

ordinance.

150306B Staff report 20151105.pdf

150306C Append A Comp Plan GOPs 20151105.pdf

150306D Append B Supplemental Docs Exh B-1 thru Exh B-5-20151105.pdf

150306E Append C Application-20151105.pdf

150306F CPB minutes 20151105 .pdf

150306G staff ppt 20151105.pdf

150306A draft ordinance 20151105.pdf

ORDINANCES, 1ST READING- ROLL CALL REQUIRED

TIME CERTAIN FOR FILE #140384 OF 8:00 PM

140384.

GRU GOVERNANCE - UTILITY ADVISORY BOARD CREATION (B)

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.

TIME CERTAIN - 7:00 PM

Explanation: At the October 8, 2015 Regional Utility Committee (RUC) meeting, the RUC reviewed a draft ordinance creating a utility advisory board. The RUC recommended that the City Commission move forward with the draft ordinance but that the composition of the membership of the board be changed. The RUC recommended that the board be comprised of nine members appointed by the City Commission. The membership would include: (1) a representative of a major business, (2) a person with utility management experience; (3) a person with investment banking/financial or CPA experience; (4) a licensed attorney with business/contract/corporate law experience; (5) a person with engineering experience; (6) and (7) two City Commissioners; (8) one County Commissioner; and (9) one person with any qualifications the commission deems relevant or beneficial to service on the board.

At the October 12, 2015 City Commission General Policy Committee meeting, the Commission discussed the draft ordinance and the RUC recommended changes. The Commission determined to proceed with

the utility advisory board ordinance however, the Commission changed the advisory board composition. The advisory board would have seven members appointed by the City Commission instead of nine. The Commission determined that the composition of the utility advisory board would be: (1) a representative of a major business, (2) a person with utility management experience; (3) a person with investment banking/financial or CPA experience; (4) a licensed attorney with business/contract/corporate law experience; (5) a person with engineering experience; and (6) and (7) two persons with any qualifications the Commission deems relevant or beneficial to service on the board. The Commission also determined that a minimum of one board member must reside outside of the City's limits.

The draft ordinance incorporates the changes made by the City Commission at its October 12, 2015, General Policy Committee meeting.

CITY ATTORNEY MEMORANDUM

This ordinance requires two hearings and shall become effective immediately upon adoption at second reading. At second reading of this ordinance, the City Attorney's office will also place a Resolution on the agenda that revises the Rules of the City Commission by eliminating the Regional Utilities Committee.

RECOMMENDATION

The City Commission adopt the proposed ordinance.

Legislative History

10/21/14	General Policy Committee	Approved, as shown above
1/21/15	General Policy Committee	Approved as shown above (See Motion)
2/26/15	City Commission	Discussed
3/30/15	City Commission	Continued
4/2/15	City Commission	Approved, as shown above
7/2/15	City Commission	Referred to the Regional Utilities Committee
9/17/15	City Commission	Discussed
10/12/15	General Policy Committee	No Action Taken

[140384 FMEA Governance Presentation 2014.10.21](#)
[140384 Governance Chart 2014.10.21](#)
[140384 GRU Governance and APPA Workshop 2014.10.21](#)
[140384 GRU Governance Memorandum 2014.10.21](#)
[140384 Utility Governance Changes and Examples 20150121.pdf](#)
[140384 Outline of Proposed Advisory Committee 20150330.pdf](#)
[140384 Lakeland Information 20150330.pdf](#)
[140384 GRUadvisoryboardproposal 20150226.pdf](#)
[140384 draft language to create utility board 20150702.pdf](#)
[140384 GEAC 20151008](#)
[140384 Draft Perry Bill 20151008](#)
[140384 Draft Ordinance Language Util Brd 20151008](#)
[140384 City Charter Article I 20151008](#)
[140384A draft ordinance 20151105.pdf](#)
[140384A revised draft ordinance 20151105.pdf](#)

150512.

Utility Governance Alternatives (NB)

MODIFICATION - ADDED ITEM

Explanation: At the October 12, 2015 General Policy Committee Meeting, in addition to directing the City Attorney to draft an ordinance creating a Utility Advisory Board for the November 5th City Commission Meeting, the City Commission also expressed interest in having a further discussion on pursuing utility governance alternatives, including a non-binding referendum question, a City Charter Amendment or a local bill (such as that currently proposed by Representative Perry). To that end, at the request of the Commission, the Mayor invited both Representative Perry and Representative Watson to come share their thoughts and perspectives on this topic with the City Commission.

RECOMMENDATION

Discuss utility governance alternatives.

150304.

QUASI-JUDICIAL - HISTORIC PROPERTY TAX EXEMPTION - 420 NE 5th STREET (B)

Ordinance No. 150304

An ordinance of the City of Gainesville, Florida, finding that property located at 420 NE 5th Street, Gainesville, Florida, as more specifically described in this ordinance, qualifies for an ad valorem tax exemption for historic properties; granting an exemption from ad valorem tax for certain improvements beginning January 1, 2016, and continuing for 10 years under certain conditions; authorizing the Mayor and the Clerk of the

and interior circulation can be adjusted at development plan review, if necessary, and subject to final development plan review by the City Plan Board.

The City Plan Board voted 3-2.

Staff to City Commission - The City Commission approve the City Plan Board recommendation.

Alternative Recommendation - The City Commission approve the City Plan Board recommendation with final development plan review by staff in accordance with the City Land Development Code.

A motion was made by Mayor-Commissioner Pro Tem Carter, seconded by Commissioner Budd, that this Matter be Continued (Petition). The motion carried by the following vote:

Aye: 6 - Mayor Braddy, Mayor-Commissioner Pro Tem Carter, Commissioner Warren, Commissioner Wells, Commissioner Chase, and Commissioner Budd

Absent: 1 - Commissioner Goston

DEVELOPMENT REVIEW BOARD PETITIONS

SCHEDULED EVENING AGENDA ITEMS

140384. GRU GOVERNANCE - UTILITY ADVISORY BOARD CREATION (B)

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.

Lisa Bennett made a presentation.

Jim Konish, Nancy Deren and John Flemming spoke to the matter.

RECOMMENDATION

The City Commission adopt the proposed ordinance.

A motion was made by Commissioner Wells, seconded by Mayor-Commissioner Pro Tem Carter, that this Matter be Adopted on First Reading (Ordinance). The motion carried by the following vote:

Aye: 7 - Mayor Braddy, Mayor-Commissioner Pro Tem Carter, Commissioner Warren, Commissioner Wells, Commissioner Chase, Commissioner Goston, and Commissioner Budd

150512. Utility Governance Alternatives (NB)

Jim Konish and Nancy Daren spoke to the matter.

RECOMMENDATION *Discuss utility governance alternatives.*

Discussed

150514. SELECT AN INTERIM CITY MANAGER

Motion by Mayor Commissioner Pro Tem Carter, seconded by Commissioner Chase to appoint Anthony Lyons as the Interim City Manager and authorize the Mayor to negotiate an agreement. Motion passed 7-0.

Motion by Mayor Commissioner Pro Tem Carter, seconded by Commissioner Chase to authorize Human Resources to engage the services of an executive search firm currently on retainer with the City to initiate a search for a City Manager. Motion passed 7-0.

Fred Murry and John Fleming spoke to the matter.

RECOMMENDATION *The City Commission (1) select an Interim City Manager; and (2) authorize the Mayor to negotiate an agreement with the selected candidate.*

A motion was made by Mayor-Commissioner Pro Tem Carter, seconded by Commissioner Chase, that this Matter be Approved, as shown above.

UNFINISHED BUSINESS**COMMISSION COMMENTS**

Commissioner Budd - 1) Criteria for extending gas lines; and 2) Thank you to Russ Blackburn

Commissioner Chase - 1) Bus Service on 43rd Avenue; and 2) Thank you to Russ Blackburn

Commissioner Gaston - CRA Relationship/Minority Contractors

Commissioner Warren - Thank you to Russ Blackburn

Mayor Commissioner Pro Tem Carter - Thank you to Russ Blackburn

Commissioner Wells - Thank you to Russ Blackburn

Mayor Braddy - Thank you to Russ Blackburn

150516. Mexican Restaurant/Sprinkler System

RECOMMENDATION *Refer to Committee*

A motion was made by Commissioner Budd, seconded by Commissioner Wells, that this Matter be Referred to the Public Safety Committee, due back on

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

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

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

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

~~Sec. 2-360. — Bylaws.~~

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

~~Sees. 2-361 — 2-375. — Reserved.~~

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

Division 7. Utility Advisory Board.

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

Section 2-357. Definitions.

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

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

22 (d) *Compensation of members.* The utility board members shall not be deemed employees
23 of the city, nor entitled to compensation, pension, or other retirement benefits on account

1 of service on the utility board. Utility board members may be paid for mileage, travel
2 and any other such expenses incurred on board business from funds budgeted by the city
3 commission pursuant to city financial policies and procedures.

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

8 (f) Removal from board

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

10 (g) Rules of procedure.

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

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

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

22 (4) The utility board and its members shall be subject to the provisions of Florida's
23 Government in the Sunshine Law (section 286.012, Florida Statutes), Florida's

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

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

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

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

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

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

22 (d) Energy advisory duties: The utility board shall provide recommendations on energy
23 including but not limited to:

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

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

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

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

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

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

22 (h) *General Manager for Utilities Items:* The utility board shall review and make a
23 recommendation on all items the general manager of utilities intends to place on a city

1 commission agenda.

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

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

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

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

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

23 (b) The utility board may make requests to the city auditor for specified audits of utility

1 services.

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

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

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

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

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

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

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

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

20
21
22
23
24 _____
25 EDWARD B. BRADDY
26 MAYOR

27 Attest:

Approved as to form and legality:
page 10 of 11

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.