

**MINUTES OF REGULAR MEETING
BURLINGTON ELECTRIC COMMISSION**

Wednesday, February 9, 2022, 5:30 pm

The regular meeting of the Burlington Electric Commission was convened at 5:30 pm on Wednesday, February 9, 2022 via Microsoft Teams Video Meeting.

Channel 17 was present via Microsoft Teams Video to record this meeting.

Commissioners Chagnon, Herendeen, Moody, Stebbins (arrived at 6:33 pm) and Whitaker participated via Microsoft Teams.

Staff members present included Darren Springer, Paul Alexander, Emily Byrne, Andy Elliston, Erica Ferland, Mike Kanarick, Munir Kasti, Laurie Lemieux (Board Clerk), Paul Pikna, and Emily Stebbins-Wheelock.

1. Agenda

There were no changes to the Agenda.

2. January 12, 2022 Meeting Minutes

Commissioner Herendeen asked that the minutes from the January 12, 2022 be amended to include the following statements in Agenda Item 6 under the Street Lighting Standards discussion:

Commissioner Herendeen drew attention to sovereign immunity and what that meant regarding the responsibility for lighting on the part of the City.

Commissioner Herendeen stated that several towns in Vermont have already reduced the number of lights they had by a large number.

Commissioner Herendeen also requested a change on Page 6 under Agenda item 5, GM Update, regarding rental weatherization standards to state the following:

This ordinance is now fully enacted, and we have identified the first cohort of buildings that will need to comply, properties that use equal to or more than 90,000 BTUs per sq. ft. per year.

Commissioner Herendeen made a motion to approve the minutes of the January 12, 2022 Commission Meeting as amended; the motion was seconded by Commissioner Chagnon

The Board Clerk, Laurie Lemieux, conducted a roll call vote by calling on the following

Commissioners:

Commissioner Chagnon. Aye
Commissioner Herendeen. Aye
Commissioner Moody. Aye
Commissioner Whitaker. Aye

Results: 4 Ayes with 0 Nays, the motion carries. Commissioner Stebbins arrived after the vote was taken.

3. Public Forum

Present for the meeting were Mr. Bill Ellis, Esq., from the McNeil Leddy, and Sheehan law firm, as well as Mr. Thomas Melloni, Esq. and Ms. Kathy Zhou, Esq., both from the Paul, Frank, and Collins law firm.

4. Commissioners' Corner

Commissioner Herendeen stated that, on Page 13 of the monthly highlights, the statistics showed that BED supported one (1) Air to Water Heat Pump and asked if this was a commercial or residential installation? Mr. Springer reached out to Mr. Burns, who confirmed that it was a residential installation.

Commissioner Herendeen stated that Mr. Elliston conducted a presentation on lighting and during this presentation Commissioner Herendeen learned that lighting updates have been implemented over the years per the recommendations from Illuminating Engineering Society (IES). At that meeting Mr. Kasti suggested a possibility of reinstating the lighting committee, which Commissioner Herendeen was part of in 2014. Commissioner Herendeen stated that there have been many updates since 2014, including from the IES. Commissioner Herendeen also wondered what other updates may have come from the consultants that the 2014 Committee reached out to at that time. In 2014, there hadn't been a hard experimental backup, and Commissioner Herendeen suggested that there is some history that BED might check on other than the IES. Commissioner Herendeen asked that he be informed about what BED decides to do about reaching out to others.

At this time, Mr. Springer asked Mr. Elliston for an update on street lighting.

Mr. Elliston stated that, just prior to the January meeting, Engineering had reached out to IES with a number of questions that included BED's interpretation of their guidelines, especially for residential areas. Engineering also asked IES to clarify its statements regarding the reduction of lighting in residential areas, as they are a little vague.

IES immediately acknowledged BED's questions and said they were forwarding these questions to their Standards Department. After review from the IES Standards Department, they would forward

these questions to the appropriate subcommittees within the IES. Mr. Elliston indicated that, after a week, BED hadn't heard anything, so reached back out. IES responded that the subcommittee chair is aware of our questions and will get back to us when they are able. We are still awaiting a response. As soon as Mr. Elliston hears anything from the IES, he will inform the Commission and, in the meantime, he will continue to contact them regarding answers.

Commissioner Herendeen will email Mr. Elliston the names of the consultants who were part of the study in 2014.

5. GM Update

Mr. Springer introduced new members of the BED Team, Ms. Erica Ferland, BED's new Director of IT, and Ms. Emily Byrne, BED's new Director of Finance.

Ms. Ferland and Ms. Byrne each gave a brief history on their background and their excitement to learn more and be a part of the BED Team.

Mr. Springer stated that on January 27 BED announced new and expanded incentives for 2022. These new incentives are made possible because of the Net Zero Energy Revenue Bond providing the funding to support continued and expanded options and creating the liquidity to do that. The incentives also are made possible because of the authority granted under the Renewable Energy Standard and as an efficiency utility under Act 151. Highlights included new programs for electric motorcycles, chainsaws, trimmers, and riding and push lawn mowers, as well as new charging station programs. In addition, we have expanded our EV and PHEV incentives, and heat pump water heater incentives. For our low- and moderate-income customers, we now offer up to \$2,900 in BED rebates combined with state rebates that can run up to \$4,000 along with the federal tax incentives that can run up to \$7,500. One important change is with the residential, off-peak charging rate where you can charge between the hours of 10:00 pm and 12noon and get a very discounted charging rate. We previously have offered rebates of \$400 only to residents who have gotten new electric vehicles. These incentives will now increase to \$900 for customers getting new EVs and also will include up to \$700 for anyone getting a new plug-in hybrid or a pre-owned EV or plug-in hybrid. We've expanded the eligibility for customers to get a rebate on a home charger, get it installed, and get signed up for the off-peak rate.

There will be two Town Hall Meetings, hosted by the Mayor (one co-hosted by VECAN, the state organization that manages town energy committee's and is part of the VNRC). This first Town Hall will be with Rewiring America, a national organization that supports strategic electrification.

Mr. Springer stated that the Legislature has been taking testimony in the House Government Operations Committee on BED's Thermal Energy Charter change. Mr. Springer has joined the committee twice, and other individuals have joined to talk about this issue. Mr. Springer stated that he believes the Committee was considering a potential vote this week and, if successful, it could come to the House floor in the next week.

Mr. Springer stated that he had a productive meeting with UVMMC, with a follow-up meeting scheduled for later this month and that our goal remains to wrap up the Phase 3 work by the end of the first quarter of 2022. At this time, we are waiting to reschedule with UVM. It is our hope to provide an update to the Commission at the April meeting.

We are engaged with Synapse to provide 2021 updated data for the Net Zero Energy Roadmap. Of interest will be how the transportation sector/vehicles miles traveled changed in 2021 as the economy began to reopen later in the pandemic. We should have the 2021 data to share at the April meeting.

Mr. Springer stated that we are taking a new approach to the Innovation Cup as a result of feedback from the Employee Engagement Committee. Our plan is to recognize employees on a monthly basis who are taking innovative steps to help improve our operations, reduce fossil fuel use, and demonstrate leadership. As an example, one of our lineworkers, Andrew Watson, suggested that BED replace our gasoline powered saws with electric battery powered saws, both for our chainsaws and our telescoping saws as Andrew had taken this step in his own life with the support of our Employee Net Zero Energy Reimbursement Program. BED now has funded part of this initiative this year and has provided new electric saws for the line crew, and we will fund the rest of the saws in the coming year. This is a great opportunity for BED to have ongoing engagement from the entire organization.

6. FY22 December Financials

Ms. Stebbins-Wheelock presented the budget-vs-actual results for the month of December FY22. The Department had a net loss of \$63K in December compared to a budgeted net loss of \$417K. On the revenue side, actual sales to customers were unfavorable to budget by \$90K. Residential sales were up \$11K, and commercial sales were down \$103K. Ms. Stebbins-Wheelock noted that, for the year-to-date, actual sales to customers are within 0.5% of budget. Other revenues, mainly EEU, were down \$53K.

Power supply expenses were \$242K less than budget, as a result of fuel, transmission, and purchased power all being under budget. Other operating expenses were down \$276K compared to budget. Other income was \$113K under budget for December, mostly due to customer contributions not arriving as planned.

For FY22 year-to-date, actual net income is \$198K or 8% below budget.

As of December, the Department has spent 26% of the FY22 capital budget and has an operating cash balance of \$9.5M, or 129 days cash on hand. The debt service coverage ratio is 4.80, and the adjusted debt service coverage ratio is 1.27.

5. Revenue Bond Resolution

Ms. Stebbins-Wheelock shared with the Commission the Net Zero Energy Revenue Bond Resolution that will be presented to the City Council for adoption. Ms. Stebbins-Wheelock stated that this Council Resolution adopts two Supplemental Resolutions to the General Bond Resolution, which is the original instrument adopted by the Board of Electric Commissioners that gives BED the authority to issue revenue bonds. Supplemental Resolution 16 increases the length of time the Department has to file audited financial statements with the bond trustee following the close of the fiscal year. Presently we have a 120-day deadline, which is often challenging to meet; this Resolution seeks to extend that deadline to 180 days. Supplemental Resolution 16 also expands the definition of investment securities to provide more flexibility in how the Department's debt service reserve funds may be invested. These changes would go into effect when 2/3 of the holders of the outstanding bonds approve. Supplemental Resolution 17 gives the General Manager and the Chief Administrative Officer of the City the authority to issue the \$20M of new Net Zero Energy revenue bonds at a price that is reasonable and at interest rates defined within the Resolution.

Mr. Thomas Melloni of the Paul, Frank + Collins law firm stated that there is a two-stage process by which bonded indebtedness can be incurred. First is the Board of Electric Commissioners, and second is the City Council. The Charter grants the City Council the ultimate authority for incurring bonded debt, and this approval is scheduled for the February 22, 2022 City Council meeting. Mr. Melloni stated that, since the Board of Electric Commissioners vote in December to allow project costs to be reimbursed from bond proceeds, work already has taken place in terms of tax analysis and the preparation of the official statement. There is also a meeting with Moody's scheduled to obtain a credit rating for this specific bond issuance.

Mr. Melloni stated that Supplemental Resolution 16, once adopted, requires two approvals to be implemented: one, we need the approval of Assured Guaranty, the insurer of the outstanding bonds; and two, we need approval of 2/3 of the current bond holders. Ms. Kathy Zhou, a colleague of Mr. Melloni, obtained the consent of Assured Guaranty to the change regarding the 180-day deadline for filing the annual audit and the change in the permitted investment securities for debt service reserve funds held by the bond trustee. The approval of 2/3 of the bond holders will be obtained over time. Investors in the new 2022 issuance will be consenting to the terms of Supplemental Resolution 16; because BED has approximately \$19M in previously issued revenue bond debt outstanding, this will mean that just over half of the bondholders will have consented to the changes. In Mr. Melloni's opinion, unless BED engages in some other refunding in the future, we will reach the 2/3 threshold in approximately 2025, after the 2014 bonds mature. The alternative to this approach is reaching out to all of the bondholders to seek a vote, which can be an expensive and time-consuming endeavor.

Mr. Melloni continued that BED, and the City gave careful consideration and weighing of whether to issue the bonds in a single \$20M issuance or in multiple series of bonds to hopefully save interest. After consultation with the City's financial advisor, it's been determined that the best path forward is as one issuance. Interest rates are expected to rise, and each bond issue has associated transaction costs, so there are cost benefits of issuing the full \$20M now, particularly since the projected capital expenditures are going to be incurred within a three-year time period. The

current schedule is to sell the bonds in the middle of March 2022 after the solicitation of bids to determine what the terms and the interest rates will be, with a closing at the end of March.

Supplemental Resolution 17 delegates to the General Manager and the Chief Administrative Officer the authority to determine the final interest rates, the repayment terms, and the debt service scheduled. Mr. Melloni stated that, while the current expectation is that the interest rate will be well under the threshold of 4.25% set by the Resolution, in the event it is higher, ultimate approval would be required from the Board of Finance.

Commissioner Whitaker asked for clarification about certain changes requiring the approval of 2/3 of the bondholders. Mr. Melloni explained that the General Bond Resolution allows for amendments or supplements, with certain changes allowed through action of the Board of Electric Commissioners and approval of the bond trustee, and other changes that are material or significant to investors requiring the approval of the holders of 2/3 of the outstanding bonds on a dollar-weighted basis. The bond resolution, however, also allows these types of changes to be implemented with the caveat that they only become effective once the 2/3 of bondholders' consent has been received.

Commissioner Whitaker stated that her understanding was that the other change in Supplemental Resolution 16 would allow BED more flexibility in investing the \$20M once received. Mr. Melloni responded that her understanding was correct; the bond proceeds will be deposited with Zions Bancorp, the bond trustee, and be held in what's called the Construction Fund. Disbursements from the Construction Fund to BED will be made based upon requisitions from BED management certifying that the monies are to reimburse revenue bond project costs. Additionally, there is a Debt Service Reserve Fund that is held by the bond trustee as additional security. This change provides additional flexibility for the investment of those funds.

Commissioner Whitaker inquired whether the Department's investment policies were in line with its and the City's Net Zero Energy goals, so the funds would not be invested in fossil fuel production, for example. Mr. Melloni stated that the bond resolution adopted in 1981 provides for different categories of allowable investments, and this new addition would allow investment in money market funds that hold government securities, likely to be mostly Treasury bonds. Other investments are allowed, but BED will choose from the categories. Ms. Stebbins-Wheelock added that the Debt Service Reserve Fund currently is invested mostly in U.S. Treasuries.

Commissioner Herendeen stated that he thought he had read 4.5% in the Council Resolution. Mr. Melloni stated that Supplemental Resolution 17 does reference 4.25%, whereas the City Council Resolution designates a 4.5% interest rate. If acceptable to the Commission, Mr. Melloni proposed recognizing the change in Supplemental Resolution 17 to a maximum interest rate of 4.5% and updating the rate in the Resolution before it is presented to the Council.

Commissioner Herendeen asked about the term of repayment and whether that would be negotiated. Mr. Melloni replied that the repayment term is a management decision with an overall

limit under City Charter for 40 years. BED has elected a 20-year term, with principal payments deferred for the first five years, and that this choice seems prudent given the long lives of the assets being financed.

Commissioner Herendeen asked whether there were any special risks associated with the bond issuance. Mr. Melloni responded that, as with any bond issue, the greatest risk is the market risk associated with being able to sell the bonds at the interest rate predicted.

Commissioner Chagnon made a motion to adopt Supplemental Resolutions 16 and 17 with the change to a maximum 4.5% interest rate and to recommend adoption of these Resolutions to the Board of Finance and City Council; the motion was seconded by Commissioner Herendeen.

The Board Clerk, Laurie Lemieux, conducted a roll call vote by calling on the following Commissioners:

Commissioner Chagnon. Aye
Commissioner Herendeen. Aye
Commissioner Moody. Aye
Commissioner Stebbins. Abstained
Commissioner Whitaker. Aye

Results: 4 Ayes with 0 Nays, the motion carries.

Commissioner Stebbins arrived late to the presentation, and therefore abstained from the vote.

7. Moran Frame Project

Mr. Springer stated that Mr. Bill Ellis, BED's longstanding regulatory attorney is in attendance and will join the Commission in Executive Session. Mr. Springer stated that this agenda item related to BED and its potential liability with the Moran site and the construction of the Moran Frame Project and that he would like to discuss this topic in Executive Session.

Commissioner Moody made a motion that premature general public knowledge of BED's Memorandum and Understanding regarding the Moran Plant would clearly place the Burlington Electric Department at a substantial disadvantage per Title 1, Section 313 (a)(1) of the Vermont Statutes; the motion was seconded by Commissioner Chagnon.

The Board Clerk, Laurie Lemieux, conducted a roll call vote by calling on the following Commissioners:

Commissioner Chagnon. Aye
Commissioner Herendeen. Aye
Commissioner Moody. Aye
Commissioner Stebbins. Aye
Commissioner Whitaker. Aye

Results: 5 Ayes with 0 Nays, the motion carries.

Commissioner Moody made a motion to enter into Executive Session with Burlington Electric Department Staff to discuss BED's Memorandum of Understanding regarding the Moran Plant, under the provisions of Title 1, Section 313(a) (1)(A) of the Vermont Statutes; the motion was seconded by Commissioner Chagnon.

Commissioner Moody made a motion to exit Executive Session at 7:05; the motion was seconded by Commissioner Herendeen

Commissioner Stebbins conducted a roll call vote by calling on the following Commissioners:

Commissioner Chagnon. Aye
Commissioner Herendeen. Aye
Commissioner Moody. Aye
Commissioner Stebbins. Aye
Commissioner Whitaker. Aye

Results: 5 Ayes with 0 Nays, the motion carries.

Commissioner Stebbins stated that, once the Commission votes on the motion regarding the MOU between BED and the City of Burlington that sets forth a negotiated agreement, all documents will be available to the public.

Commissioner Herendeen made a motion to recommend authorizing the General Manager or designee of Burlington Electric Department to sign and participate in the Memorandum of Understanding between the City of Burlington that allows annual settlement payments to the City towards abatement and/or remediation of the Moran Plant commencing in FY2023; the motion was seconded by Commissioner Chagnon.

The Board Clerk, Laurie Lemieux, conducted a roll call vote by calling on the following Commissioners:

Commissioner Chagnon. Aye
Commissioner Herendeen. Aye
Commissioner Moody. Aye
Commissioner Stebbins. Aye

Commissioner Whitaker. Aye

Results: 5 Ayes with 0 Nays, the motion carries.

Commissioners' Check-In

Commissioner Herendeen stated that the chart of degree days included in the Financial packet is really useful and asked if an additional calculation could be included. Commissioner Herendeen asked if there could be a row included that shows the deviation of the actual temperature from the budgeted value; i.e., an additional row that shows December, for example, was 4 degrees above budget and January was 6 degrees below.

Commissioner Whitaker made a motion to adjourn; the motion was seconded by Commissioner Chagnon.

The Board Clerk, Laurie Lemieux, conducted a roll call vote by calling on the following Commissioners:

- Commissioner Chagnon. Aye
- Commissioner Herendeen. Aye
- Commissioner Moody. Aye
- Commissioner Stebbins. Aye
- Commissioner Whitaker. Aye

Results: 5 Ayes with 0 Nays, the motion carries.

The meeting of the Burlington Electric Commission adjourned at 7:13 p.m.

Attest:



Laurie Lemieux, Board Clerk