

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 board
5 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) *Customer* means the natural person or legal entity that has a utility services account in his/her/its
14 name and is responsible for payment for utility services at that specific location.
15
16 (b) *Utility* means the city doing business as Gainesville regional utilities.
17
18 (c) *Independent utility board* means the utility governance board created by this division.
19
20 (d) *Utility governance* means the making and administering of the utility's course of action. Governance
21 decisions are those decisions designed to influence and guide management's decisions, actions and
22 other matters of the utility. The responsibilities of utility governance are more specifically described
23 in Subsections 1.04(2), (3), (4), (5), (6), (7), and (8), of the City Charter.
24
25 (e) *Utility management* means the directing, supervising or carrying on of utility business affairs in a
26 manner as directed by the city commission. The responsibility for utility management is more
27 specifically described in Section 3.06 of the City Charter.
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29 (f) *Utility services* means the electric, gas, telecommunications, water, and wastewater services
30 provided by the city doing business as Gainesville regional utilities.

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32 Sec. 2-358. - Creation.
33
34 (a) *Establishment*. The independent utility board ("IUB") is hereby created as a utility governance board
35 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 independent governing board so long
10 as they maintain all 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 receive utility service. The membership shall be comprised of the following:
14

15 (1) A representative of a major business (defined as having 25 or more employees) that is a utility
16 commercial customer;

17
18 (2) A person with utility management experience;

19
20 (3) A person with investment banking, financial or certified public accounting experience;

21
22 (4) A licensed attorney with business, contract or corporate law experience;

23
24 (5) A person with engineering experience; and

25
26 (6) Two persons with any qualifications the city commission deems relevant or beneficial to service
27 on the board.
28

29 (c) *Apportionment of membership based on residence.* The composition of the IUB shall be adjusted
30 upon expiration of any member's term, or upon any vacancy, to reflect the ratio of total electric
31 meters serving GRU electric customers outside the city's jurisdictional boundaries to total electric
32 meters serving all GRU electric customers. For example, upon expiration of a member's term or
33 upon any vacancy, if the ratio of total electric meters serving customers outside the city boundaries
34 to total electric meters serving all electric customers reaches 40 percent, the city commission must
35 appoint a second member from outside the city boundaries to serve the next term that would
36 otherwise be served by a qualified elector of the city. Conversely, upon expiration of any member's
37 term or upon any vacancy, if the ratio subsequently falls below 40 percent, the city commission must

1 appoint a qualified elector of the city to serve the next term that otherwise would have been served
2 by a resident from outside the city boundaries.

3
4 (d) *Member nominations.*

5
6 (1) The city commission shall issue a public notice soliciting citizen nominations for IUB members
7 no fewer than 120 days before the expiration of any member's term. The nomination solicitation
8 period shall remain open for at least 30 days after the date of the public notice.

9
10 (2) The city commission shall have a citizen nomination solicitation period for at least 30 days and
11 appoint members for subsequent terms from among the nominees. Members appointed for
12 subsequent terms shall be appointed for 4-year terms commencing at 12 a.m. on March 3 of the
13 year in which they are appointed.

14
15 (e) *Term.*

16 (1) Terms for the inaugural members of the IUB shall function as follows:

17
18 (2) Each member shall be appointed to a four-year term. Members may be reappointed for
19 consecutive terms and may hold office after expiration of their term until a successor has been
20 appointed and qualified. Members may serve no more than three consecutive terms.

21
22 (3) The city commission shall fill any vacancy for the unexpired portion of a term, without recourse
23 to the nomination procedures established in this ordinance, if the remainder of the term is 120
24 days or fewer. If the remainder of the unexpired term is greater than 120 days, the city
25 commission shall follow the established nomination procedure to fill the vacancy.

26
27 (4) If a member is appointed to complete an unexpired term, the member's term shall commence at
28 the time of appointment and shall continue through the remainder of the unexpired term.

29
30 (f) *Officers.* The members of the utility board shall annually elect a chair and vice-chair from among
31 their membership.

32
33 (g) *Compensation of members.* The IUB members shall be entitled to compensation in the amount of
34 _____. IUB members shall be compensated from utility funds designated in the utility's annual
35 budget. The IUB shall have the power to increase or decrease the compensation in any fiscal year,
36 except that the compensation cannot be increased by more than the rate of inflation as
37 demonstrated in the Consumer Price Index in the previous fiscal year.

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(h) *Attendance.* Independent utility board members are required to attend all regular and special meetings of the utility board. Each utility board member may be granted four excused absences per calendar year. A utility board member shall notify the board secretary of an absence prior to the meeting, if practicable.

(i) *Removal from board.*

(1) By a unanimous vote, other than the member who is the subject of the vote, the IUB may recommend the removal of one of the members to the city commission. Alternatively, the city commission may, by its own initiative, undertake to remove a member of the IUB.

(2) An IUB member may be removed for cause by a 6/7 vote of the city commission.

(j) *Rules of procedure.*

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

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

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

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

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

The IUB shall have full authority to make and shall make independent decisions regarding all aspects of utility governance, except for those decisions specifically reserved to the city commission by this ordinance. The IUB shall have all of the following powers and duties, in addition to the powers and duties otherwise conferred by this ordinance:

- 1 (a) To make policy and governance decisions for the utility and to effectuate an orderly transition of
2 decision-making authority from the city to the IUB, consistent with this ordinance.
3
- 4 (b) To appoint, remove, and direct a general manager for utilities as provided in this ordinance.
5
- 6 (b) To establish and amend the rates, fees, assessments, charges, rules, regulations, and policies
7 governing the sale and use of services provided through the utilities.
8
- 9 (c) To acquire real or personal property and to construct such projects as necessary to operate,
10 maintain, enlarge, extend, preserve, and promote the utility systems in a manner that will ensure the
11 economic, responsible, safe, and efficient provision of utility services, provided that title to all such
12 property is vested in the city.
13
- 14 (d) To use utility funds to appropriate or acquire property, excluding federal or state property, for the
15 purpose of obtaining, constructing, and maintaining utility facilities, provided that title to all such
16 property is vested in the city.
17
- 18 (e) To use utility funds to procure professional services as may be necessary for the IUB to carry out its
19 powers and duties.
20
- 21 (f) To prepare and submit to the general manager for utilities, at least 4 months before the start of the
22 utility's fiscal year, an annual budget for all IUB operations, including the amount of any
23 compensation for the IUB.
24
- 25 (e) To issue revenue bonds, upon resolution of the IUB establishing the form, terms, and purpose of
26 such bonds, for the purpose of financing or refinancing utility system projects, and to exercise all
27 powers in connection with the authorization, issuance, and sale of such bonds as conferred upon
28 municipalities by part II of chapter 166, Florida Statutes, provided that such bonds may be validated
29 in accordance with chapter 75, Florida Statutes. The IUB may not issue general obligation bonds.
30
- 31 (f) To dispose of utility system assets only to the extent and under the conditions that the city
32 commission may dispose of such assets pursuant to section 5.04 of Article V.
33
- 34 (h) To prepare and submit to the city commission, at least four (4) months before the start of the city's
35 fiscal year, an Annual Customer Report (ACR) examining utility rates for all customers. The report
36 shall include, but not be limited to, comparisons of customer utility rates with peer municipal utilities.
37 The report shall include multiyear projections of all customer utility rates.

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- (j) To recommend, by resolution to the city commission, the acquisition and operation of a utility system not owned or operated by GRU as of the date of transfer of governing authority to the IUB.
- (k) To petition, by resolution, the city commission to exercise one of its retained powers on behalf of the utility.

Sec. 2-361. - Functions, powers and duties retained by the city commission

The city commission shall retain the power and duty:

- (a) To decide the appropriate return on investment annually transferred from the utility to the city general fund (“General Fund Transfer” or “GFT”). The city commission shall set the amount of the GFT at least four (4) months before the start of the utility’s fiscal year.
- (b) To issue general obligation bonds on behalf of the utility to finance the acquisition, construction, or refinancing of utility system projects.
- (c) To exercise the power of eminent domain pursuant to part IV of chapter, Florida Statutes, on behalf of the utility.

Sec. 2-361. – General Manager for utilities

- (a) Sec. 3.06 of Article III. Administration of Part I of the Charter Laws of the City of Gainesville is hereby repealed.
- (b) There shall be a general manager for utilities (“GM”) that shall be responsible to the IUB. The IUB shall be subject to the limitations found in Sec. 2.10 of Article II. City Commission of Part I of the Charter Laws of the City of Gainesville in its dealings with the GM. The GM shall serve at the will of the IUB and the city commission shall have no power to direct the GM in the performance of their duties.
- (c) The GM shall have the authority to manage the utility and to take all actions necessary for its efficient, ethical, and prudent operation. The GM:
 - (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,

1 development, production, purchase, sale, exchange, interchange, transmission and
2 distribution of all electricity; the planning, development, purchase, sale, exchange,
3 interchange, transmission and distribution of all natural gas; the planning, development,
4 supply, treatment, transmission, distribution and sale of all potable water; and the planning,
5 development, collection, treatment, disposal and billing of all wastewater now or hereafter
6 provided by the utility;

7
8 (2) Shall submit to the IUB for its consideration and approval an annual budget for the operation of
9 the utility system;

10
11 (3) Shall be the purchasing agent for all equipment, materials, supplies and services necessary for
12 operating and maintaining the utility system subject to policies promulgated by the
13 commission;

14
15 (4) Shall designate the job titles of subordinates that are to be considered directors of department;

16
17 (5) Shall appoint and remove all directors of departments at will;

18
19 (6) Shall recommend to the IUB all measures necessary and expedient for the proper governance
20 and management of the utility system;

21
22 (7) Shall keep the IUB fully advised as to the management, governance and needs of the utility
23 system;

24
25 (8) Shall perform all other duties prescribed by general law or direction of the IUB.

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

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30 Sec. 2-362. – General Provisions

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32 (a) In carrying out its functions, powers, and duties, the IUB shall foremost consider the need to operate
33 the utility in a manner that provides safe and reliable utility services, at fair, just and reasonable
34 rates, which includes a reasonable return on the City of Gainesville's investment in the form of the
35 GFT.

- 1 (b) Independent utility board members are expected to actively engage in the collection and evaluation
2 of information related to utility management and governance. The IUB members shall conduct
3 research, gather information and learn from the experiences of industry experts and board members
4 from throughout the state in order to make informed and independent decisions.
5
- 6 (c) The city and the IUB shall perform all acts necessary and proper to effectuate an orderly transition of
7 the governance of the utilities to the IUB, including, but not limited to, the creation of such
8 instruments as are necessary for the IUB to function in accordance with this article. The city
9 commission shall instruct all charter officers of the city of Gainesville to work, in good faith and as
10 time and resources permit, to effectuate the transition to the IUB. The IUB shall have the authority to
11 procure services once provided by staff, employees, and charter officers of the city of Gainesville.
12
- 13 (d) The city and the IUB shall negotiate in good faith with all labor unions and other organizations
14 representing utility employees, as necessary, to ensure as little disruption to the compensation and
15 benefits of utility employees as possible.
16
- 17 (d) In order to provide for the transitional administrative needs and orderly compliance with the
18 provisions of this ordinance, the chairperson of the IUB or his or her designee is authorized to
19 execute documents required for the transition.
20
- 21 (d) The first act of the IUB shall be to ratify and adopt, pursuant to the powers granted in this ordinance,
22 all city ordinances, policies, rates, fees, assessments, charges, rules, regulations, and budgets
23 related to the operation of the utility as actions of the IUB until such time as the IUB modifies any
24 such item. Upon adoption and ratification by the IUB, all such city ordinances, policies, rates, fees,
25 assessments, charges, rules, regulations, and budgets of the city commission relating to operation of
26 the utility shall be void.
27
- 28 (e) All rights, responsibilities, claims, and actions involving the utility as of the transfer to the IUB shall
29 continue, except as may be modified by the IUB under the powers granted by this ordinance and
30 consistent with law.
31
- 32 (f) A franchise, right-of-way, license, permit, or usage fee or tax may not be levied by the city upon the
33 IUB or the utilities unless allowed by general law.
34
- 35 (g) A member of the IUB is not individually responsible for IUB debts or liabilities.
36

1 (h) The IUB shall develop an ethics policy and a code of business conduct that shall be reviewed at least
2 biennially.

3

4 Sec. 2-363. - Charter Amendment

5

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

9

10 "Shall the Charter of the City of Gainesville be amended to create the Independent Utility Board
11 as the governing board of Gainesville Regional Utilities (GRU), whose responsibilities shall
12 include, but not be limited to, examining and establishing utility rates for all customers, and whose
13 members shall be GRU customers, representative of ratepayers both within and without the city
14 limits, nominated by citizens and appointed by the Gainesville City Commission?"

15

16 Yes....

17 No....

18

19 Secs. 2-364—2-375. - Reserved.