

**JOURNAL OF JOINT WORK SESSION MEETING OF THE GREAT FALLS CITY
COMMISSION AND ELECTRIC CITY POWER BOARD OF DIRECTORS
January 11, 2010**

Joint Special Work Session
City Commission and Electric City Power

Mayor Winters presiding

CALL TO ORDER: 5:30 p.m.

ROLL CALL: City Commissioners present: Michael J. Winters, Bob Jones, Bill Bronson, Mary Jolley and Fred Burow. Electric City Power Board of Directors present: George Golie, Bob Pancich, Bill Ryan, Lee Ebeling and Olaf Stimac.

Also present were the City Manager, Acting City Attorney, Director of Fiscal Services/Executive Director of ECP, Police Chief and the City Clerk.

**1. DISCUSS THE RECOMMENDATIONS OF THE BURNS AND MCDONNELL
REPORT**

Mayor Winters began that the contentious issue of Electric City Power (ECP) always comes up. Mayor Winters asked each of the ECP Board of Directors, "What have you done? What have you accomplished? What are your goals? And, what is the avenue of travel you are going to take to accomplish those goals?"

Chairman Golie commented that the goal was to build the Highwood Generating Station (HGS). The city will own 3-5% of HGS, and that is quite an asset. He further commented that the reserve water right hasn't been discussed very much – use it or lose it.

Director Stimac commented that he believes in public power and that it could be used to bring industries to the city. Increasing the tax base is important.

Director Ebeling commented that, as a board member, he has a fiduciary responsibility to the citizens of Great Falls. He volunteered to be on the board because of his engineering background. He worked for a consulting engineering firm that designed power plants. He reported that he would look at the reports and financials as an engineer and report to the Commissioners in an objective manner.

Mayor Winters repeated that he wants to know what the board has done, and what was accomplished by the board's advice to the Commission.

Director Ebeling continued that he was part of the selection committee for the consultants. As a member of the board he reviews monthly reports, financials, attends meetings and has presented special educational reports. In the future he plans to lend an objective opinion to the Commissioners.

Director Ryan commented that the board has looked at everything the City Commission asked them to. The direction to this board has been to provide energy to the members of ECP at no cost to the city. There were glaring omissions provided to the board during the start-up phase. The Commission signed contracts believing the information was good. The board has taken that information and, as a start-up company, has gone through a series of events to get ECP's feet on the ground. At this point the on-going and renewing contracts are paying for themselves and it is turning into a no-loss entity. The board made recommendations to the city regarding the coal and, now, gas fired plant. What should be done in the future is the reason the board recommended that an outside party (the hired consultants) look at the status and on-going operations of ECP and make an unbiased recommendation. Director Ryan noted all the biased opinions in the *Tribune* and blogs. He concluded that he hopes the Commission and ECP can make this a viable operation.

Mayor Winters commented that the facts and figures are mind boggling for a lay person. He explained that the contentious issues and lack of any gray area are the reasons for the tough questions.

Director Pancich commented that the board recommended the approval of the blended rate. That was a good move towards profitability that ECP has been showing for several months. When the original contracts came due, the board made a recommendation to increase the rates. The board also recommended that the length of the contracts go to 2019 for purchase of power from Southern. The goal is to become profitable and to greatly support cost-based power.

Director Pancich explained that ECP originally had the opportunity to buy excess electricity and to market it to customers. Investments were made in the early stages and he noted that 250+ permits were applied for. The legislature changed that when it passed HB 25 in 2007 requiring that electricity competitors could sell only 5 Mw or larger. He provided that 5 Mw would be all of the combined megawatts of Benefis and Montana Refinery as an example. Because of his financial background, his role at the time was to find a way to finance the 25% or 15% ownership in the plant. At the time the Rural Utility Service (RUS) pulled financing for all coal plants in the country, HGS was at the top of the list to be looked at. The coal plant then had to be looked at through traditional bonding or commercial banking. As a member of the cooperative, it looked like there would be just one source of financing. The city and Yellowstone Electric then decided they didn't want to put any more money into this project. That left four of the six cooperative members to build the plant. Director Pancich commented that the city's investment still has value and, as a member of the cooperative, the city is able to buy a percentage of the power produced at cost.

Director Pancich noted that the legislature also required percentages of green power by a certain date. He discussed the recent fine imposed on ECP and explained that all but \$5,000 was recoverable through the contracts with ECP customers. He also reported that hydro is not considered green power in this state.

Director Pancich commented that what the board has done to accomplish those goals is it has worked toward the goal of profitability. The board doesn't have any authority beyond what the Commission allows them to have as a board. The board has made recommendations to the

Commission. He emphasized that cost-based power is a valuable commodity. He shared a situation while he was working on the Board of Investments regarding competition between Butte and Utah to attract the Advanced Silicone Materials Company. A big consideration was having uninterrupted power. Butte was ultimately able to make that deal that beat the competitor. It brought 250-275 jobs and \$600+ million of investment by the Japanese. He concluded by emphasizing again that the city needs to capitalize on cost-based power any way it can.

Commissioner Bronson commented that his understanding of why they were all here tonight was to consult with the ECP board members, who prior Commissions have appointed to serve on the board with the goal of advising and making recommendations to the Commission regarding carrying out Commission policy. Tonight, he thought there would be more detailed discussion about the Burns & McDonnell report. He hoped there would be some discussion tonight about what the Commission wants to do with that report in terms of going forward.

Commissioner Bronson explained that the ECP board members look to the City Commission for guidance on what direction to go – continue, modify, abandon or pursue something else. Ultimately, that is a discussion the Commission needs to have. The prior Commission was starting to head in that direction and was the motivating factor to have the Burns & McDonnell report undertaken. He welcomed opinions, but preferred that the Commission scrutinize the report and consider any other facts. The Commission would make the final decision what direction to go. He noted that each person on the ECP Board brings a particular expertise. Past Commissions had put their confidence in them. This Commission should give what they have to say a lot of credence, even if, in the end, the Commission doesn't agree with them on every point.

Commissioner Bronson provided historical legislative information back to deregulation in the 1990's. The question is what makes the most sense at this time going forward. The practical consideration is, "can the city take what it has and go forward with it," also recognizing that the city has made contractual commitments. On the advice of an advisory committee a recommendation was made to hire a company to provide the city with a report. He suggested the report be dissected and analyzed and facts and opinions of other individuals be considered. He would like the ECP Board to reflect on that report and make some recommendations. It would be beneficial, in his mind, if Burns and McDonnell responded to questions and concerns regarding the report.

Mayor Winters summarized that, in Commissioner Bronson's perspective, the bottom line would be for the city to continue in some fashion this type of dialogue to come to a conclusion.

It was suggested that the ECP Board discuss the Burns and McDonnell report at its February meeting.

Commissioner Jolley commented that she has been attending ECP Board meetings regularly and began having questions in 2005. She doesn't believe the Commission had all of the information it should have had before voting on the blended rate. She noted the blended rates made reference to SME by-laws. Mayor Winters asked where the Commission could get that information.

Commissioner Jolley continued that the information that she believes the Commission needs to determine whether to continue in this business is not available to the Commission because it is privileged information and there is a lawsuit pending. She noted that all of the decisions that were made regarding ECP were the responsibility of the Commission, and that the ECP Board is advisory only.

Commissioner Jolley noted the following:

- The ordinance stating that ECP should support itself at all times is not confusing to her.
- She was against the City trying to buy NorthWestern. She spoke to the Commissioners at the time expressing the complexity of public power.
- She became a City Commissioner because she had questions about the ECP Board and what the Commission was trying to accomplish.
- The past City Commission directed the past city manager to do whatever he could for the city to own 25% of a coal plant. There wasn't public discussion on how the percentage went from 25% to 15%.
- The RUS was concerned that not all of the capacity of the power generated by the plant was sold for the life of the plant.
- Legislative changes in 2005 and 2007 made two strikes against the City in trying to market power.
- With regard to the reserve water rights to use or lose, she believes there is time to get other businesses to town.
- Money was put into a coal plant and there was no Commission action to change it to a gas plant.
- The water credits will have to be paid back eventually.
- Too much City time, faith and credit has been spent on something that does not benefit the residents of Great Falls.
- Public power is a tough business and the city doesn't have enough expertise.

Mayor Winters commented that what concerns him the most is when this thing comes to some conclusion one way or the other, the only name on that piece of paper is his. He noted the importance of listening to both sides of this issue. This is the first step of a very long journey of solving this problem and bringing the people of the community into line of knowing what is right for them. This is a very tenuous-type situation. Somebody isn't telling the truth; somebody is telling more than the truth; no one knows exactly where that line is; and, he thinks that needs to be established.

Commissioner Bronson commented that he has talked to a lot of people about how the energy business is conducted and all have emphasized to always be flexible because they are experiencing a lot of changes and challenges everyday in that business. That is why he agrees there needs to be some expertise to be in this business. A decision that was made on how to proceed in this area five years ago may, at the time, have been a perfectly acceptable decision. But, in today's world, it may need to be looked at in a different approach.

Commissioner Jones commented that he greatly respects everyone on the ECP Board. He agrees with Director Stimac in that he wants good paying jobs in the community to bring it forward. He

thinks this started out in a direction that was probably appropriate considering what was going on at the time with NorthWestern Energy and broken contracts. From that venture was a participatory part with Southern Montana Electric Cooperative to start a coal plant. He believes from that point there has been a lack of communication that has been the biggest problem all along. If the investment, monies from other city funds, bond issue, and water credits were added up, he believed it would be in the \$7 million dollar mark. The city started out in error by selling power too cheap and he believes the water credits were used to make up the difference. Those credits equal \$1.8 million in arrears that have to be made up if the gas plant is not built by SME.

His concern is the risk. One of the recommendations to the ECP Board was to increase the rates a minimum of 10%. SME is purchasing some of its power from PP&L. Further down the road when SME loses other power sources there may be a prediction that SME will have to buy more from PP&L. That is why he is afraid of more risk. Commissioner Jones would like to know when the ECP contracts come due, and what affect the 10% increase would have.

Commissioner Jones suggested that the Commission get together in a public meeting and discuss all the possibilities. He requested the ECP Board continue to help the Commission get answers as to how many contracts there are and when they come due, and information on increasing the rates 10% in comparison to NorthWestern Energy rates.

Mayor Winters called a short recess.

Mayor Winters reconvened the meeting and announced that there would be an opportunity for the public to make brief comments. However, he would not tolerate trash-talk about city staff and, if they were going to criticize a pound, they better have two pounds of solution.

Commissioner Burow express his biggest concern is the public information problem. He doesn't see how the city can continue being involved with SME and not have all of its records open. He suggested that staff seek a firm specializing in the electric industry for expert advice. He doesn't think the city should be relying on SME's attorney for information.

Mayor Winters concluded that, to solve the informational and communication differences, the Commission will meet with the ECP Board for the next several months. No one objected.

Director Ebeling commented that, due to the complex nature of this issue, he doesn't see how the new commissioners could get up to speed in the next few months. He suggested a process to bring them up to speed by first looking at how this was developed, energy law in Montana, the current process for energy development and supply – generation, transmission and distribution. Then, the two bodies should review the report page by page. There are also rebuttals to the consultant's report. He believes the consultants that prepared the report should meet with the ECP Board and Commission in a public meeting and afford them the opportunity to defend themselves.

Mayor Winters announced that he understands that the consultants have offered to come here at no charge.

Director Ebeling suggested that questions for the consultants be reduced to writing so that they know what the issues and concerns are and can be prepared ahead of time.

Mayor Winters recommended that the ECP Board and Commission write questions and arrange for the consultants to return within the next 60 days.

City Manager Gregory T. Doyon suggested the next ECP Board meeting. He would check with the consultants to determine their availability.

Mayor Winters noted the January ECP Board meeting was canceled for good reason. The ECP Board will meet at its regularly scheduled meeting the first Monday in February.

Director Ryan commented that the questions should be put together for submittal to the consultants and topics placed on the agenda for specific answers so as not to debate issues a long time and not get anywhere. Mayor Winters responded that he believes Commissioner Bronson and Chairman Golie would make pointed questions at the meeting.

Commissioner Jolley asked and was informed that the Jergeson report was provided to Burns and McDonnell.

Director Ryan added that after Jergeson's critique came out in the paper, he knows that other critiques are forthcoming from people who have every bit of input as Mr. Jergeson has in this matter. He suggested both bodies first look at the report that was paid for.

Mayor Winters directed ECP Board members to submit questions to its chairman; the Commissioners will submit questions to Commissioner Bronson. After all of that information has been digested by both bodies, then the Jergeson report will be reviewed as to discrepancies, whether legitimate or not. He thinks the right approach is that the ECP Board and City Commission function as one body to come up with a conclusion.

Commissioner Burow asked for clarification regarding the timeline and procedure. The Commissioners shall submit questions to Commissioner Bronson and the ECP Board members shall submit questions to its chairman, and then both bodies will review the questions together at the next meeting, before the meeting with the consultants. The Commission and ECP Board are meeting at the next regularly scheduled ECP Power Board meeting on the first Monday in February without the consultants, but with written questions that will be discussed. Mayor Winters asked Commissioner Bronson to chair that meeting and he accepted.

Chairman Golie added that, prior to convening the joint meeting, ECP needs to conduct business, elect officers, review monthly financials and accept the minutes of the last meeting.

City Manager Doyon stated that this has been one of the most important meetings that he has attended over the past two years. He was pleased to see both bodies together and making a commitment to move forward through the issues that have been languishing for awhile. He offered that the thing that has concerned him the most from the beginning with this policy is the structure of ECP and the City's relationship with Southern. The consultants didn't do a good job

of addressing that. It has been problematic to him that representatives of the city attend Southern meetings and are not able to report back to the City Commission. He has requested and can't even get Southern's by-laws to provide to the Commission. The risks need to be discussed as well.

Mayor Winters welcomed comments from the public. He again reminded everyone to not speak negatively toward city staff.

Travis Kavulla, 725 49th Street South, commented that every day ECP stays in operation it is losing money. He hoped that Jergeson's report would be given some consideration as well.

Richard Liebert, 289 Boston Coulee Road, commented that this meeting was a good move towards accountability and transparency. Public power is a noble goal that can be accomplished like the public utility districts in the state of Washington. He suggested if minutes and by-laws of Southern cannot be obtained, then oral reports should be given from the trustee. He concluded that the consultants need to demonstrate a phased exit strategy.

Ron Gessaman, 1006 36th Avenue NE, commented that until the document litigation is resolved he doesn't believe there should be any conclusion about the city's association with SME.

Larry Rezendes, 2208 1st Avenue North, commented that he was surprised at what he heard tonight; that it was like a time warp back to 2004. Mr. Rezendes noted the six years of operating losses of ECP in violation of its founding ordinance. He suggested the direction the city should be going is to request a formal plan from Burns and McDonnell to shut down ECP. Mr. Rezendes opined that the ECP Board members and Ms. Balzarini laugh at what the citizens say.

Mayor Winters pointed out that he made it clear there would be no trash-talking. If he wanted to continue, he would eliminate rude from his comments.

Mr. Rezendes continued that the city has not gotten what it paid for from the Burns and McDonnell consultants. The city should direct the consultants to remedy that report at least partially for a plan to exit Electric City Power. He commented that what has gone on around the table was happy talk; that the issue was not going through the Burns and McDonnell report point by point, but of making a decision to shut down ECP.

Mayor Winters interrupted that this was a first step of a journey to solve a problem. There was no happy talk here tonight.

Mr. Rezendes disagreed stating that the fundamental issue was not being focused on. Mayor Winters responded that neither the ECP Board nor the Commission was going to be bullied into making a rash, rapid decision based on hearsay or somebody's report in the *Tribune*. It is going to be handled in a pragmatic way to come up with a viable solution.

Jesse O'Hara, 2221 Holly Court, commented that this was a productive meeting.

Jerry Taylor, 3417 4th Avenue South, commented that, from the beginning, all of the ECP Board members have tried to do a good job. Unfortunately, because of SME not being upfront and forthright with all of the information, ECP fell on its face. He commended the mayor for trying to solve that. Mr. Taylor commented that the Randy Gray administration took away the right of the people to vote on things like this. Mayor Winters agreed and emphasized that is why the ECP Board and Commission will meet together for the next several months to get on the same page.

Jerry Dolson, 1500 18th Avenue South, commented that this meeting was a step in the right direction.

Kathy Gessaman, 1006 36th Avenue NE, requested that electricity, supply, transmission and distribution costs be separated to see what ECP and SME pay compared to NorthWestern.

Ron Gessaman, 1006 36th Avenue NE, recommended that the Commission review Agenda Item 5 of the July 7, 2009, Commission meeting, and compare the key deliverables to what the consultants prepared. He opined the Commission's ability to use the report will be limited.

ADJOURN

There being no further discussion, Mayor Winters adjourned the joint work session meeting of January 11, 2010 at 7:30 p.m.