

150512.**UTILITY GOVERNANCE ALTERNATIVES (B)**

MODIFICATION - Added Item and Moved to the Evening.

Explanation: At its November 5, 2015 meeting, the City Commission adopted, on first reading, an ordinance to create a utility advisory board. In addition, the Commission continued its discussion of: 1) placing a binding referendum question before the voters (by adopting a proposed charter amendment ordinance that creates a utility governance board with relevant expertise appointed by the City Commission); or 2) placing a non-binding referendum question before the voters (by adoption of a resolution) to gauge voter interest in the City Commission proposing a charter amendment to create a utility governance board with relevant expertise appointed by the City Commission.

At the November 5, 2015 City Commission meeting, the City Commission directed the City Attorney's Office to work with Commissioner Budd to draft a non-binding referendum question and place it on the November 19th City Commission meeting agenda. The City Attorney's Office discussed the matter with Commissioner Budd and provided him with the following draft question:

"Should the City prepare and submit a charter amendment to the city electors on the spring 2017 city election ballot which amendment, if approved, would remove policy-making authority and management oversight over the City's electric, water, wastewater, natural gas and telecommunication utilities from the elected City Commission and grant that policy-making authority and management oversight to a citizen board with relevant expertise appointed by the City Commission?"

In addition, at the November 5, 2015 meeting, the City Commission requested the City Attorney's Office provide each member of the Commission with a draft ordinance that would place a binding referendum question before the voters. As requested, the City Attorney's Office provided a draft charter amendment ordinance via email on Monday, November 9th and that draft is included in the back-up to this agenda item.

As drafted, the charter amendment would add a new section 4.04 to the City Charter. Section 4.04 is divided into ten (10) paragraphs that address the following matters:

Paragraphs 1-3 create and establish the membership of the board; Paragraphs 4 and 5 define the responsibilities and duties of the board; Paragraph 6 identifies the responsibilities and authority that the city commission retains over the utilities; Paragraph 7 defines the responsibilities and duties of the general manager of utilities and Paragraphs 8, 9, and 10 reaffirm that the utilities remain a city asset; that utility employees remain city employees; and that the utility board will have all rights and obligations with respect to existing utility obligations, including contracts and bonds, as the City Commission had.

The Regional Utilities Committee (RUC) met on Thursday, November 12, 2015 and discussed the draft charter amendment (Legistar No. 150524 titled GRU Governance - Draft Charter Amendment.) At the meeting, the RUC suggested revisions as follows:

Change the name of the governing body from Board of Trustees to Board of Directors.

Remove paragraph 4(b) regarding renewable energy.

Remove the word compensation from paragraph 6(b) and replace it with reimbursement for training and out of pocket expenses for travel to training and professional meetings associated with utility business.

Change the authority to employ and set the compensation for the general manager from solely the board of directors to the city commission with agreement from the board of directors. This would require a change to paragraph 4(v), paragraph 6(l), and paragraph 7(a).

Change paragraph 5(e) to reflect that the current general fund transfer formula provided by Resolution No. 130852 will continue through September 30, 2019 at which time the city commission will establish a new general fund transfer amount by ordinance.

RECOMMENDATION

The City Commission: 1) discuss the draft charter amendment ordinance and revisions suggested by the Regional Utilities Committee; 2) discuss the draft non-binding referendum language; and 3) decide whether to take any further action with respect to utility governance alternatives.

Legislative History

11/5/15 City Commission Discussed

[150512 Draft Charter Amendment 20151119.pdf](#)

150521.

CITY COMMISSION RULES (B)

Resolution No. 150521

A RESOLUTION AMENDING AND RESTATING IN ITS ENTIRETY THE RULES OF THE CITY COMMISSION TO ELIMINATE THE REGIONAL UTILITIES COMMITTEE; PROVIDING A REPEALING CLAUSE AND PROVIDING AN EFFECTIVE DATE.

Explanation: The City Commission, as part of its discussions of creating a Utility Advisory Board (the ordinance for which is on this agenda for second reading), agreed to eliminate the Regional Utilities Committee. The rules have been updated consistent with the Commission direction.

RECOMMENDATION

The City Commission adopt the proposed resolution.

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

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

Absent: 1 - Commissioner Wells

150512.

UTILITY GOVERNANCE ALTERNATIVES (B)

Action: Refer this item to the General Policy Meeting on November 30, 2015.

Lisa Bennett made a presentation.

Jim Konish and Paula Stahmer spoke to the matter.

RECOMMENDATION

The City Commission: 1) discuss the draft charter amendment ordinance and revisions suggested by the Regional Utilities Committee; 2) discuss the draft non-binding referendum language; and 3) decide whether to take any further action with respect to utility governance alternatives.

Heard

150521.

CITY COMMISSION RULES (B)

Resolution No. 150521

A RESOLUTION AMENDING AND RESTATING IN ITS ENTIRETY THE RULES OF THE CITY COMMISSION TO ELIMINATE THE REGIONAL UTILITIES COMMITTEE; PROVIDING A REPEALING CLAUSE AND PROVIDING AN EFFECTIVE DATE.

RECOMMENDATION

The City Commission adopt the proposed Resolution.

Continued

ORDINANCES, 1ST READING- ROLL CALL REQUIRED**ORDINANCES, 2ND READING/ADOPTION READING- ROLL CALL REQUIRED**

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.

Jim Konish, Paula Stahmer, Donald Shepherd, Frank Lineberger and Armondo Grundy spoke to the matter.

RECOMMENDATION *The City Commission adopt the proposed ordinance.*

A motion was made by Commissioner Wells, seconded by Commissioner Goston, that this Matter be Adopted on Final Reading (Ordinance). The motion carried by the following vote:

Aye: 5 - Mayor-Commissioner Pro Tem Carter, Commissioner Wells, Commissioner Chase, Commissioner Goston, and Commissioner Budd

Absent: 2 - Mayor Braddy, and Commissioner Warren

150395.

DEFINING AND ALLOWING MEDICAL MARIJUANA DISPENSARIES IN CERTAIN ZONING DISTRICTS (B)

Ordinance No. 150395, Petition PB-15-80 TCH

An ordinance of the City of Gainesville, Florida, amending the Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances) to allow Medical Marijuana Dispensaries, as defined in this ordinance, as a permitted use in certain zoning districts; by amending Section 30-23 to add definitions; by amending the following zoning districts to add Medical Marijuana Dispensaries as a permitted use by right: Office Residential District (OR), General Office District (OF), General Business District (BUS), Mixed-Use Low Intensity District (MU-1), Mixed-Use Medium Intensity District (MU-2), Urban Mixed-Use District 1 (UMU-1), Urban Mixed-Use District 2 (UMU-2), Central City District (CCD), Medical Services District (MD), and Corporate Park District (CP); providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

RECOMMENDATION *The City Commission adopt the proposed ordinance.*

A motion was made by Commissioner Wells, seconded by Commissioner Chase, that this Matter be Adopted on Final Reading (Ordinance). The motion carried by the following vote:

Aye: 5 - Mayor-Commissioner Pro Tem Carter, Commissioner Warren, Commissioner Wells, Commissioner Chase, and Commissioner Goston

Absent: 2 - Mayor Braddy, and Commissioner Budd

150304.

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

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**~~

1 **~~Sec. 2-356. — Created.~~**

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

4 **~~Sec. 2-357. — Membership.~~**

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

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

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

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

19 **~~Sec. 2-358. — Officers; meetings.~~**

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

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

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

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

29 **~~Sec. 2-359. — Duties and powers.~~**

30 ~~The energy advisory committee shall have the following duties, functions, powers and~~
31 ~~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.**

1 (a) Customer means the natural person or legal entity that has a utility services account in
2 his/her/its name and is responsible for payment for utility services at that specific
3 location.

4 (b) Utility means the city doing business as gainesville regional utilities.

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

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

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

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

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

16 **Section 2-358. Creation.**

17 (a) Establishment. The utility board is hereby created as an advisory board to advise the city
18 commission regarding all matters of utility governance as more fully described in Section
19 2-360.

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

21 (a) Membership. The utility board shall have seven members. All members shall reside
22 within the utility service area and receive utility service. A minimum of one member

1 shall reside outside the Gainesville city limits. The membership shall be comprised of
2 the following:

3 (1) a representative of a major business (defined as having 25 or more employees)

4 that is a utility commercial customer;

5 (2) a person with utility management experience;

6 (3) a person with investment banking, financial or certified public accounting
7 experience;

8 (4) a licensed attorney with business, contract or corporate law experience;

9 (5) a person with engineering experience; and

10 (6) two persons with any qualifications the city commission deems relevant or
11 beneficial to service on the board.

12 (b) Term.

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

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

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

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

3 (d) Compensation of members. The utility board members shall not be deemed employees
4 of the city, nor entitled to compensation, pension, or other retirement benefits on account
5 of service on the utility board. Utility board members may be paid for mileage, travel
6 and any other such expenses incurred on board business from funds budgeted by the city
7 commission pursuant to city financial policies and procedures.

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

12 (f) Removal from board

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

14 (g) Rules of procedure.

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

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

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

4 (4) The utility board and its members shall be subject to the provisions of Florida's
5 Government in the Sunshine Law (section 286.012, Florida Statutes), Florida's
6 Code of Ethics for Public Officers and Employees (Part III, Chapter 112, Florida
7 Statutes), and Florida Public Record's Law (Chapter 119, Florida Statutes), all as
8 may be amended from time to time.

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

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

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

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

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

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

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

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

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

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

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

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

6 (h) General Manager for Utilities Items: The utility board shall review and make a
7 recommendation on all items the general manager of utilities intends to place on a city
8 commission agenda.

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

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

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

1 throughout the United States.

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

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

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

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

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

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

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


19 **Section 4.** If any word, phrase, clause, paragraph, section or provision of this ordinance
20 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
21 finding shall not affect the other provisions or applications of this ordinance that can be given

1 effect without the invalid or unconstitutional provision or application, and to this end the
2 provisions of this ordinance are declared severable.

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


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

7 **PASSED AND ADOPTED** this 19th day of November, 2015.
8

9
10 
11 EDWARD B. BRADDY
12 MAYOR
13

14 Attest:

Approved as to form and legality:

15
16
17
18
19 By: 
20 KURT LANNON
21 CLERK OF THE COMMISSION
22

23
24
25 By: 
26 NICOLLE M. SHALLEY
27 CITY ATTORNEY

This ordinance passed on first reading this 5th day of November, 2015.

This ordinance passed on second reading this 19th day of November, 2015.