reimburse PWC for 30% of water sewer cost because of existing easements in certain areas we had. A lot of it falls on transmission lines and not necessarily AC lines.

Mr. Michel then showed the Commission the following diagram. He pointed out the areas where PWC water lines are currently located along Raeford Road; as well as our overhead power lines; new storm drains; our fire hydrants, our water lines and more. (Discussion ensued.)



Mr. Michel presented the following information which represents the capital budget projections for 2018 and 2019. He stated DOT had an earlier construction schedule, finishing in FY2022. Now we know that they will not begin the construction window as early as they had planned and it has been pushed out a year. We also know how complex and difficult the construction will be so we have added the additional costs based on our knowledge. We have also added the cast iron water main replacement. This has increased the budget approximately \$6 M.

Fiscal Year 2018 CIP							
	FY18	FY19	FY20	FY21	FY22	FY23	Total
Water	\$719	\$350	\$350	\$13,084	-	-	\$14,503
Sewer	\$186	\$100	\$70	\$1,425	-	-	\$1,781
							\$16,284
Fiscal Year 2019 CIP							
	FY18	FY19	FY20	FY21	FY22	FY23	Total
Water	\$730	\$625	\$710	\$361	\$17,990	-	\$20,416
Sewer	\$581	\$260	\$80	\$70	\$1,070	-	\$2,061
							\$22,477

Mr. Trego also reminded the Commission that DOT does the construction for us but will not bill PWC until the work is finished, which is why the payment is in FY22. (Discussion ensued.)

Mr. Michel then turned the presentation to Keith Reid, Electric Field Engineering Supervisor.

Mr. Reid stated if our utilities are in the road right-of-way and DOT decides to expand the road, then we will pay for moving the utilities. If our utilities are outside of the right-of-way, then DOT reimburses PWC for the cost. He stated fortunately for us, our utilities are outside the ROW.

Mr. Reid reiterated the project is 6.5 miles in length with 8.5 miles of transmission and distribution lines which will be relocated. There are 72 transmission poles to be replaced and 378 distribution poles to be relocated with 32 to be self-supporting. The transmission poles are wood and will be replaced with steel, which is our new standard. We will also increase the space between them, which will slightly increase our capacity

Of the self-supporting poles, 28 will be joint use with NCDOT traffic signals. This will cut down the number of poles within the intersection. These poles were normal tangent poles (wood poles with transmission steel). They will now be self-supporting poles with foundations. This will increase the project approximately \$40,000. Mr. Reid also stated this project involves 15 circuits from 6 substations. (Discussion ensued).

The original construction was anticipated to begin in January 2018 at a cost of \$7 Million. Due to the continued expansion of the scope of the project, it is now estimated to begin in July 2018 at a cost of \$10.35 Million.

The proposals for the transmission poles have been sent out. He stated staff expects to open the bid on February 1st. The major driver in the increased cost is due to expansion of the project and NCDOT’s relocation of some of their drainage. Mr. Reid also stated that originally we expected for NCDOT to acquire the ROW. We decided to acquire the ROW to allow for additional flexibility. Mr. Trego affirmed that the additional costs are still within the normal scope which is reimbursable by NCDOT.

Commissioner Rogers asked if we looked at placing any of the lines underground, in particular around Harris Teeter. Mr. Reid responded we do not place any of the transmission system underground and a small part of the distribution system is underground. The majority stayed overhead.

Mr. Trego stated placing systems underground is considered betterment and NCDOT will not reimburse any betterment. The cost of placing lines underground costs 10 times more than placing over-ground.

Commissioner Huff asked if the work will be done by PWC or by outside contractors and will any be local contractors. Mr. Reid replied that PWC will be accepting bids from contractors. There will be two contractors selected (one for transmission and another for distribution). He also stated that the closest contractor that is capable of doing this project is from Aberdeen.

Mr. Reid then highlighted the differences in the CIP Budget based on the changes to the scope of the project.

Fiscal Year 2018 CIP							
	FY18	FY19	FY20	FY21	FY22	FY23	Total
Electric	\$3,375	\$3,375	\$250	-	-	-	\$7,000
Fiscal Year 2019 CIP							

	FY18	FY19	FY20	FY21	FY22	FY23	Total
Electric	\$1,000	\$6,600	\$2,750	-	-	-	\$10,350

Council Liaison Dawkins stated that staff answered several of his potential questions, which were why we are not placing lines underground and also PWC is not reimbursed by NCDOT. Mr. Trego went on to say, when lines are placed underground typically you don't get as many outages, because trees don't fall on them and cars do not run into them. But when there is a break in an underground line it is hard to find. He stated in this particular case it was a financial decision, because of the stress that is placed because of the cost on the water/sewer side. PWC Staff also had discussions with City Staff because they had concerns about the ascetics, but they had the same response when they understood it was 10 times the cost and we would not receive 90% of the costs back. (Discussion ensued.)

Chairman Fowler thanked staff for the detailed report.

GENERAL MANAGER REPORT

Impact of Tax Bill on PWC Rates

Mr. Trego stated at the last meeting he gave an update on the impact the tax bill would have on PWC's Power Supply Bill from DEP. The paper stated there might be a rate decrease. He stated while that is technically accurate, he wanted to clarify that it is just one to two inputs in a sixteen page formula that we have from Duke. There are a lot of moving parts within DEP's formula. Additionally our cost of service not only includes power supply but also includes our cost of doing business like the Raeford Road project. He stated we have not completed our analysis and have not discussed with the Commission what the overall impact will be. It is true that any reduction in the sales tax as it is reflected in our Duke bill will be included in the overall calculation in what we need to do regarding our revenues for Electric. If there are savings in our power supply bill it will be reflected in our revenue requirements but it is premature to say what impact it will have overall. We just received notice from Duke that it will take them until April to unwind their deferred tax calculation. He stated knowing the overall impact it will have on rates is premature at this time. (Discussion ensued.)

Letter from the Mayor

Mr. Trego stated he received a letter from the Mayor and would like to read it to the Commission.

Dear Mr. Trego,
 With the freezing temperatures and weather we experienced the first week of January I would like to thank everyone at PWC for your diligence and

attention to detail even in unfavorable weather. The PWC Crews worked phenomenally together to ensure the line breaks were fixed and pressure and water restored in a timely manner. The continuous output of updates and information was extremely beneficial to everyone affected and greatly appreciated. Without the PWC employees pushing through, the residents of Fayetteville and PWC customers would not have been so well taken care of.

Thank you for your continued leadership and thank you to the PWC crews and employees for all of their continued efforts. Sincerely, Mitch Colvin, Mayor.

Mr. Trego stated he wanted to read it as it was a wonderful letter to read. He will ensure the employees are aware of this commendation.

Cold Weather and PWC Bills

Mr. Trego stated the weather was 20% colder than normal and we realize it will have an impact on customer bills. He stated staff has been proactive in getting the message out to customers. They need to call us if they believe they will have difficulty in paying the January bill. Do not wait until the bill is overdue. It is harder to react when it is overdue. Call us ahead of time. He stated we have tools in our toolbox to allow customers to have an extended due date if they need extra time. Also, we can make payment arrangements with customers. We are going to use all of our differing communication tools to continue to get the message out to customers. (Discussion ensued.)

United Way Update

Mr. Trego stated we are now up to \$122,000 contributed to United Way. He stated this is an all-time high amount of donations/pledges. Our participation is 98.8%. Mr. Trego congratulated the employees for caring about their neighbors and being a positive force in the community.

Commissioner Comments:

Commissioner Shaw asked where we are in regards to the Fleet discussions. Mr. Trego stated the City has released its RFP and it will be due back in mid-March. Once it is back they will put together an evaluation team. Mr. Reinstein stated Mr. Trego and his team will have opportunity to also review the responses. Mr. Reinstein stated we should be hearing more in mid-March.

Mr. Trego stated our charter states we cannot provide shared services unless it is at or below market price. Once the RFPs come back in, we will be able to review to determine the specific offering of the respondents. We will then have to replicate the offering to determine if we can offer the same service at or below the market price.

Commissioner Shaw stated she was interested in the notice we gave to the City. Mr. Trego stated because we gave a date to the City, prior to that date, the City will have a direction on where they are going. (Additional discussion ensued).

Mr. Trego stated we will at a minimum be in a transition period with the City. We will reflect in the budget as if we will supply the fleet services for the City for the entire year. Then once we know what the City will do, we will come back with a budget amendment.

REPORTS AND INFORMATION

Commission acknowledges receipt of the following reports and information.

- A. Monthly Cash Flow Report – December 2017
- B. Investment Report – December 2017
- C. Position Vacancies

CLOSED SESSION

Commissioner Rogers motioned to go into closed session to discuss legal matters pursuant to N. C. General Statutes 143-318.11(a)(3) at 9:59 a.m. Motion was seconded by Commissioner Huff and unanimously approved.

After discussion, Commissioner Rogers motioned to return to open session at 10:50 a.m. Motion was seconded by Commissioner Shaw and unanimously approved.

ADJOURNMENT

There being no further business, upon motion by Commissioner Rogers, seconded by Commissioner Shaw and unanimously approved, the meeting was adjourned at 10:51 a.m.