

1 DIVISION 7. – INDEPENDENT UTILITY BOARD

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3 Sec. 2-356. - Intent.

4 It is the intent of the City Commission to create, empower, staff, and fund an independent utility
5 board and to transfer to that board, except as otherwise provided in this ordinance, the City Commission's
6 powers regarding utility governance. This ordinance shall take effect only after adoption, by the electors
7 of the city of Gainesville, of certain amendments to the City Charter as provided in this ordinance.

8

9 Sec. 2-357. - Definitions.

10 [The following words, terms and phrases, when used in this division, shall have the meanings
11 ascribed to them in this section, except where the context clearly indicates a different meaning:]

12

13 (a) *City Commission* means the Gainesville City Commission

14

15 (b) *Customer* means the natural person or legal entity that has a utility services account in his/her/its
16 name and is responsible for payment for utility services at that specific location.

17

18 (c) *Utility* means the city doing business as Gainesville regional utilities.

19

20 (d) *Independent utility board* means the utility governance board created by this division.

21

22 (e) *Utility governance* means the making and administering of the utility's course of action. Governance
23 decisions are those decisions designed to influence and guide management's decisions, actions and
24 other matters of the utility. The responsibilities of utility governance are more specifically described
25 in Subsections 1.04(2), (3), (4), (5), (6), (7), and (8), of the City Charter.

26

27 (f) *Utility management* means the directing, supervising or carrying on of utility business affairs in a
28 manner as directed by the City Commission. The responsibility for utility management is more
29 specifically described in Section 3.06 of the City Charter.

30

31 (g) *Utility services* means the electric, gas, telecommunications, water, and wastewater services
32 provided by the city doing business as Gainesville regional utilities.

33

34 Sec. 2-358. - Creation.

35

36 (a) *Establishment*. The independent utility board ("IUB") is hereby created as a utility governance board
37 to exercise those powers of utility governance explicitly delegated to the board by this ordinance.

1 (b) *Utility Advisory Board.* The text within the existing Division 7. of Article V. Boards, Commissions and
2 Committees of Chapter 2 Administration is hereby repealed and replaced by this ordinance. Except
3 as otherwise provided for by this ordinance, the existing Utility Advisory Board is hereby disbanded.
4

5 Sec. 2-359. – Independent utility board; membership; terms; officers; procedural rules.
6

7 (a) *Inaugural membership.* The members of the existing Utility Advisory Board shall serve as the
8 inaugural members of the IUB. Those members shall serve out the remainder of their Utility Advisory
9 Board term, as modified by this ordinance, as members of the IUB so long as they maintain all
10 necessary qualifications as provided in this ordinance.
11

12 (b) *Membership qualifications.* The IUB shall have seven members. All members shall reside within the
13 utility service area and be a Customer of the utility. At least one (1) member of the IUB shall be a
14 Customer or representative of a Customer located outside the municipal limits of Gainesville. The
15 membership shall be comprised of the following:
16

17 (1) A representative of a major business (defined as having 25 or more employees) that is a utility
18 commercial Customer;

19
20 (2) A person with utility management or operational experience;

21
22 (3) A person with investment banking, financial or certified public accounting experience;

23
24 (4) A licensed attorney with business, contract, corporate, utilities, and/or government law
25 experience;

26
27 (5) A person with engineering experience; and

28
29 (6) Two persons with any qualifications the City Commission deems relevant or beneficial to
30 service on the board.
31

32 (c) *Members Currently or Formerly Holding Public Office.* No member of the IUB shall hold any other
33 public office or position. Until January 1, 2022, no current or former elected official of the city of
34 Gainesville or Alachua County having held office after January 1, 2000, may become a member.
35

36 (d) *Member Applications.* The City Commission shall solicit applications for appointment to the IUB no
37 fewer than four (4) months prior to any vacancy.

- 1 (e) *Term.*
- 2 (1) The inaugural IUB shall set the terms of its members so as to comply with the requirements of
- 3 this section.
- 4
- 5 (2) Each member shall be appointed to a four-year term. Members may be reappointed for
- 6 consecutive terms and may hold office after expiration of their term until a successor has been
- 7 appointed and qualified. Members may serve no more than three consecutive terms.
- 8
- 9 (3) Terms shall be staggered such that two vacancies occur on the IUB every year, except every
- 10 fourth year when one vacancy shall occur.
- 11
- 12 (3) The City Commission shall fill any vacancy for the unexpired portion of a term, without recourse
- 13 to the nomination procedures established in this ordinance, if the remainder of the term is 120
- 14 days or fewer. If the remainder of the unexpired term is greater than 120 days, the City
- 15 Commission shall follow the nomination procedure established in Part D of this section to fill the
- 16 vacancy.
- 17
- 18 (4) If a member is appointed to complete an unexpired term, the member's term shall commence at
- 19 the time of appointment and shall continue through the remainder of the unexpired term.
- 20
- 21 (f) *Officers.* The members of the IUB shall annually elect a chair and vice-chair from among their
- 22 membership. The chair shall conduct meetings in accordance with the IUB's rules of procedure and
- 23 shall exercise other powers as specified by this ordinance. The vice-chair shall exercise the powers
- 24 of the chair in the chair's absence.
- 25
- 26 (g) *Compensation of members.* The IUB members shall be entitled to compensation equal to forty
- 27 percent (40%) of the compensation for City Commissioners. IUB members shall be compensated
- 28 from utility funds designated in the utility's annual budget.
- 29
- 30 (h) *Meetings and attendance.*
- 31 (1) The IUB shall hold at least one regular meeting each calendar month, unless cancelled by the
- 32 board.
- 33
- 34 (2) Members shall be required to attend all regular and special meetings. Each IUB member may
- 35 be granted four (4) excused absences per calendar year. Members shall notify the board
- 36 secretary of an absence prior to the meeting, if practicable. If a member has more than four (4)

1 absences in a calendar year, the remaining members shall consider, in an open meeting, a vote
2 to recommend removal of that member.

3
4 (3) The IUB may hold special meetings by a majority vote of the members. Attendance at special
5 meetings shall be mandatory and the IUB shall conduct any special meeting in accordance with
6 its rules governing regular meetings. When the most efficient use of utility staff time and city
7 resources dictate, the IUB may call for a special meeting to meet concurrently with the City
8 Commission.

9
10 (4) The IUB may hold workshops at the call of the chair or no fewer than two (2) members.
11 Workshops shall be called for the purpose of discussion and no votes shall be held. Attendance
12 at workshops shall not be mandatory.

13
14 (i) *Removal from board.*

15 (1) By a unanimous vote, other than the member who is the subject of the vote, the IUB may
16 recommend to the City Commission the removal of a member. Alternatively, the City
17 Commission may, by its own initiative, undertake to remove a member of the IUB.

18
19 (2) An IUB member may only be removed for cause by a 6/7 vote of the City Commission.

20
21 (j) *Rules of procedure.*

22 (1) The IUB shall adopt rules of procedure to carry out its purposes. All rules must conform to this
23 ordinance and state law.

24
25 (3) A quorum shall consist of a majority of the members of the IUB; however, a smaller number
26 may adjourn a meeting. Official action may be taken by majority vote when a quorum is present.

27
28 (4) The IUB and its members shall be subject to the provisions of Florida's Government in the
29 Sunshine Law (F.S. § 286.012), Florida's Code of Ethics for Public Officers and Employees
30 (F.S. Ch. 112, Pt. III), and Florida Public Record's Law (F.S. Ch. 119), all as may be amended
31 from time to time.

32
33 Sec. 2-360. - Functions, powers and duties of the IUB.

34
35 The IUB shall have full authority to make and shall make independent decisions regarding all
36 aspects of utility governance, except for those decisions specifically reserved to the City Commission by

1 this ordinance. The IUB shall have all of the following powers and duties, in addition to the powers and
2 duties otherwise conferred by this ordinance:

3
4 (a) To make policy and governance decisions for the utility and to effectuate an orderly transition of
5 decision-making authority from the city to the IUB, consistent with this ordinance.

6
7 (b) To appoint, remove, and direct a general manager for utilities as provided in this ordinance.

8
9 (c) To direct the charter officers of the city of Gainesville regarding utility matters.

10
11 (d) To establish and amend the rates, fees, assessments, charges, rules, regulations, and policies
12 governing the sale and use of services provided through the utilities.

13
14 (e) To acquire real or personal property and to construct such projects as necessary to operate,
15 maintain, enlarge, extend, preserve, and promote the utility systems in a manner that will ensure the
16 economic, responsible, safe, and efficient provision of utility services, provided that title to all such
17 property is vested in the city.

18
19 (f) To use utility funds to appropriate or acquire property for the purpose of obtaining, constructing, and
20 maintaining utility facilities, provided that title to all such property is vested in the city.

21
22 (g) To use utility funds to procure professional services as may be necessary for the IUB to carry out its
23 powers and duties.

24
25 (h) To prepare and submit to the general manager for utilities, at least four (4) months before the start of
26 the utility's fiscal year, an annual budget for all IUB operations, including the amount of any
27 compensation for the IUB.

28
29 (i) To issue revenue bonds, upon resolution of the IUB establishing the form, terms, and purpose of such
30 bonds, for the purpose of financing or refinancing utility system projects, and to exercise all powers
31 in connection with the authorization, issuance, and sale of such bonds as conferred upon
32 municipalities by part II of chapter 166, Florida Statutes, provided that such bonds may be validated
33 in accordance with chapter 75, Florida Statutes. The IUB may not issue general obligation bonds.

34
35 (j) To dispose of utility system assets only to the extent and under the conditions that the City
36 Commission may dispose of such assets pursuant to section 5.04 of Article V.

1 (k) To prepare and submit to the City Commission, at least four (4) months before the start of the city's
2 fiscal year, an Annual Customer Report (ACR) examining utility rates for all customers. The report
3 shall include, but not be limited to, comparisons of customer utility rates with peer municipal utilities.
4 The report shall include multiyear projections of all customer utility rates.

5
6 (l) To recommend, by resolution to the City Commission, the acquisition and operation of a utility
7 system not owned or operated by GRU as of the date of transfer of governing authority to the IUB.

8
9 (m) To petition the City Commission, by resolution, to exercise its retained powers on behalf of the
10 utility.

11
12 Sec. 2-361. - Functions, powers and duties retained by the City Commission

13
14 The City Commission shall retain the power and duty:

15
16 (a) To decide the appropriate return on investment annually transferred from the utility to the city
17 general fund ("General Fund Transfer" or "GFT"). The City Commission shall set the amount of the
18 GFT at least four (4) months before the start of the utility's fiscal year.

19
20 (b) To issue general obligation bonds on behalf of the utility to finance the acquisition, construction, or
21 refinancing of utility system projects.

22
23 (c) To exercise the power of eminent domain pursuant to part IV of chapter, Florida Statutes, on behalf
24 of the utility.

25
26 Sec. 2-361. – General Manager for utilities

27
28 (a) Sec. 3.06 of Article III. Administration of Part I of the Charter Laws of the City of Gainesville is
29 hereby repealed.

30
31 (b) There shall be a general manager for utilities ("GM") that shall report to the IUB. The IUB shall be
32 subject to the limitations found in Sec. 2.10 of Article II. City Commission of Part I of the Charter
33 Laws of the City of Gainesville in its dealings with the GM. The GM shall serve at the will of the IUB
34 and the City Commission shall have no power to direct the GM in the performance of their duties.

35
36 (c) The GM shall have the authority to manage the utility and to take all actions necessary for its
37 efficient, ethical, and prudent operation. The GM:

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(1) Shall be responsible for and have exclusive management jurisdiction and control over operating and financial affairs of the utility system including, but not limited to, the planning, development, production, purchase, sale, exchange, interchange, transmission and distribution of all electricity; the planning, development, purchase, sale, exchange, interchange, transmission and distribution of all natural gas; the planning, development, supply, treatment, transmission, distribution and sale of all potable water; and the planning, development, collection, treatment, disposal and billing of all wastewater now or hereafter provided by the utility;

(2) Shall submit to the IUB for its consideration and approval an annual budget for the operation of the utility system;

(3) Shall be the purchasing agent for all equipment, materials, supplies and services necessary for operating and maintaining the utility system subject to policies promulgated by the commission;

(4) Shall designate the job titles of subordinates that are to be considered directors of department;

(5) Shall appoint and remove all directors of departments at will;

(6) Shall recommend to the IUB all measures necessary and expedient for the proper governance and management of the utility system;

(7) Shall keep the IUB fully advised as to the management, governance and needs of the utility system;

(8) Shall perform all other duties prescribed by general law or direction of the IUB.

(d) The GM in office at the time of passage of this ordinance shall remain in office until such time as the GM voluntarily leaves office or is replaced by the IUB.

Sec. 2-362. – General Provisions

(a) In carrying out its functions, powers, and duties, the IUB shall foremost consider the need to operate the utility in a manner that provides safe and reliable utility services, at fair, just and reasonable

1 rates, which includes a reasonable return on the City of Gainesville's investment in the form of the
2 GFT.

3
4 (b) IUB members are expected to actively engage in the collection and evaluation of information related
5 to utility management and governance. The IUB members shall conduct research, gather information
6 and learn from the experiences of industry experts and board members from throughout the state in
7 order to make informed and independent decisions.

8
9 (c) The IUB shall be subject to sections 286 and 119 of the Florida Statutes in its dealings with the City
10 Commission.

11
12 (d) The City Commission and the IUB shall perform all acts necessary and proper to effectuate an
13 orderly transition of the governance of the utilities to the IUB, including, but not limited to, the
14 creation of such instruments as are necessary for the IUB to function in accordance with this article.

15
16 (e) In the event a charter officer feels they have been given conflicting instructions from the IUB and City
17 Commission, that charter officer shall detail the conflict in a letter to the two bodies. Within thirty (30)
18 days of delivery of the charter officer's letter, the IUB and City Commission shall work together, in
19 good faith, to amend, rescind, or otherwise ameliorate the conflicting instructions.

20
21 (f) As necessary, the IUB shall designate two (2) people to represent the IUB in any negotiations or
22 proceedings, whether formal or informal, regarding the pay, benefits, or working conditions of GRU
23 employees. This shall include, but not be limited to, such negotiations with the City of Gainesville and
24 labor unions or associations representing employees of the utility.

25
26 (g) In order to provide for the transitional administrative needs and orderly compliance with the
27 provisions of this ordinance, the chairperson of the IUB or his or her designee is authorized to
28 execute documents required for the transition.

29
30 (h) The first act of the IUB shall be to ratify and adopt, pursuant to the powers granted in this ordinance,
31 all city ordinances, policies, rates, fees, assessments, charges, rules, regulations, and budgets
32 related to the operation of the utility as actions of the IUB until such time as the IUB modifies any
33 such item. Upon adoption and ratification by the IUB, all such city ordinances, policies, rates, fees,
34 assessments, charges, rules, regulations, and budgets of the City Commission relating to operation
35 of the utility shall be void.

36

1 (i) All rights, responsibilities, claims, and actions involving the utility as of the transfer to the IUB shall
2 continue, except as may be modified by the IUB under the powers granted by this ordinance and
3 consistent with law.

4
5 (j) A franchise, right-of-way, license, permit, or usage fee or tax may not be levied by the city upon the
6 IUB or the utilities unless allowed by general law.

7
8 (k) A member of the IUB is not individually responsible for IUB debts or liabilities.

9
10 (l) The IUB shall develop an ethics policy and a code of business conduct that shall be reviewed at least
11 biennially.

12
13 Sec. 2-363. - Charter Amendment

14
15 (a) Enactment of this ordinance shall require an amendment to the Charter of the City of Gainesville. A
16 charter amendment will be placed on the March 2018 ballot for the city of Gainesville and the ballot
17 question shall read as follows:

18
19 "Shall the Charter of the City of Gainesville be amended to create the Independent Utility Board
20 (IUB) and to transfer governance of Gainesville Regional Utilities (GRU) from the City
21 Commission to the IUB, whose responsibilities shall include, but not be limited to, examining and
22 establishing utility rates for all customers and directing the General Manager of GRU, and whose
23 members shall be GRU customers appointed by the Gainesville City Commission?"

24
25 Yes....

26 No....