

LEGISLATIVE #

140384A

ORDINANCE NO. 140384

An ordinance of the City of Gainesville, Florida, amending the Code of Ordinances to repeal the existing Energy Advisory Committee and create a new Utility Advisory Board to assist with governance of the City’s electric, gas, telecommunications, water and wastewater utilities; by repealing the text within the existing Division 7. of Article V. Boards, Commissions and Committees of Chapter 2 Administration and replacing it with text that creates 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 ten (10) days’ notice has been given once by publication made in a newspaper of general circulation notifying the public of this proposed ordinance and of public hearings in the City Hall Auditorium located on the first floor of City Hall of the City of Gainesville; and

WHEREAS, there are multiple committees and boards addressing different aspects of the city’s utilities; and

WHEREAS, the City Commission finds it is in the best interest of the city and its utility system to consolidate the different boards and committees into one comprehensive advisory board.

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

Section 1. The existing Division 7. Energy Advisory Committee within ARTICLE V. – BOARDS, COMMISSIONS AND COMMITTEES of Chapter 2 - Administration of the Code of Ordinances is hereby repealed in its entirety.

~~**DIVISION 7. – ENERGY ADVISORY COMMITTEE**~~

~~**Sec. 2-356. – Created.**~~

1 ~~The energy advisory committee is hereby created and established. The committee shall be~~
2 ~~advisory to the city commission.~~

3 **Sec. 2-357. -- Membership.**

4 (a) ~~— The energy advisory committee shall consist of nine members appointed by the city~~
5 ~~commission, each of whom, following initial appointments, shall be appointed for a term of three~~
6 ~~years. The terms of appointment shall be staggered such that only three terms shall expire in any~~
7 ~~given year. Each term shall expire on September 30.~~

8 (b) ~~— When any member of the committee resigns or is removed as provided for in section 2-~~
9 ~~247, such member shall then be deemed to have been removed and a vacancy created. The city~~
10 ~~commission shall fill these and all other vacancies for the unexpired terms.~~

11 (c) ~~— The committee members shall serve without pay, but shall be reimbursed for necessary~~
12 ~~expense incurred in the performance of their official duties, upon approval of the city~~
13 ~~commission.~~

14 (d) ~~— All members of the committee shall be residents of the county, with preference being~~
15 ~~given to those persons residing in the Gainesville urban area. The city commission shall, to the~~
16 ~~extent possible, select members of the committee who are broadly representative of the~~
17 ~~community interests.~~

18 **Sec. 2-358. -- Officers; meetings.**

19 (a) ~~— The energy advisory committee shall select one of its members as chairperson for a one-~~
20 ~~year term. In addition to the chairperson, the members of the committee shall elect such officers~~
21 ~~as may be deemed necessary or desirable to serve at the will of the committee.~~

22 (b) ~~— A majority of current members of the committee shall constitute a quorum, which shall~~
23 ~~be necessary for the conduct of any official meeting or action of the committee.~~

24 (c) ~~— Meetings of the committee may be called by the chairperson, by written notice signed by~~
25 ~~a majority of current members of the committee, or by action of the committee at any meeting.~~

26 (d) ~~— Minutes shall be kept of all meetings of the committee and all such meetings shall be~~
27 ~~open to the public.~~

28 **Sec. 2-359. -- Duties and powers.**

29 ~~The energy advisory committee shall have the following duties, functions, powers and~~
30 ~~responsibilities:~~

1 (1) ~~— Serve as a channel of communications between the city commission, utility staff, and the~~
2 ~~citizens of the city, in order to understand and solve the many complex problems relating to~~
3 ~~energy;~~

4 (2) ~~— Promote public access to information on the city facilities, services, policies, and~~
5 ~~programs concerning energy, and consider the future energy needs of the community with~~
6 ~~respect to the utilities as well as general government;~~

7 (3) ~~— Assist utility staff by suggesting and reviewing policies affecting programs and services~~
8 ~~that affect acquisition, delivery, or utilization of energy resources within the community;~~

9 (4) ~~— Perform any other duties which may be within the purview of the committee which may~~
10 ~~be assigned by the city commission.~~

11 **~~Sec. 2-360. — Bylaws.~~**

12 ~~At the first meeting of the energy advisory committee, or as soon thereafter as possible, the~~
13 ~~committee shall adopt such bylaws as may be necessary for the orderly administration of the~~
14 ~~business of the committee. The committee may by majority vote amend its bylaws from time to~~
15 ~~time subject to approval of the city commission. The city commission may review and alter such~~
16 ~~bylaws or amendments within 60 days of their adoption by the committee.~~

17 **~~Secs. 2-361 — 2-375. — Reserved.~~**

18

19 **Section 2.** A new Division 7. titled Utility Advisory Board is hereby created within
20 ARTICLE V. BOARDS, COMMISSIONS AND COMMITTEES of Chapter 2 - Administration
21 of the Code of Ordinances to read as follows:

22 **Division 7. Utility Advisory Board.**

23 **Section 2-356. Intent.** It is the intent of the city commission to create, empower, staff,
24 and fund a utility advisory board to advise and make recommendations to the city commission
25 regarding all aspects of the governance of the city’s electric, gas, telecommunications, water, and
26 wastewater utilities.

27 **Section 2-357. Definitions.**

28 (a) Customer means the natural person or legal entity that has a utility services account in

1 his/her/its name and is responsible for payment for utility services at that specific
2 location.

3 (b) Utility means the city doing business as Gainesville regional utilities.

4 (c) Utility board means the advisory board created by this division.

5 (d) Utility governance means the making and administering of the utility’s course of action.

6 Governance decisions are those decisions designed to influence and guide management’s
7 decisions, actions and other matters of the utility. The responsibilities of utility
8 governance are more specifically described in Subsections 1.04(2), (3), (4), (5), (6), (7),
9 and (8), of the city charter.

10 (e) Utility management means the directing, supervising or carrying on of utility business
11 affairs in a manner as directed by the city commission. The responsibility for utility
12 management is more specifically described in Section 3.06 of the city charter.

13 (f) Utility services means the electric, gas, telecommunications, water, and wastewater
14 services provided by the city doing business as Gainesville regional utilities.

15 **Section 2-358. Creation.**

16 (a) Establishment. The utility board is hereby created as an advisory board to advise the city
17 commission regarding all matters of utility governance as more fully described in Section
18 2-360.

19 **Section 2-359. Utility Board; membership; terms; officers; procedural rules.**

20 (a) Membership. The utility board shall have seven members. All members shall reside
21 within the utility service area and receive utility service. A minimum of one member
22 shall reside outside the Gainesville city limits. The membership shall be comprised of
23 the following:

- 1 (1) a representative of a major business (defined as having 25 or more employees)
- 2 that is a utility commercial customer;
- 3 (2) a person with utility management experience;
- 4 (3) a person with investment banking, financial or certified public accounting
- 5 experience;
- 6 (4) a licensed attorney with business, contract or corporate law experience;
- 7 (5) a person with engineering experience; and
- 8 (6) two persons with any qualifications the city commission deems relevant or
- 9 beneficial to service on the board.

10 (b) *Term.*

11 (1) Each member shall be appointed to a four-year term, provided however that for
12 the first seven appointees, three will serve an initial term of two years and four
13 will serve an initial term of four years. The city commission will designate which
14 of its initial appointees will serve the two year terms.

15 (2) Members may be reappointed for consecutive terms and may hold office after
16 expiration of their term until a successor has been appointed and qualified.
17 Members may serve no more than three (3) consecutive terms.

18 (3) When a position becomes vacant before the end of the term, the city commission
19 shall appoint a substitute member to fill the vacancy for the duration of the
20 vacated term.

21 (c) *Officers.* The members of the utility board shall annually elect a chair and vice-chair from
22 among their membership.

23 (d) *Compensation of members.* The utility board members shall not be deemed employees

1 of the city, nor entitled to compensation, pension, or other retirement benefits on account
 2 of service on the utility board. Utility board members may be paid for mileage, travel
 3 and any other such expenses incurred on board business from funds budgeted by the city
 4 commission pursuant to city financial policies and procedures.

5 (e) Attendance. Utility board members are required to attend all regular and special meetings
 6 of the utility board. Each utility board member may be granted two (2) excused absences
 7 per calendar year. A utility board member shall notify the board secretary of an absence
 8 prior to the meeting, if practicable.

9 (f) Removal from board

10 A utility board member may be removed for cause by the city commission.

11 (g) Rules of procedure.

12 (1) The utility board shall adopt rules of procedure to carry out its purposes. All rules
 13 must conform to this code and state law and must be approved by the city
 14 commission.

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

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

23 (4) The utility board and its members shall be subject to the provisions of Florida's

1 Government in the Sunshine Law (section 286.012, Florida Statutes), Florida's
2 Code of Ethics for Public Officers and Employees (Part III, Chapter 112, Florida
3 Statutes), and Florida Public Record's Law (Chapter 119, Florida Statutes), all as
4 may be amended from time to time.

5 **Section 2-360. Functions, Powers and Duties of the Utility Board.**

6 The utility board shall serve as an advisor to the city commission on all policy and governance
7 decisions to be made by the city commission regarding utility services. The utility board has full
8 authority to make and shall make independent recommendations regarding all aspects of utility
9 governance to the city commission and the general manager for utilities. Utility board
10 recommendation prior to city commission consideration of an item is not required if the utility
11 business item is an emergency or a time-sensitive item. If the utility board fails to timely make
12 recommendations to the city commission or the general manager for utilities, the city
13 commission or general manager for utilities may take action on the item as either deems
14 necessary. The utility board shall serve as a channel of communications between the city
15 commission, utility staff, and the utility customers. The functions, powers, and duties of the
16 utility board include, but are not limited to:

17 (a) *Rates and charges:* The utility board shall consider and make recommendations
18 regarding proposed changes in fees, rates or charges for utility services.

19 (b) *Rate Structure:* The utility board shall consider and make recommendations regarding a
20 proposed change to the rate structure for utility services.

21 (c) *Budget:* The utility board shall consider and make recommendations regarding the
22 utility's budget.

23 (d) *Energy advisory duties:* The utility board shall provide recommendations on energy

1 including but not limited to:

2 (1) Promoting public access to information regarding the city facilities, services,
3 policies, and programs concerning energy;

4 (2) Considering the future energy needs of the community with respect to the electric
5 and gas utilities; and

6 (3) Assisting utility staff by suggesting and reviewing policies, programs and services
7 that affect acquisition, delivery, or utilization of energy resources within the
8 community.

9 (e) *Water and wastewater advisory duties:* The utility board shall serve as a water and
10 wastewater advisory board to provide information and make recommendations regarding
11 trending issues with the provision of water and wastewater collection services; including
12 the need to conserve water resources, the need for capital infrastructure improvements
13 and the funding thereof; and the cost of additional regulations by local, state and federal
14 agencies.

15 (f) *Telecommunications advisory duties:* The utility board shall serve as a
16 telecommunications advisory board to provide recommendations on the expansion,
17 reduction or sale of telecommunication services.

18 (g) *City Commission Referrals:* The city commission may refer issues, questions of interests,
19 or areas of study to the utility board. Upon receipt of the referral, the utility board shall
20 meet, review, and study the referred issue and shall subsequently provide a
21 recommendation to the city commission within six months (or sooner if so specified by
22 the city commission) of the referral.

23 (h) *General Manager for Utilities Items:* The utility board shall review and make a

1 recommendation on all items the general manager of utilities intends to place on a city
2 commission agenda.

3 **Section 2-361. Utility Board Guidelines.**

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

8 (b) Utility board members are expected to actively engage in the collection and evaluation of
9 information related to utility management and governance. The utility board members
10 shall conduct research, gather information and learn from the experiences of industry
11 experts and board members from throughout the state in order to make informed and
12 independent recommendations to the city commission. The utility board members may
13 consider information from sources such as, but not limited to, the American Public Power
14 Association, the Florida Municipal Power Association, the Warrington School of
15 Business’s Public Utility Research Center, National Association of Regulatory Utility
16 Commissioners’ Rate School and other public utilities in the State of Florida and
17 throughout the United States.

18 **Section 2-362. City Resources.**

19 (a) The utility board may request information and assistance from the general manager for
20 utilities and such other city charter officers as the utility board finds necessary. At the
21 direction of the city charter officers, city staff shall prepare such reports, analysis, and
22 recommendations as the utility board deems necessary to remain fully informed and to
23 carry out its responsibilities as set forth in this ordinance.

1 (b) The utility board may make requests to the city auditor for specified audits of utility
2 services.

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

4 (d) The general manager for utilities shall designate a staff member to serve as clerk to the
5 utility board. The clerk shall prepare notices of meetings, shall prepare an agenda and
6 shall record and keep minutes of each utility board meeting.

7 **((Note to codifier: Sections 2-363 to 2-375 are reserved.))**

8 **Section 3.** It is the intent of the City Commission that the provisions of Sections 1
9 through 2 of this ordinance shall become and be made a part of the Code of Ordinances of the
10 City of Gainesville, Florida, and that the sections and paragraphs of this ordinance may be
11 renumbered or relettered in order to accomplish such intent.

12 **Section 4.** If any word, phrase, clause, paragraph, section or provision of this ordinance
13 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
14 finding shall not affect the other provisions or applications of this ordinance that can be given
15 effect without the invalid or unconstitutional provision or application, and to this end the
16 provisions of this ordinance are declared severable.

17 **Section 5.** All ordinances or parts of ordinances in conflict herewith are to the extent of
18 such conflict hereby repealed.

19 **Section 6.** This ordinance shall become effective immediately upon adoption.

20 **PASSED AND ADOPTED** this ____ day of _____, 2015.

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EDWARD B. BRADDY
MAYOR
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Attest:

Approved as to form and legality:

By: _____
KURT LANNON
CLERK OF THE COMMISSION

By: _____
NICOLLE M. SHALLEY
CITY ATTORNEY

This ordinance passed on first reading this _____ day of _____, 2015.

This ordinance passed on second reading this _____ day of _____, 2015.