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County finds streetlight billing discussion “premature” despite Mayor Ward’s repeated requests to immediately dissolve agreement

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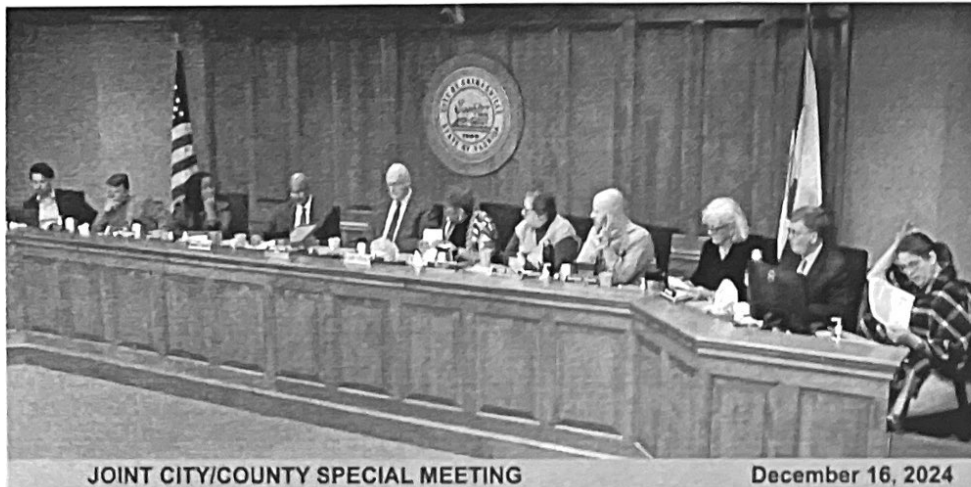
December 17, 2024

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JOINT CITY/COUNTY SPECIAL MEETING

December 16, 2024

The Gainesville City Commission and Alachua County Commission held a joint meeting on Dec. 16

BY JENNIFER CABRERA

GAINESVILLE, Fla. – At their joint meeting on December 16, the Gainesville City Commission and Alachua County Commission failed to reach an agreement on the City's request to dissolve a longstanding agreement under which the City paid the County's electric bills for streetlights in exchange for the use of the County's rights-of-way.

Mayor Ward: "I would like to see us dissolve the agreement and start from scratch because... the City of Gainesville does not [deliver utility services] through the Gainesville City Commission."

Gainesville Mayor Harvey Ward began the discussion by saying, "We have an existing decades-old agreement between the Gainesville City Commission and the Board of County Commissioners for Alachua County that requires things of the City of Gainesville... [We] cannot deliver what you ask us to deliver... I would like to see us dissolve the agreement and start from scratch because... the City of Gainesville does not [deliver utility services] through the Gainesville City Commission."

Agreements date back to 1941

Special Advisor to the City Manager Phil Mann explained that the agreements for streetlights and fire hydrants date back to 1941, when the City first implemented utility surcharges. As the utility developed, a joint City/County regional utilities board was formed and then was dissolved in 1979, with the utility "coming over to the City of Gainesville with some considerations, and that's called the Rub-out Agreement."

Mann said the Rub-out Agreement was extended to 1987 and called for the City's utility to be able to use County rights-of-way, and in exchange, the City would pay for streetlights and fire hydrants in the unincorporated area. The Rub-out Agreement was dissolved in 1990, and a new agreement was executed the same year.

At the time, the utility was under the City Manager, and the 1990 agreement required the City to pay for the streetlights and fire hydrants in the unincorporated area in exchange for using County rights-of-way for utilities.

In May 1990, the General Manager of GRU changed from the head of a department in General Government to a Charter Officer, and in 2005, the City Commission decided that the fire hydrant charges would be included in the base rates for water, so there were no charges for fire hydrants after October 2006.

Phil Mann: "So our position... is that with the Authority, the City should no longer be paying this because there is no benefit to the City side. The benefit is to the Authority board and GRU."

Mann said the Rub-out Agreement stated that the City shall reimburse the County from its General Fund an amount equal to the charges paid to the City by the

County for fire hydrant and streetlight services in exchange for benefits derived by the City due to the location of City utility property within Alachua County. He concluded, "So our position... is that with the Authority, the City should no longer be paying this because there is no benefit to the City side. The benefit is to the Authority board and GRU."

Ward interjected, "So when you say 'no benefit to the City,' that's not about the people sitting up here or the people in this building. That's about City taxpayers."

Mann responded, "Yes, the benefit is to GRU and its customers for not having to pay fees and franchise fees to the County."

Ward: "The agreement contemplates something that is not possible right now and therefore should be vacated and renegotiated with the entity who actually does deliver those services."

Ward continued, "But more to the point, this agreement references the City delivering services that we do not deliver. We don't have the capacity to deliver utility services, period... The agreement contemplates something that is not possible right now and therefore should be vacated and renegotiated with the entity who actually does deliver those services."

City Commissioner Bryan Eastman said he had "always thought the person who lost out the most in this agreement was Alachua County" because they could charge a franchise fee of about \$6 million, contrasted with the streetlight benefit of about \$1.3 million.

City Commissioner Ed Book said he thought that renegotiating the agreement was in line with the statute that created the GRU Authority and requires the City to facilitate a transition to the Authority.

Cornell: Deadlines in the agreement cannot be met in this budget year

County Commissioner Ken Cornell said, "I think we might be a little premature in talking about this – as I understand, there was a ballot referendum, there's a lawsuit." He suggested waiting a few months to see what happens with the lawsuit. He also said that the agreement states that if the County decides to ask for any right-of-way compensation, they have to do that by March 1, and that requires a study, "which is not going to be done by March 1, which means we're not going to be able to meet that under this agreement." He also pointed out that the agreement can only be terminated by mutual agreement of the parties, so both the City and County must agree.

Cornell continued, "I don't think the City should be pushing it right now,... but I think it makes perfect sense for our staff to begin to explore this." He said the "best-case scenario" would be to ask staff to work on coming back with a proposal by March 1, 2026, for the Fiscal Year 2026-27, "and in the meantime, that should give the City and the Authority plenty of time to sort out the referendum and the

lawsuit, and we'll kind of see where we are about a year from now."

Ward responded, "All that is great, but the agreement, aside from the money, contemplates the City providing things that we are not able to provide. It is a mechanically broken agreement."

Cornell: "Well, Mr. Mayor, you still own GRU, so you do provide it."

Cornell responded, "Well, Mr. Mayor, you still own GRU, so you do provide it," and Ward replied, "I don't think that's accurate. We are unable to compel them to do anything."

Cornell said, "I believe these are the two wrong bodies having this discussion. I believe the City and GRU should enter into agreements... related to this."

When Ward continued to argue that Cornell's proposal leaves the taxpayers of Gainesville, "who are half of your taxpayers,... on the hook for it," Cornell said there is no way the County can do a study by March 1, 2025, so "it's not going to get resolved this fiscal year that I can see, unless I'm missing something."

County Commissioner Mary Alford agreed with Cornell and said the timing was "unfortunate" because the GRU Authority has been in place since summer 2023, and if the City had brought this up sooner, they might have been able to work it into the FY25-26 budget.

Becoming frustrated, Ward carefully enunciated each word: "So our commission cannot do anything with this," and Alford responded, "And you haven't been since 2023, right?... We just need a little bit more time... We don't need to drop this topic at all, but we're just not ready to make a decision today."

City Commissioner Cynthia Chestnut said the Mayor should send a letter to the Authority, notifying them that discussions have begun on a change to the agreement, and the City and County should discuss the topic again at their next joint meeting.

City Commission voted to make GRU absorb the cost in 2023

City Commissioner Casey Willits pointed out that the City Commission voted in September 2023 that GRU should absorb the cost of the streetlights; at the time, GRU General Manager Tony Cunningham argued that he would need to increase electric rates by 3.75% instead of 3% to be able to absorb the cost, but the City Commission refused to raise the rates more than 3% and City Manager Cynthia Curry decided to take the difference out of GRU's reserves.

However, last week the GRU Authority reduced the General Fund Transfer by about \$1.5 million, transferring the costs for streetlights back to the City.

Willits urged the County Commission to "help us enforce our charter by helping us take this step..., I prefer today." He asked the attorneys whether the County and

GRU could "go on with the current payment without a full right-of-way study."

County has not received a bill for the past two years

Assistant County Manager Tommy Crosby said the County has not received a bill and has not paid anything for the last two years, but the amount was below \$800,000 in Fiscal Year 2022.

MOU from 2022 states that GRU will reduce GFT by amount of streetlight charges

GRU CEO Ed Bielarski told Alachua Chronicle that GRU stopped billing the County when the City Commission decided in 2023 that GRU should absorb the costs of the streetlights; before that, a Memorandum of Understanding (MOU) signed by Interim GRU General Manager Tony Cunningham and Interim City Manager Cynthia Curry in September 2022 stated that GRU would pay the bills for streetlights in the unincorporated areas of the county and apply a credit for those amounts toward the General Fund Transfer, starting October 1, 2022. The MOU states that GRU will "assume full responsibility for the street lighting charges" and "GRU will reduce the General Fund Transfer (GFT) paid to [General Government] equal to the same amount for street lighting charges." The City Commission vote in September 2023 forced GRU to absorb the costs without deducting them from the GFT, and the Authority recently voted to start deducting them from the GFT again.

Crosby: "For all indications, [GRU] is still operating street lights, and we're not getting billed for them. So we don't see an issue."

Crosby said, "For all indications, [GRU] is still operating street lights, and we're not getting billed for them. So we don't see an issue... At this point, the County is fine with things as they're operating."

Willits said, "I'll just say that this is one of those examples where this really does need to be extricated. And I think the time is now... because GRU... changed our budget." He said that "of course" the issue isn't urgent for the County because they're not the ones who just learned that they would not receive almost \$1.5 million that they had budgeted for FY24.

Ward agreed, "I completely understand why it would not feel urgent to the County, but Gainesville taxpayers are paying it, whether you're getting the money at the County or not."

County Commission Chair Chuck Chestnut said, "Mr. Mayor, I think today we're just not in a position to make a decision on this... This is just, like, sprung up upon us... Give us some time to work this out... We have not heard from GRU... asking for payment."

Ward: "You're in an agreement with an entity that can't do it."

Chair Chestnut said again that they need time to study the issue and would give an update at the next joint meeting, and Ward responded, "I completely understand. Keep in mind that the entity you have the agreement with cannot meet the obligations... You're in an agreement with an entity that can't do it."

Chuck Chestnut: "I think everything is okay right now. All I'm asking is, just give us the time to get a study done and move forward."

Chair Chestnut responded, "Right, but, as our staff said, our services haven't been interrupted. We haven't received a bill or anything. So I think everything is okay right now. All I'm asking is, just give us the time to get a study done and move forward."

County motion

Cornell made a motion to "refer to County staff the fire hydrant and public street lighting service agreement and ask that they meet with GRU staff and bring back recommendations for analyzing the agreement, which would involve, but not be limited to, a franchise fee study." Alford seconded the motion.

City motion

Cynthia Chestnut made the City's motion: "Notify GRU of the dilemma, the County Commission will undertake a study regarding payment for streetlights and fire hydrants in the unincorporated area that GRU is using in the right-of-way, and ask County staff to bring back recommendations and suggestions at the next joint City/County meeting." There were multiple seconds. With Chestnut's agreement, Book added a request to staff to provide some historical context on the agreement and the "impacts over the years."

Public comment

During public comment, Chuck Ross said the Authority "is not being reasonable... Frankly, the board's being run by the General Manager because really, none of the Authority members know how to run a utility, and they pretty much do whatever he asks them to do, which is a different problem... I would urge you to not delay this... I would urge that you adopt an agreement that will allow for adjustments so you can make changes to the amounts going forward."

Jim Konish said, "Every single statement, every single one, is false" and called the City Commission "pirates... You agreed to pay for the County streetlights. Either one of you could terminate the agreement, but if you do, GRU is going to start sending the bills, like they did up to two years ago... They've stopped billing it; that doesn't mean they're not owed."

Ward said, "Mr. Konish, did you call us pirates?" and Konish responded, "I called you pirates for taking more money than GRU made and getting caught with it and having the utility taken away from you, yes." Ward said, "That was an interesting

characterization, it's a thing I've not been called before. Thanks."

Votes

The County's motion passed 4-0, with Commissioner Anna Prizzia absent.

The City's motion passed 5-1, with Willits in dissent and Commissioner Reina Saco absent.

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December 17, 2024

Ironic, when Ward doesn't get his way, he turns to his petulant childish ways.