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City, UAB postpone biomass decision

By Andrew Caplan

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The Gainesville city commission met with its Utility Advisory Board Wednesday to discuss the possibility of buying the controversial biomass plant that has put a multi-billion dollar burden on the city.

The 134-page contract, bearing a \$750 million price tag for the biomass facility, has been heavily debated before being agreed upon by Gainesville Regional Utilities and the Gainesville Renewable Energy Center, but still needs the commission's approval.

Commissioners have until Aug. 31 to approve the contract and Mayor Lauren Poe must sign and execute the agreement by Sept. 14.

After four hours of talks, neither board made a decision on the contract. The UAB will hold a meeting on Aug. 22 and the commission voted to hold a special meeting Aug. 24 where a decision could be made.

Over the past nine months GRU General Manager Ed Bielarski has negotiated the contract — which has had six other versions — with GREC President Jim Gordon. Before that, commissioners haggled over nine different agreements that allowed the city-owned utility and GREC to enter into serious contract talks.

“We’ve been working on this since December,” Commissioner Harvey Ward said. “It’s not as if this is brand new to us and we have to figure it all out in a week.”

The city is just three years into a 30-year contract with GREC that calls for another \$2.1 billion to be paid for available energy produced by the biomass plant. The city's purchase of the biomass facility allows the city out of the contractual obligation.

GRU officials believe the buyout will save the city commission about \$700 million — roughly \$27 million annually — and will bring down its customer electric rates 8 to 10 percent.

The buyout, however, will cost others. The county, school district, library and water districts are expected to lose approximately \$6 million collectively in revenues generated by GREC property taxes.

Commissioner Helen Warren suggested prolonging the biomass buyout closer to the end of the year to save the county and district funds on their budget.

The buyout

Jonathan Birenbaum, an attorney with Winston and Strawn, the law firm that drafted the contract, went over the buyout with the boards.

“I don’t think there’s a scary part from a legal aspect,” he said.

The city is purchasing assets of GREC, not the entity, which Birenbaum said is an advantage for the city.

Details of the contract call for a \$750 million asset sale price, which will be paid in bonds worth \$1.26 billion over 30 years and calls for an interest rate cap at 2.43 percent. It also settles an ongoing arbitration between GRU and GREC, where GRU withheld \$8 million in payments to GREC.

“These three elements ensure that this \$1.2 billion dollars is really a non-risky number,” Bielarski said. “It is not a voided risk, but it’s close to it.”

The contract also gives GRU \$4 million worth of spare parts and 15 days of fuel inventory worth \$1.2 million from GREC.

GREC officials also say the facility has no defects and will place \$18.7 million in an escrow account as warranty.

Commissioner Ward said if the city went through the buyout process and found out it was lied to and defrauded, then the escrow account offers recourses. A claim made within 12 months of the sale would put a freeze on the escrow account, Birenbaum said.

An independent engineer’s report released this week found GREC is “fully capable of providing long-term, dependable power generating resource.”

Backlash

Some board members said they haven't had enough time to review the contract, despite being emailed revisions throughout the process of negotiations. Commissioner Charles Goston said he just received a copy of the contract Tuesday, despite both boards being emailed a copy last Friday.

Locals were critical of the commission for not agreeing with the UAB throughout the GREC negotiations and praised UAB members for their work. At least three city residents asked Mayor Poe to recuse himself from the decision-making process, since he was on the commission that approved the initial GREC contract.

Poe said he and commissioners have voted in line with the UAB on a majority of subjects and that he respects their services. He also said that a healthy debate over the biomass plant is a good thing.

Annie Orlando

I not sure how it is possible for Commissioner Ward to claim "We've been working on this since December" since:

1. He wasn't even on the Commission until May, 2017
2. The GM, top GRU Management and the City Attorney were under a Non-Disclosure Agreements from November 2016 until Feb 2017
3. The UAB was kept in the dark and a draft of the MOU wasn't even made available to our board until March 2016.
4. The final signed version (the only one that counts) of the APA was not made available to the UAB until last Friday.
5. The Burns and McDonnell engineering Report was not made available to the UAB until this past Monday.
6. The Due Diligence Documents (which are incomplete) were not made available to the UAB until this past Monday.

I suppose I should assume that the "we" Commissioner Ward was working with did not include the UAB.

Edward Bielarski

@Annie Orlando At such a critical moment in GRU's history I think it important to "correct" the assertions you've made in this public setting:

1. I kept both Commissioner-elects informed of the GREC/GRU buyout, as I did with each UAB member (including yourself). I had a sit down meeting with each Commissioner, Commissioner-elect and UAB member as I embarked on negotiations.
2. Although I was under a non-disclosure agreement I made it clear to the Commissioner and UAB what my plans were.
3. The UAB as described above were not "kept in the dark" until March 2017.
4. The development of final agreements are building blocks and although the final is the most important that agreement is built on all the previous drafts.
Failure to read the drafts don't afford either the UAB or City Commission their ability to offer comments which management could or would consider in developing the final agreement. If this process were exercised by both the UAB and City Commission than the recipe of the final document could be understood very quickly and effectively.
5. The IE report was e-mailed to all UAB members and City Commissioners on Friday. The important point here is that I designed the agreement to be approved in two parts. First the language is to be approved by August 31st. No review of the IE report is needed for that approval in that the final agreement is not binding until signed by the Mayor by September 14th. Between the first approval and the second approval GRU will discuss the IE fully.
6. The huge electronic file produced by GREC for the IE's review was posted on our whybuygrec website on Friday. Although not required by the public records law GREC volunteered its disclosure. This information is not part of the information needed for the first approval.