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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,

DRAFT

27 ~~telecommunications, water, and wastewater utilities.~~ regarding the utility's management,
28 operations, and finances.

29

30 **Sec. 2-357. - Definitions.**

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

35

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

38

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

40

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

43

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

49

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

53

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

56

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

58

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

62

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

64

65 (a) *Voting Membership.* The utility board shall have seven voting members.
66 All voting members' ~~shall reside~~ permanent residence shall be within the utility service
67 area and receive utility service. A minimum of one voting member shall reside outside

DRAFT

68 the Gainesville city limits. ~~The membership shall be comprised of the~~
 69 ~~following:~~ Applicants with any of the following types of experience are encouraged to
 70 apply for a voting member seat:

- 71
- 72 (1) ~~A representative of a major business (defined as having 25 or more employees) that~~
 73 ~~is a utility commercial customer;~~ experience as a utility demand customer;
 74
- 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.~~
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DRAFT

- 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
 130 four ~~excused~~ absences per calendar year. A ~~utility board~~ voting member shall notify the
 131 board 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.
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DRAFT

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 **Sec. 2-~~359~~60. - Functions, powers and duties of the utility board.**

158
 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~~

DRAFT

- 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:
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- 227 (1) Engage in budget planning and make recommendations for future budget items with
 228 reference to the goals of the utility policy;

DRAFT

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(2) Review and track the utility's budget on an ongoing basis, with special attention given to capital and operations/maintenance projects in excess of ten million dollars (\$10,000,000);

(3) Review quarterly reports of utility staff comparing budget estimates to actuals and issue observations and recommendations regarding such to the city commission.

(c) Work Plan. The utility board shall develop its goals and priorities each year with reference to the utility policy, and recommend such annually in the form of a work plan for consideration and approval by the city commission.

(gd) City commission referrals. The city commission may refer issues, questions of interests, or areas of study to the utility board. Upon receipt of the referral, the utility board shall meet, review, and study the referred issue and shall subsequently provide a recommendation to the city commission within six months (or sooner if so specified by the city commission) of the referral.

(he) General manager for utilities items. The utility board shall review and make a recommendation on all items the general manager of utilities intends to place on a city commission agenda. However, the utility board review and recommendation prior to city commission consideration of an item is not required if the utility business item is an emergency or a time-sensitive item. Where such items would appear on the consent agenda of the city commission, the utility board may also address such items on consent.

Sec. 2-3601. - Utility board guidelines.

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

(b) ~~The Utility board members are is~~ expected to actively engage in the collection and evaluation of information related to utility management and governance. The utility board members shall conduct research, gather information and learn from the experiences of industry experts and board members from throughout the state in order to make informed and independent recommendations to the city commission. The utility board members may consider information from various sources ~~includingsuch as~~, but not limited to, the American Public Power Association, the Florida Municipal Power Association, the Warrington School of Business's Public Utility Research Center, National Association of Regulatory Utility Commissioners' Rate School and other public

DRAFT

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.

DRAFT

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 **PASSED AND ADOPTED THIS _____ DAY OF _____, 2018.**

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309

310

LAUREN POE
MAYOR

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314

315 ATTEST:

Approved as to form and legality

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OMICHELE D. GAINERY
CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

322

323

324 This ordinance passed on first reading this ____ day of _____, 2018.

325

326 This ordinance passed on second reading this ____ day of _____, 2018.

327

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