

ORDINANCE NO. 170808

An ordinance of the City of Gainesville, Florida, amending sections 2-356 through 2-362 of the Code of Ordinances relating to the Utility Advisory Board; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, at least 10 days’ notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of public hearings to be held in the City Commission Auditorium, City Hall, City of Gainesville; and

WHEREAS, the Public Hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact heard.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Sections 2-356 through 2-362, of Division 7 of Article V, Chapter 2, are amended to read as set forth below.

Chapter 2 – ADMINISTRATION

ARTICLE V. – BOARDS, COMMISSIONS AND COMMITTEES

DIVISION 7. – UTILITY ADVISORY BOARD

Sec. 2-356. – Intent and creation.

It is the intent of the city commission to hereby create, empower, staff, and fund a utility ~~advisory board to advise~~ study the city’s utility and make policy recommendations ~~to the city commission regarding all aspects of the governance of the city's electric, gas, telecommunications, water, and wastewater utilities.~~ regarding the utility’s management, operations, and finances.

31 **Sec. 2-357. - Definitions.**

32
33 [The following words, terms and phrases, when used in this division, shall have the
34 meanings ascribed to them in this section, except where the context clearly indicates a different
35 meaning:]

36
37 *Customer* means the natural person or legal entity that has a utility services account in
38 his/her/its name and is responsible for payment for utility services at that specific location.

39
40 *Utility* means the city doing business as Gainesville regional utilities.

41
42 *Utility board* means the advisory board created by this division and includes both voting
43 and non-voting members.

44
45 *Utility governance* means the making and administering of the utility's course of action.
46 Governance decisions are those decisions designed to influence and guide management's
47 decisions, actions and other matters of the utility. The responsibilities of utility governance are
48 more specifically described in Subsections 1.04(2), (3), (4), (5), (6), (7), and (8), of the City
49 Charter.

50
51 *Utility management* means the directing, supervising or carrying on of utility business
52 affairs in a manner as directed by the city commission. The responsibility for utility management
53 is more specifically described in Section 3.06 of the City Charter.

54
55 *Utility services* means the electric, gas, telecommunications, water, and wastewater
56 services provided by the utility. ~~city doing business as Gainesville regional utilities.~~

57
58 **~~Sec. 2-358. - Creation.~~**

59
60 ~~(a) *Establishment.* The utility board is hereby created as an advisory board to advise the city~~
61 ~~commission regarding all matters of utility governance as more fully described in section~~
62 ~~2-360.~~

63
64 **Sec. 2-3589. - Utility board; membership; terms; officers; procedural rules.**

65
66 (a) *Voting Membership.* The utility board shall have seven voting members. All voting
67 members' shall reside permanent residence shall be within the utility service area and
68 receive utility service. A minimum of one voting member shall reside outside the
69 Gainesville city limits. ~~The membership shall be comprised of the following:~~
70 Applicants with any of the following types of experience are encouraged to apply for a
71 voting member seat:

72
73 (1) ~~A representative of a major business (defined as having 25 or more employees) that~~
74 ~~is a utility commercial customer; experience as a utility demand customer;~~

- 75 (2) ~~A person with utility management experience;~~ experience as a utility service
76 provider;
77
78 (3) ~~A person with investment banking, financial or certified public accounting~~
79 ~~experience;~~
80
81 (4) experience in energy and water conservation;
82
83 (45) ~~A licensed attorney experience with business, contract or corporate law, or contract~~
84 ~~administration or experience;~~
85
86 (56) ~~A person with engineering experience;~~ and
87
88 (6) ~~Two persons with any qualifications the city commission deems relevant or~~
89 ~~beneficial to service on the board.~~

90
91 The city commission may appoint voting members with any qualifications or experience
92 the city commission deems relevant or beneficial to service on the utility board.
93
94

95 (b) *Non-Voting Members.* The Alachua County Board of County Commissioners and the
96 Alachua County School Board may each appoint one non-voting member to the utility
97 board, subject to the approval of the city commission. Non-voting members shall have
98 the same rights and privileges as voting members, except non-voting members shall not
99 make motions or vote on motions under consideration.

100
101 (bc) *Term.*
102

- 103 (1) Each voting and non-voting member shall be appointed to a four-year term, ~~provided~~
104 ~~however that for the first seven appointees, three will serve an initial term of two~~
105 ~~years and four will serve an initial term of four years. The city commission will~~
106 ~~designate which of its initial appointees will serve the two-year terms.~~
107
108 (2) Members may be reappointed for consecutive terms and may hold office remain a
109 member after expiration of their term until a successor has been appointed and
110 qualified. Members may serve no more than three consecutive terms.
111
112 (3) When a voting position becomes vacant before the end of the term, the city
113 commission shall may appoint a substitute voting member to fill the vacancy for the
114 duration of the vacated term. When a non-voting position becomes vacant before the
115 end of the term, the respective appointing board may appoint a substitute non-voting
116 member to fill the vacancy for the duration of the vacated term, subject to approval by
117 the city commission.
118

119 (ed) *Officers.* The voting members of the utility board shall annually elect a chair and vice-
120 chair from among their voting membership.

121
122 (de) *Compensation of members.* The utility board members shall not be deemed employees of
123 the city, nor entitled to compensation, pension, or other retirement benefits on account of
124 service on the utility board. Utility board members may be paid for mileage, travel and
125 any other such expenses incurred on board business from funds budgeted by the city
126 commission pursuant to city financial policies and procedures.

127
128 (ef) *Attendance.* ~~Utility board~~ Voting members are required to attend all regular and special
129 meetings of the utility board. Each ~~utility board~~ voting member may be granted four
130 ~~excused~~ absences per calendar year. A ~~utility board~~ voting member shall notify the board
131 secretary of an absence prior to the meeting, if practicable.

132
133 (fg) *Removal from board.* A utility board member may be removed ~~for cause~~ by the city
134 commission. Non-voting members may also be removed by official action of their
135 respective appointing board.

136
137 (gh) *Rules of procedure.*

138
139 (1) The utility board shall adopt rules of procedure to carry out its purposes. All rules
140 must conform to this code and state law and must be approved by the city
141 commission and approved as to form and legality by the city attorney.

142
143 (2) The utility board shall meet at least once each calendar month, unless cancelled by
144 the board or its chair. The utility board may meet more often at the call of the chair,
145 the city commission, or at the request of two or more voting members of the utility
146 board. When the most efficient use of utility staff time and city resources dictate, the
147 utility board may meet concurrently with the city commission.

148
149 (3) A quorum shall consist of a majority of the voting members of the utility board;
150 however, a smaller number may adjourn a meeting. Official action ~~may~~ can only be
151 taken by majority vote when a quorum is present.

152
153 (4) ~~The utility board and its members shall be subject to the provisions of Florida's~~
154 ~~Government in the Sunshine Law (F.S. § 286.012), Florida's Code of Ethics for~~
155 ~~Public Officers and Employees (F.S. Ch. 112, Pt. III), and Florida Public Record's~~
156 ~~Law (F.S. Ch. 119), all as may be amended from time to time.~~

157
158 **Sec. 2-35960. - Functions, powers and duties of the utility board.**

159
160 ~~The utility board shall serve as an advisor to the city commission on all policy and~~
161 ~~governance decisions to be made by the city commission regarding utility services.~~ The utility
162 board has full authority to make and shall make independent recommendations regarding all

163 aspects of utility governance to the city commission ~~and the general manager for utilities~~. Utility
164 board recommendation prior to city commission consideration of an item is not required if the
165 utility business item is an emergency or a time-sensitive item. If the utility board fails to timely
166 make recommendations to the city commission ~~or the general manager for utilities~~, the city
167 commission ~~or general manager for utilities~~ may take action on the item as ~~either it~~ deems
168 necessary. ~~The utility board shall serve as a channel of communications between the city~~
169 ~~commission, utility staff, and the utility customers~~. The functions, powers, and duties of the
170 utility board include, but are not limited to:

171
172 (a) ~~Rates and charges. The utility board shall consider and make recommendations regarding~~
173 ~~proposed changes in fees, rates or charges for utility services.~~

174
175 (b) ~~Rate structure. The utility board shall consider and make recommendations regarding a~~
176 ~~proposed change to the rate structure for utility services.~~

177
178 (c) ~~Budget. The utility board shall consider and make recommendations regarding the~~
179 ~~utility's budget.~~

180
181 (d) ~~Energy advisory duties. The utility board shall provide recommendations on energy~~
182 ~~including but not limited to:~~

183
184 (1) ~~Promoting public access to information regarding the city facilities, services, policies,~~
185 ~~and programs concerning energy;~~

186 (2) ~~Considering the future energy needs of the community with respect to the electric and~~
187 ~~gas utilities; and~~

188 (3) ~~Assisting utility staff by suggesting and reviewing policies, programs and services~~
189 ~~that affect acquisition, delivery, or utilization of energy resources within the~~
190 ~~community.~~

191
192 (e) ~~Water and wastewater advisory duties. The utility board shall serve as a water and~~
193 ~~wastewater advisory board to provide information and make recommendations regarding~~
194 ~~trending issues with the provision of water and wastewater collection services; including~~
195 ~~the need to conserve water resources, the need for capital infrastructure improvements~~
196 ~~and the funding thereof; and the cost of additional regulations by local, state and federal~~
197 ~~agencies.~~

198
199 (f) ~~Telecommunications advisory duties. The utility board shall serve as a~~
200 ~~telecommunications advisory board to provide recommendations on the expansion,~~
201 ~~reduction or sale of telecommunication services.~~

202
203 (a) Utility Policy. The utility board shall develop and recommend a utility policy for
204 consideration and adoption by the city commission. The utility policy shall evaluate
205 energy and utility issues based on a triple bottom line approach of equity, economy, and
206 environment. The utility board shall recommend updates and revisions to the utility

207 policy, as necessary. Issues addressed by the utility policy shall include, but not be
208 limited to:
209
210 (1) Delivering safe, reliable, cost-effective (which shall include a reasonable return on
211 the city's investment), and environmentally responsible utility service;
212
213 (2) The future utility needs of the city;
214
215 (3) Opportunities to coordinate integrated planning;
216
217 (4) Promoting cooperation between the utility, city commission, other city boards and
218 committees, city departments, and other individuals, institutions, and agencies in the
219 community so that similar activities within the city can be coordinated. Such
220 activities may include, but are not limited to, initiatives on energy affordability,
221 affordable housing, economic development, renewable energy, environmental
222 stewardship, and transportation.
223
224 (b) Budget. The utility board shall consider and make recommendations regarding the
225 utility's budget. In particular, the utility board shall:
226
227 (1) Engage in budget planning and make recommendations for future budget items with
228 reference to the goals of the utility policy;
229
230 (2) Review and track the utility's budget on an ongoing basis, with special attention
231 given to capital and operations/maintenance projects in excess of ten million dollars
232 (\$10,000,000);
233
234 (3) Review quarterly reports of utility staff comparing budget estimates to actuals and
235 issue observations and recommendations regarding such to the city commission.
236
237 (c) Work Plan. The utility board shall develop its goals and priorities each year with
238 reference to the utility policy, and recommend such annually in the form of a work plan
239 for consideration and approval by the city commission.
240
241 (gd) City commission referrals. The city commission may refer issues, questions of interests,
242 or areas of study to the utility board. Upon receipt of the referral, the utility board shall
243 meet, review, and study the referred issue and shall subsequently provide a
244 recommendation to the city commission within six months (or sooner if so specified by
245 the city commission) of the referral.
246
247 (he) General manager for utilities items. The utility board shall review and make a
248 recommendation on all items the general manager of utilities intends to place on a city
249 commission agenda. However, the utility board review and recommendation prior to city
250 commission consideration of an item is not required if the utility business item is an

251 emergency or a time-sensitive item. Where such items would appear on the consent
252 agenda of the city commission, the utility board may also address such items on consent.
253

254 **Sec. 2-3601. - Utility board guidelines.**
255

256 (a) ~~In carrying out its functions, powers, and duties, the utility board shall foremost consider~~
257 ~~the need to operate the utility in a manner that provides safe and reliable utility services,~~
258 ~~at fair, just and reasonable rates, which includes a reasonable return on the City of~~
259 ~~Gainesville's investment.~~

260
261 (b) ~~The Utility board members are~~ is expected to actively engage in the collection and
262 evaluation of information related to utility management and governance. The utility
263 board members shall conduct research, gather information and learn from the
264 experiences of industry experts ~~and board members from throughout the state in order to~~
265 ~~make informed and independent recommendations to the city commission.~~ The utility
266 board ~~members~~ may consider information from various sources includingsuch as, but
267 not limited to, ~~the American Public Power Association, the Florida Municipal Power~~
268 ~~Association, the Warrington School of Business's Public Utility Research Center,~~
269 ~~National Association of Regulatory Utility Commissioners' Rate School and other public~~
270 ~~utilities in the state and throughout the United States~~ standards setting organizations in
271 the engineering and utilities sectors, prominent conservation organizations, municipal
272 and investor-owned utilities, and public and private research institutes.
273

274 **Sec. 2-3612. - City resources.**
275

276 (a) The utility board may request information and assistance from the general manager for
277 utilities and such other city charter officers as the utility board finds necessary. At the
278 direction of the city charter officers, city staff shall prepare such reports, analysis, and
279 recommendations as the utility board deems necessary to remain fully informed and to
280 carry out its responsibilities as set forth in this division.
281

282 (b) The utility board may make requests, through the city commission, to the city auditor for
283 specified audits of utility services.
284

285 (c) The city attorney, or designee, shall serve as legal advisor to the utility board.
286

287 (d) ~~The general manager for utilities~~ clerk of the commission shall designate a staff member
288 to serve as clerk to the utility board. The clerk shall prepare notices of meetings, shall
289 prepare an agenda and shall record and keep minutes of each utility board meeting.
290

291 **Secs. 2-3623—2-375. - Reserved.**
292
293

294 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of
295 this Ordinance shall become and be made a part of the Code of Ordinances of the City of
296 Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be renumbered
297 or relettered in order to accomplish such intentions.

298 **Section 3.** If any word, phrase, clause, paragraph, section or provision of this ordinance
299 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
300 finding shall not affect the other provisions or application of the ordinance which can be given
301 effect without the invalid or unconstitutional provisions or application, and to this end the
302 provisions of this ordinance are declared severable.

303 **Section 4.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
304 such conflict hereby repealed.

305 **Section 5.** This ordinance shall become effective immediately upon final adoption.

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307
308

PASSED AND ADOPTED THIS 2nd DAY OF AUGUST, 2018.

309



LAUREN POE
MAYOR

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312
313

ATTEST:

Approved as to form and legality

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315
316



OMICHELE D. GAINNEY
CLERK OF THE COMMISSION



NICOLLE M. SHALLEY
CITY ATTORNEY

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This ordinance passed on first reading this 19th day of July, 2018.

322

This ordinance passed on second reading this 2nd day of August, 2018.

323
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