

CITY OF WINTER PARK
SPECIAL MEETING OF THE CITY COMMISSION
June 4, 2003

The special meeting of the Winter Park City Commission was called to order by Mayor Kenneth "Kip" Marchman at 2:00 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida.

PRESENT: Mayor Kenneth "Kip" Marchman, Commissioners John Eckbert, Doug Metcalf (via telephone conference), Douglas Storer and Barbara DeVane; City Attorney C. Brent McCaghren; City Manager James Williams and Deputy City Clerk Tania Haas.

I. Call to Order - Mayor Marchman

II. Introduction of Issues - Randy Knight

Assistant City Manager Knight explained the purpose of the meeting is to discuss the arbitration award and possible referendum dates. He discussed the summary of the value of the distribution system which is part of the arbitration award. Mr. Knight continued with the separation and reintegration costs, stranded costs, and the true-up mechanism costs.

Commissioner DeVane sought clarification regarding the reference to the Fairbanks Avenue annexation in the arbitration award. Mr. Knight spoke that the recent Fairbanks and Lee Road annexations are not included. Commissioner DeVane inquired into the award amount pertaining to easements. She asked whether there are other properties included in the amount other than easements. Mr. Knight explained that the substation property located adjacent to the Winter Park Village is part of the number. Commissioner DeVane asked whether distribution costs were considered a stranded cost. Mr. Knight explained that stranded costs only apply to the generation component. Discussion ensued regarding the Progress Energy application to construct Hines 3 in Polk County. Attorney Tom Cloud clarified that under this award the City would not be paying for the construction of that plant. He explained the many contingencies applicable to this issue.

Regarding the schedule for stranded costs, Commissioner Storer requested an average estimate of when the transaction would be completed and at what level. Mr. Knight spoke that a timeline has been completed. He said that depending on the date of the referendum, the City could be in business by January 2005. Discussion ensued regarding the stranded costs obligation for 2004. Commissioner Metcalf sought clarification on the total for the stranded costs obligation.

III. Presentation of Arbitration Award - Randy Knight

This discussion was held under item II.

IV. Presentation of Preliminary Feasibility Analysis (Back of the Envelope) - Jerry Warren, First Southwest

Jerry Warren, First Southwest, elaborated on the Winter Park Municipalization Schedule. He explained that his firm was retained to update the feasibility analysis based on the numbers contained in the arbitration order. He elaborated on how the net present value number was calculated. Mr. Warren continued with an explanation of the determination of increase in acquisition costs compared to those calculated in the Black and Veatch Feasibility Study.

Commissioner Storer inquired about the total amount calculated for legal fees. There was discussion on whether the estimated amount for legal costs was the amount calculated on the original Black and Veatch study. Lastly, Mr. Warren discussed the Comparison of the Black and Veatch Feasibility Study NPV Results vs. the increase in acquisition costs and the conclusions reached.

V. Remaining Legal Process - Gray, Harris

Attorney Tom Cloud explained that following the arbitration award, Florida Statutes provide a 90-day period that the City can file to confirm the award. He reported that on May 22, 2003, Judge Nelson confirmed the City of Casselberry award. He noted that he anticipates the award will be confirmed at the end of the 90-day period. He spoke that the timing schedule on the stranded costs may become an issue; not for the City but for Progress Energy. He elaborated on the opportunity that exist for an appeal to the Fifth District Court. Tracy Marshall provided comments related to the Public Service Commission. Mr. Cloud discussed the financing processes that should take place in order for the facility to be transferred. Ms. Marshall explained the transfer process and the transition plan. Discussion ensued regarding if this process would ever be heard in a federal court. Commissioner DeVane asked about staff meeting with the City's attorney to discuss issues and strategies, Executive Sessions and compliance with the Sunshine Laws. Mr. Knight stressed the preliminary nature of the timetable being discussed.

VI. Staff Recommendation - Randy Knight

Mr. Knight explained that the timetable is based upon a September 9, 2003, referendum. He explained that this is the earliest date possible because of the requirement of the 90-day oversee voter notice of Special Referendum. He spoke that staff recommends to proceed with this date and elaborated on the reasons that this date is most appropriate. Mayor Marchman inquired whether the September 9, 2003, date is possible for the Supervisor of Elections. Mr. Knight responded that staff has been in contact with the Supervisor of Elections Office. Mr. Knight distributed a tentative schedule of dates completed by the Supervisor of Elections Office that contained the requirements that would need to be met for a September 9, 2003, referendum.

Commissioner Storer readdressed the Black and Veatch study and recalculating the annual revenues that would accrue to the City. Mr. Knight noted that a formal feasibility report will be provided to the Commission.

VII. Establish Referendum Date - City Commission

Mayor Marchman confirmed whether staff's recommendation was to move forward and to attempt to obtain the September 9, 2003, referendum date. Mr. Knight responded affirmatively.

Motion made by Commissioner Storer to move forward and try to obtain a September 9, 2003, referendum date; seconded by Commissioner Metcalf. Upon a roll call vote, Mayor Marchman and Commissioners Eckbert, Metcalf, Storer and DeVane voted yes. The motion carried unanimously with a 5-0 vote.

VIII. Direction from Commission - City Commission

Commissioner DeVane inquired whether additional discussion on this is scheduled for the June 10, 2003, regular Commission meeting. She recommended canceling the CRA Agency meeting and postponing it until the second meeting in June at 2:30 p.m. Discussion ensued regarding the issues that will be addressed at the regular meeting.

Mayor Marchman adjourned the meeting at 2:45 p.m.

Mayor Kenneth R. Marchman

ATTEST:

City Clerk