

Eric Fryson

From: William E. Sexton [wesexton@brownandsextonlaw.com]
Sent: Tuesday, June 05, 2012 5:03 PM
To: Filings@psc.state.fl.us
Cc: 'John Cooper'; 'William E. Sexton'
Subject: RESPONSE TO COMPLAINT BY CITY OF STARKE, FLORIDA - Docket 120053, Complaint of Bradford County School District against the City of Starke
Attachments: SCAN2382_000.pdf

Pursuant to the Public Service Commission electronic filing requirements:

- a. For the filer's contact information, please see email signature below;
- b. This filing is for Docket 120053, Complaint of Bradford County School District against the City of Starke;
- c. The attached response is filed on behalf of the City of Starke, Florida;
- d. The total number of pages in each attached document is indicated below; and
- e. Response to Complaint (36 pages).

This filing is meant to replace the prior filing by the submission of one document with all exhibits attached thereto.

Thank you.

William E. Sexton
Attorney and Counselor at Law

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DOCUMENT NUMBER-04110
 03681 JUN -6 2012
 FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: COMPLAINT OF BRADFORD
COUNTY SCHOOL DISTRICT
AGAINST THE CITY OF STARKE

Docket No. 120053-EM

RESPONSE TO COMPLAINT

COMES NOW, the City of Starke, Florida, pursuant to the *Notice of Complaint* dated March 8, 2012, and responds to the *Formal Complaint* filed by the Bradford County School District with the Florida Public Service Commission as follows.

I. BACKGROUND

On or about March 7, 2012, the Bradford County School District (DISTRICT) filed a *Formal Complaint* against the City of Starke, Florida (CITY) with the Florida Public Service Commission (PSC). The complaint purports to allege three distinct problems with the "current formula used by the City of Starke in calculating the power cost adjustment (PCA) surcharge". Despite these enumerated "claims" in the complaint, the singular issue raised by the DISTRICT is that the electric utility rate being charged to the DISTRICT is too high, resulting in the DISTRICT allegedly paying too much for its electric utility service.

This point is made throughout the DISTRICT's statements in the "Financial Impact" portion of the complaint. There the DISTRICT wrote, "The [DISTRICT] is one of, if not the largest electrical utility customer of the [CITY]. During the twelve month time period used herein, the [DISTRICT] expended approximately \$1,200,000 for

electrical service provided by the [CITY], or approximately 9.2% of the [CITY's] total electrical revenue stream" and "school districts across this state are suffering financially, and the [DISTRICT] is no exception. The financial impact of [the CITY's electrical charges] is significant and it is recurring each year." It is obvious from these statements that the DISTRICT's concern is simply its cost for electric utility services and its desire to reduce such costs.

The DISTRICT's arguments over its electric utility rate are not novel or unique to their complaint. The DISTRICT, through its elected superintendent, has repeatedly complained to the CITY that the DISTRICT was paying too much for its electric utility service. On or about September 28, 2010, Superintendent Beth Moore attended a Starke City Commission meeting and addressed the CITY concerning this matter. The minutes of the city commission meeting are attached hereto as Exhibit "1". Moore complained that the DISTRICT's electric utility bills were too high and requested that the CITY change the DISTRICT's rate to a utility rate less than that charged other commercial users. The CITY, both finding the request patently unfair and based upon the DISTRICT's mistaken understanding of the CITY's electric utility rate structure, elected not to assign the DISTRICT a separate, lower electric utility rate. On February 7, 2012, Superintendent Moore garnered more publicity by publicly presenting to the City Commission a copy of the complaint, stating that the DISTRICT's position was that the CITY was charging it too much for electric services. The minutes from this city commission meeting are attached hereto as Exhibit "2".

As a municipal utility service provider and a local government, the CITY pays considerable attention to the concerns of its customers. The CITY takes all concerns

regarding its utility services very seriously and has been particularly diligent in researching and responding to concerns such as those made by the DISTRICT. The CITY understands the importance of maintaining a positive relationship with the DISTRICT and has attempted on numerous occasions to address the DISTRICT's concerns and to educate the DISTRICT and its staff on the admittedly complicated electric utility rate structure. It is therefore frustrating that the DISTRICT continues to raise the issue and to falsely allege that the CITY is improperly setting its electrical utility rates when the DISTRICT knows that its real complaint is simply that its electric expenses are too high in its opinion.

The CITY believes that the actual purpose of the DISTRICT's filing of the complaint is both to direct false blame for the DISTRICT's increased electrical utility costs¹ and to create a political issue for the DISTRICT Superintendent's upcoming reelection campaign. The CITY has confirmed that during the forty-two months Superintendent Moore has held office, the DISTRICT's electric utility consumption has increased 22.82%. A detailed analysis of the DISTRICT's electric utility usage is attached hereto as Exhibits "3" and "4". Inexplicably, much of the DISTRICT's electric consumption increase has occurred during summer months when there are far fewer students and far less activities at DISTRICT facilities. See Exhibits "5", "6", "7" and "8". The DISTRICT's increased electrical consumption between 2008 and April 2012 represents increased electrical utility expenditures of approximately \$185,000 per year.

¹ The DISTRICT's electric usage has increased a total of 32.39% over the past ten years (actually 128 months), with a 22.82% increased usage occurring during just the last 42 months while Superintendent Moore has been in office. In other words nearly 80% of the DISTRICT's increased consumption of electrical power over the last ten years has occurred during the last 42 months.

This increase or waste of money is totally unrelated to the CITY's electrical rates and, instead, reflects the DISTRICT's increased consumption.

Thus, the DISTRICT's increased electrical utility expense is not a rate issue nor is it because of any rate increases. Instead, it appears to be a management or administrative issue on the part of the DISTRICT. The DISTRICT's lack of conservation policies or practices is in sharp contrast to other school districts in this state who have been reducing their electricity costs during these challenging fiscal times.

Most other school districts have active programs for conserving energy and saving tax dollars. As an example, the Putnam County School District (an adjacent county) and Clay Electric Cooperative, Inc. recently reported on the school district's energy conservation program and a corresponding reduction in the school district's energy consumption of more than 21%. This has resulted in the Putnam County School District saving \$2,000,000 in electric costs over the past 62 months. (See Exhibit "9")

The CITY also believes that there may be a political motive to the complaint. The CITY and DISTRICT are both in Bradford County, Florida, whose schools received a "C" rating from the Florida Department of Education in each of the last three years. Bradford County's neighbor, Union County, is an adjacent rural county with virtually identical demographics. Union County schools received two "A" ratings and one "B" rating from the State of Florida during this same three year time period. This discrepancy in the apparent quality of school districts is a significant political issue in Bradford County and one that will be of paramount importance to candidates seeking DISTRICT offices in the upcoming election. A campaign focusing on the Superintendent's efforts to reduce the CITY's electric rates serves as a convenient

distraction from the otherwise difficult-to-explain poor performance of the DISTRICT's schools.

The DISTRICT knows full well that the PSC does not have jurisdiction over the real issue at hand: its repeated request for a lower electrical utility rate or a special rate to help offset its inexplicable increasing consumption of electrical power.

II. JURISDICTION

Section 366.11, *Florida Statutes*, sets forth the regulation of public utilities under Florida law. It provides for the jurisdiction of the PSC and states, "No provision of this chapter shall apply in any manner, other than as specified in S.S. 366.04, 366.05(7) and (8), 366.051, 366.055, 366.093, 366.095, 366.14, 360.80-366.85 and 366.91, to utilities owned and operated by municipalities..." Case law interpreting the Florida legislature's regulation of public utilities has confirmed that the regulation of the rates set and charged by municipal utilities is beyond the regulatory purview of the PSC. See *Storey v. Mayo*, 217 So. 2d 304 (Fla. 1968) (municipally-owned electric utilities are expressly exempted from state agency supervision); *Amerson v. Jacksonville Elec. Auth.*, 362 So. 2d 433 (Fla. 1st DCA 1978) (it is apparent from a reading of the statute and the case law that municipally-owned utilities are excluded from PSC rate change jurisdiction); *Polk County v. Florida Public Service Com.*, 460 So. 2d 37 (Fla. 1984) (the [PSC] has no authority to regulate amounts charged for a specific service); and *City of Tallahassee v. Mann*, 411 So. 2d 162 (Fla. 1981) (the [PSC] does not have jurisdiction over a municipal electric utility's rates). The complaint itself acknowledges that, "the Public Service Commission (PSC) does not fully regulate municipal utility systems."

Whether the complaint by the DISTRICT is with the amount set as the base rate for residential or commercial electric service, or the amount set as the power cost adjustment for electric service, or the apportionment of the CITY's costs between the two, these are all complaints concerning the setting of utility rates by a municipal utility which are outside the jurisdiction of the PSC. None of these issues, no matter how cleverly crafted or framed, are within the regulatory jurisdiction of the PSC. The complaint seeks to and its sole purpose is to change the utility rates of the CITY or document the Superintendent's effort to "try" to do the same at tax and rate payer expense.

III. BASE RATE; POWER COST ADJUSTMENT AND LINE LOSS

Contrary to the allegations of the DISTRICT, the CITY's historic (since 1985) power cost adjustment rate has been extremely accurate based upon the actual costs incurred by the CITY in purchasing and delivering its electric utility supply to its customers. Over this same period of time the CITY has seen its electric utility revenues steadily decline. Especially during times when the cost of fuel has increased, the CITY has experienced a dramatic decrease in its electric utility revenues. In 2006 and 2007, the CITY enjoyed electrical system operating incomes of approximately 11.5%. The last two years the CITY's electrical system operating income has dropped to 5%. (See Exhibits "10 and "11") These facts differ greatly from the DISTRICT's repeated claims that the CITY's electric rates are too high and that the CITY is making excessive profits. (See Exhibit "12") The CITY's electric rates have consistently been among the lowest of FMPA participating municipalities.

While the CITY recognizes that the DISTRICT pays a substantial electric utility bill, the DISTRICT is also a very high-end commercial electric utility customer whose primary utility usage is almost entirely during peak utility usage times. Contrary to the DISTRICT's repeated public assertions, the CITY is not overcharging large commercial electric utility customers and generating significant profits at the DISTRICT's expense. The CITY may implement a demand rate for its larger commercial users. While this is arguably more equitable for many commercial users because it better identifies a customer's actual cost of electrical use, a demand rate will likely result in higher costs for electricity provided to the DISTRICT.

The DISTRICT also makes allegations in the complaint concerning the CITY's shift from generating its own electricity to its purchase of electricity from the Florida Municipal Power Agency (FMPA), as well as improvements to the CITY's electric utility system. The DISTRICT, however, fails to account for significant increases in fuel costs over the same time period.

It has been explained on numerous occasions by the CITY to representatives of the DISTRICT, including Superintendent Moore, that the CITY constantly examines the PCA to ensure the accuracy of the Power Cost Adjustment (PCA). This regular review includes a quarterly review that "trues-up" the PCA to account for any over or under adjustments which may have occurred during the preceding three month time period. For example, if during a particular three month period the review determines that the PCA was too high, resulting in an overage, the PCA for the following period is reduced accordingly. Likewise, if it is determined that the PCA was too low during a three month period, the PCA for the following period is increased to compensate. As the PSC is

aware, this is essentially a zero-sum formula designed to ensure that the CITY's electric utility rate covers the cost of the electric services provided to CITY's customers. This concept and the CITY's repeated explanation of the same to the DISTRICT, has been ignored in the DISTRICT's complaint to the PSC; just as it has been ignored by the DISTRICT in its repeated public statements regarding the CITY's electric utility rates.

The complaint also alleges that the CITY did not adjust its (PCA) after the 2008/2009 system-wide upgrade. This allegation is apparently based upon the DISTRICT's mistaken belief that the 2008/2009 system-wide upgrade resulted in a dramatic drop in line loss. Unfortunately, this was not the case. After the system-wide upgrade in 2008/2009, the CITY did not obtain a dramatic decrease in line loss as expected. Based upon that fact, the CITY further investigated the line loss issue in 2010. The CITY then found that a significant portion of the line loss experienced before and after the upgrade was attributable to individual electric meters that were "reading slow" or registering a less-than-accurate measure of customers' electric utility consumption. The CITY further determined that the most egregious among these slow reading meters were those which belonged to large, commercial customers. Significant among the customers whose meters were "reading slow" was the DISTRICT who, based upon preliminary calculations for the period between 2008 and 2011, paid significantly less for its electric utility consumption than it should have paid. The DISTRICT owes the CITY approximately \$794,420.09 for its unpaid electrical usage and the DISTRICT has vowed not to pay its debt owed to the CITY. Moreover, the PSC does not have jurisdiction over this issue which essentially amounts to a disputed electric bill.

Moreover, the DISTRICT is apparently unable to see beyond its allegations of excessive electric utility rates so as to understand the interplay between the base electric utility rate and the PCA. The CITY's five percent (5%) operating income from its electrical system is far less than the state-wide norm for either municipal or investor owned utility systems. The CITY must generate revenues sufficient to cover the costs associated with its provision of electric utility services. In the event the CITY was to reduce the PCA, as suggested by the District, the CITY would then, by necessity, be required to increase its base electric utility rate so as to enable it to recover its costs and ability to provide effective electric utilities. In either case, whether due to the PCA or an increased base rate, the cost to customers such as the DISTRICT would remain the same. It is precisely because of the relationship between the base electric utility rate and the PCA that the City of Starke has been reluctant to incur the costs of a comprehensive rate study which will likely recommend increased rates for both commercial and residential users.

In short, the DISTRICT complains about its electrical utility bills and the related rate structure without accounting for the many varied and complex components of the base rate and PCA charged by the CITY; without taking into consideration that the PCA is "trued-up" quarterly; and all the while ignoring that the real culprit in the DISTRICT's increased electrical cost: its increased usage.

IV. RATE STUDY

The complaint also takes issue with the amount of time which has transpired since the CITY last conducted a comprehensive electric utility rate study. This issue,

the frequency with which municipal utility systems conduct rate studies, is ancillary to the DISTRICT's complaint and is further outside the jurisdiction of the PSC because it pertains to a municipality's unregulated rate setting authority.

The CITY contemplated and took steps toward a comprehensive rate study in 2008/2009. Prior to moving forward and finalizing the study, the CITY reviewed the consultant's preliminary data. This data indicated that the CITY should increase all of its utility rates and move towards a demand-driven rate for large commercial users such as the DISTRICT. This would have meant higher electric utility bills for virtually all CITY customers and would have had a dramatically negative impact on the electric utility bills for large, peak commercial customers such as the DISTRICT. The CITY elected to not proceed with the comprehensive rate study that would have likely recommended rate increases the CITY was not willing to implement. The CITY believes that this was the correct decision at the time. Given the economic climate and the difficult financial situations faced by so many CITY residents and customers, a rate study recommending a demand rate and/or across-the-board base rate increases would not have been approved by the City Commission. Instead, the CITY elected to expend a significant sum of money to upgrade its electrical system in hopes of reducing its operating costs.

Notwithstanding the foregoing, the CITY acknowledges that a comprehensive rate study for residential and commercial electric utility rates has not been conducted in some time. As such, in response to this allegation by the DISTRICT and in order to demonstrate to the public and the PSC that the problems alleged by the DISTRICT do not exist as claimed, on or about March 6, 2012, the CITY directed staff to engage the services of SAIC Energy, Environment and Infrastructure, LLC (formerly R.W. Beck) for

the purpose of conducting a comprehensive rate study of the CITY's electric system. The "Scope of Services" for the electric rate study is attached hereto as Exhibit "13". The CITY anticipates that this electric rate study will determine the propriety and effectiveness of the rates charged electric customers of the CITY electric system.

The CITY will utilize the results of the electric rate study to determine how it will proceed with setting its utility rates, establishing the method for assessing electric utility rates among residential and commercial electric utility customers, and apportioning its utility costs between its base rate and PCA. The CITY notes, based upon prior information and preliminary reviews of the CITY's current electric utility structure, including a significant decline in the CITY's electric utility profits, it again appears likely that the rate study will recommend that the CITY implement a demand rate structure and increase electrical rates. It is the CITY's desire that the electric rate study resolve the issues raised by the DISTRICT. While a demand rate structure is likely more equitable for commercial users as it better identifies the CITY's actual cost of providing electricity to each user, it will likely result in increased electrical cost to primarily peak demand users such as the DISTRICT.

V. CONCLUSION

The PSC does not have jurisdiction over the concerns alleged by the DISTRICT. Nevertheless, the CITY takes all complaints and concerns very seriously. The CITY has taken affirmative steps to fully investigate each complaint. This includes, most importantly, the commissioning of an electric utility rate study by SAIC. The study is

schedule to be completed within the next sixty (60) days and will be provided to the PSC upon request.

WHEREFORE, the City of Starke, Florida respectfully requests that the Florida Public Service Commission dismiss the *Formal Complaint* filed by the Bradford County School District for lack of jurisdiction and to grant such other remedy as may be deemed just and proper under the circumstances.

RESPECTFULLY SUBMITTED this 4th day of June 2012.

CITY OF STARKE, FLORIDA

s/ Terence M. Brown

TERENCE M. BROWN

Florida Bar Number 0289612

BROWN & SEXTON

City Attorney for the City of Starke, Florida

486 North Temple Avenue

Starke, Florida 32091

Telephone (904) 964-8272

Facsimile (904) 964-3796

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy has been furnished by U.S. Mail to JOHN S. COOPER, attorney for the Bradford County School District, 100 North Call Street, Starke, Florida 32091, this 4th day of June 2012.

s/ Terence M. Brown

TERENCE M. BROWN

**7:00 PM PUBLIC HEARING
 FINAL BUDGET**

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Mayor Tommy Chastain called the meeting to order. Present were Commissioner Travis V. Woods, Commissioner Danny Nugent, Commissioner Carolyn B. Spooner, City Clerk Linda Johns, Police Captain Barry Warren, City Attorney Will Sexton, Fire Chief Tom Rowe, Operations Manager Ricky Thompson, and Joe Fisher Project Director. Commissioner Wilbur Waters and Police Chief Jeff Johnson were absent.

Mayor Chastain stated the first issue to be discussed is the proposed final millage.

Clerk Johns stated THE PROPOSED FINAL MILLAGE IS 3.9672 MILS.

THE PROPOSED FINAL MILLAGE RATE OF 3.9672 MILS IS LESS THAN THE ROLL BACK RATE.

Mayor Chastain asked for comments from the public regarding the proposed FINAL millage.

Mayor Chastain asked for comments from the commission.

With no comments Clerk Johns requested a motion to adopt the final millage rate of 3.9672 mills with Resolution 2010 -08. Attorney Sexton read the resolution by title.

RESOLUTION NO- 2010 - 08

A RESOLUTION OF THE CITY OF STARKE OF BRADFORD, COUNTY, FLORIDA, ADOPTING THE FINAL LEVY OF AD VALOREM TAXES FOR FISCAL YEAR 2010 - 2011, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Starke, Bradford County, Florida, on September 28, 2010, adopted the Fiscal Year 2010-2011 Final Millage Rates following a public hearing held by the City of Starke, Bradford County, Florida, as required by §200.065, Florida Statutes; and

WHEREAS, the gross taxable value for operating purposes not exempt from taxation with Bradford County has been certified by the County Property Appraiser to the City of Starke as \$198,468,890.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF STARKE AS FOLLOWS:

Section 1. ESTABLISHING MILLAGE RATE.

The fiscal year 2010-2011 operating Millage rate for the City of Starke is 3.9672 mills, which is less than the rollback rate of 3.9672



The City Commission Meeting
September 28, 2010
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ATTEST:

Linda W. Johns
LINDA W. JOHNS, City Clerk

Tommy Chastain
TOMMY CHASTAIN, MAYOR

Daniel W. Nugent, Commissioner
Carolyn B. Spooner, Commissioner
Wilbur L. Waters, Commissioner
Travis V. Woods, Commissioner

TO THE HONORABLE MAYOR OF THE CITY OF STARKE:

I hereby certify that the above and foregoing Resolution was duly adopted and passed by the City Commission of the City of Starke on the 28th day of September 2010.

ATTEST:

Linda W. Johns
LINDA W. JOHNS, City Clerk

Motion to accept the millage rate of 3.9672 with the adoption of Resolution 2010-08 was made by Commissioner Spooner, second by Commissioner Woods; passed 4-0.

Clerk Johns stated the proposed final budget is composed of the following totals:

A.	GENERAL FUND	\$ 3,599,100
B.	SPECIAL REVENUES	\$ 926,750
C.	ENTERPRISE FUNDS	\$ 13,342,815

The proposed final budget operating expenses are 11.0% less than last year's total.

Mayor Chastain asked for comments from the public regarding the proposed FINAL budget.

Mayor Chastain asked for comments from the commission.

With no comments Clerk Johns requested a motion to adopt the final budget with Resolution 2010 -09. Attorney Sexton read the resolution by title.

RESOLUTION NO.: 2010 - 09

A RESOLUTION OF THE CITY OF STARKE OF BRADFORD COUNTY, FLORIDA, ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2010 - 2011; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Starke of Bradford County, Florida, on September 28, 2010, held a public hearing as required by §200.065 Florida Statutes; and

WHEREAS, the City of Starke of Bradford County, Florida set forth the appropriations and revenue estimate for the Budget for fiscal year 2010-2011 composed of the

Section 1. ADOPTION OF FINAL BUDGET.

The City of Starke adopts as a final budget the tentative budget as approved by the City Commission and attached hereto.

Section 2. REPEALER.

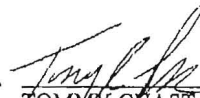
All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 3. EFFECTIVE DATE.

This Resolution shall take effect immediately upon its adoption by the Starke City Commission.

DULY ADOPTED in regular session this 28th day of September, A.D. 2010.

ATTEST: 
LINDA W. JOHNS, City Clerk


TOMMY CHASTAIN, MAYOR
Daniel W. Nugent, Commissioner
Carolyn B. Spooner, Commissioner
Wilbur L. Waters, Commissioner
Travis V. Woods, Commissioner

TO THE HONORABLE MAYOR OF THE CITY OF STARKE:

I hereby certify that the above and foregoing Resolution was duly adopted and passed by the City Commission of the City of Starke on the 28th day of September 2010.

ATTEST: _____
LINDA W. JOHNS, City Clerk

Motion to accept the final budget with the adoption of Resolution 2010-09 was made by Commissioner Woods, second by Commissioner Nugent; passed 4-0. Clerk Johns noted that the budget includes the 5% increase to water and sewer.

Mayor Chastain closed the public hearing.

**PUBLIC HEARING
FINAL CRA BUDGET**

□ □ □ □ □ □ □ □ □ □ □ □ □ □

Mayor Tommy Chastain called the meeting to order. Present were Commissioner Travis V. Woods, Commissioner Danny Nugent, Commissioner Carolyn B. Spooner, City Clerk Linda Johns, Police Captain Barry Warren, City Attorney Will Sexton, Fire Chief Tom Rowe, Operations Manager Ricky Thompson, and Joe Fisher Project Director. Commissioner Wilbur Waters and Police Chief Jeff Johnson were absent.

The City Commission Meeting
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With no comments he called for a motion to adopt the FINAL CRA Budget consisting of \$3,432 with Resolution 2010-10.

RESOLUTION NO.: 2010 - 10

A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY FOR THE CITY OF STARKE OF BRADFORD COUNTY, FLORIDA, ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2010 - 2011; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Community Redevelopment Agency of the City of Starke of Bradford County, Florida, on September 28, 2010, held a public hearing as required by §200.065 Florida Statutes; and

WHEREAS, the Community Redevelopment Agency for the City of Starke of Bradford County, Florida set forth the appropriations and revenue estimate for the Budget for fiscal year 2010-2011 composed of the following:

BALANCE FORWARD.....	\$ 3,427
INTEREST EARNED	\$ 5
 TOTAL APPROVED BUDGET.....	 \$ 3,432

NOW, THEREFORE, BE IT RESOLVED BY THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF STARKE AS FOLLOWS:

Section 1. ADOPTION OF FINAL BUDGET.

The City of Starke adopts as a final budget the tentative budget as approved by the Community Redevelopment Agency and attached hereto.

Section 2. REPEALER.

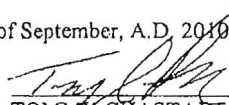
All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 3. EFFECTIVE DATE.

This Resolution shall take effect immediately upon its adoption by the Community Redevelopment Agency for the City of Starke.

DULY ADOPTED in regular session this 28th day of September, A.D. 2010.

ATTEST: _____
LINDA W. JOHNS, City Clerk



TOMMY CHASTAIN, MAYOR
Daniel W. Nugent, Commissioner
Carolyn B. Spooner, Commissioner
Wilbur L. Waters, Commissioner
Tommy V. Woods, Commissioner

Motion to accept the final CRA budget with the adoption of Resolution 2010-10 was made by Commissioner Spooner, second by Commissioner Nugent; passed 4-0.

Mayor Chastain closed the public hearing.

COMMISSION MEETING

□ □ □ □ □ □ □ □ □ □ □ □ □ □ □ □

Mayor Tommy Chastain called the meeting to order. Present were Commissioner Travis V. Woods, Commissioner Danny Nugent, Commissioner Carolyn B. Spooner, City Clerk Linda Johns, Police Captain Barry Warren, City Attorney Will Sexton, Fire Chief Tom Rowe, Operations Manager Ricky Thompson, and Joe Fisher Project Director. Commissioner Wilbur Waters and Police Chief Jeff Johnson were absent.

Commissioner Nugent gave the invocation and led the pledge of allegiance to the flag.

Mayor Chastain stated for the record that Commissioner Waters was absent due to medical reason.

Mayor Chastain ask for a motion to approve the minutes for September 14, 2010, meeting.

Commissioner Woods made the motion to approve the minutes, second by Commissioner Nugent; passed 4-0.

Mayor Chastain asked for a motion to approve the minutes for the special meeting held September 23, 2010.

Commissioner Spooner made the motion to approve the minutes, second by Commissioner Woods; passed 4-0.

Mayor Chastain asked for a motion to accept the 2009 audit report.

Commissioner Woods made the motion to accept the report, second by Commissioner Spooner; passed 4-0.

Mayor Chastain asked for a motion to approve the 2011 agreement with North Central Florida Regional Planning Council.

Commissioner Spooner made the motion to accept the agreement, second by Commissioner Nugent; passed 4-0.

Dr. Beth Moore, Superintendent of Bradford County Schools, 1327 Bessent Road; was present to discuss the electric rates for our school system. She stated that she has held discussion with several city officials in regards to the rate the school is charged. Tonight she has additional information in reference to those discussions and handed out a document with the schools fiscal year, July through June, City of

There are commercial and residential rates with the schools being on the commercial rate and she requested a special electric rate from the city for the school system.

Commissioner Chastain referenced the resource officer at the middle school that the city provides, if a dollar figure for the officer was deducted from the \$218,739.96, might take it down \$100,000.

Dr. Moore stated that if the city would give the \$218,000 the schools would pay for the officer just as they do with the county.

Commissioner Woods suggested Mr. Thompson discussing possibilities with FMPA.

Dr. Moore asked for the amount of the transfer last year to the general government from utilities. Mr. Thompson responded that it was around \$600,000 to \$700,000.

Dr. Moore stated by their calculations the schools were one fourth to one fifth of the amount and she doesn't believe it is fair for taxpayer's dollars to be used in helping fund the City of Starke.

It was requested that Mr. Thompson do some research on rates charged to schools and if there are any discounts or breaks given to schools.

He will also look at the rates.

Mayor Chastain asked Mr. Thompson to have the information ready for the November 2nd meeting.

Dr. Moore also inquired about the surges and how they affect the MIS Department. She read letters from the MIS and Maintenance Directors that describe problems they incur when the surges and outages happen. Also she explained what had happened before school started that caused mold to grow and expensive cost of cleaning. She asked for recommendations of anything that could be one to assist in preventing extra cost to the schools.

Mr. Thompson responded that the school could purchase surge protectors like we have at City Hall and we don't have system failures. He commented that the main reasons for the sags are animals and the city has taken steps to prevent these but surge protection is the best way to go.

Clerk Johns presented a request for the police department to transfer the golf cart to the meter department.

Commissioner Nugent made the motion to approve the request, second by Commissioner Woods; passed 4-0.

Captain Warren provided information on the neighborhood crime watch.

Mr. Thompson requested approval to move some palm trees to the power plant site.

Commissioner Woods made the motion to approve moving the trees, second by Commissioner Nugent; pass 4-0.

Mr. Jordan Green, Florida DOT, was present regarding the Pratt Street sidewalk. Part of the sidewalk had been completed when the retention pond was done when

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The City Commission Meeting
September 28, 2010
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Clerk Johns reported that Commissioner Woods reviewed the bills along with the bond trustees and recommended the invoices be paid.

Commissioner Woods made the motion to pay the invoices, second by Commissioner Spooner; passed 4-0.

She requested a motion to certify the August 31, 2010, election results. District 3 commissioner; Travis Woods 147 votes, Frank Crews 67 votes; Sunday alcohol sales 294 votes yes, 237 votes no.

Commissioner Nugent made the motion to accept the election results, second by Commissioner Spooner; passed 4-0.

Commissioner Spooner requested Chief Johnson gather cost savings and what cost would remain to the city regarding the consolidation with the county.

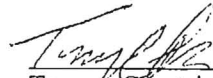
Mayor Chastain asked about a time frame for mailing the straw ballot. Clerk Johns requested the time frame due to advertising, mailing and printing of ballot.

Commissioner Woods suggested more educational sessions for people.

Commissioner Spooner suggested going out to December or January to give enough time for education.

Clerk Johns will bring back dates for when mailing, advertising, etc., needs to take place to have the ballot in January 2011.

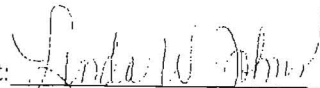
Commissioner Woods made the motion to adjourn the meeting, second by Commissioner Nugent; passed 4-0.



Tommy Chastain, Mayor

Commissioner Danny Nugent
Commissioner Carolyn B. Spooner
Commissioner Wilbur L. Waters
Commissioner Travis V. Woods

Attest:



Linda W. Johns, City Clerk

COMMISSION MEETING

□ □ □ □ □ □ □ □ □ □ □ □ □ □

Mayor Daniel Nugent called the meeting to order. Present were Commissioner Tommy Chastain, Commissioner Carolyn B. Spooner, Commissioner Travis Woods, Commissioner Wilbur L. Waters, City Clerk Linda Johns, Police Chief Jeff Johnson, City Attorney Terence Brown, Operations Manager Ricky Thompson and Fire Chief Tom Rowe.

Commissioner Spooner gave the invocation and led the pledge of allegiance to the flag.

Mayor Nugent entertained a motion to accept the January 10, 2012, Commission Meeting; January 12, 2012, Contract Discussion Workshop and January 17, 2012, Interview Process Workshop.

Commissioner Woods made the motion to accept the minutes for January 10, January 12, and January 17, 2012, second by Commissioner Chastain; passed 5-0.

Ms. Beth Moore, Superintendent of Bradford School District, addressed the commission with a complaint that the school district has sent to the Florida Public Service Commission. The complaint is for the city charging too much for electric. We believe the city using old numbers and calculation for the fuel adjustment charge, the base rate charge is back from the 1980's and the line loss usage goes back to 2004 even though we know the multimillion dollar upgrade was done that should have eliminated some of the line lose. She presented a copy to the commission for their review of the details.

Mr. Dave Cobb, FP&L; presented his contact information; stated the franchise agreement became active December 1, 2011; informed the commission of FP&L plans to install smart meters. The customers in Starke will get the new meters sometime next year.

Commissioner Spooner asked Mr. Cobb if FP&L still had their budget billing program in place?

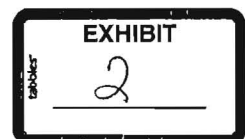
Mr. Cobb responded yes.

Mayor Nugent moved item 9.2.a up with item 6; Mr. Pat Webster, SRWMD. Mr. Webster presented maps to the commission to assist with the explanation of the interlocal agreement. The interlocal is for cooperative agreement with the City of Starke to conduct wetland mitigation on the city's property for the bypass project. Based on the meetings with Florida Department of Transportation (FDOT) there maybe 60 to 80 acres of potential wetland impacts associated with the bypass project.

They are exploring the purchase of Parcel 2 located behind the KOA Campgrounds. This is a key connection point of Alligator Creek flood plan. This would have all the 8 parcels throughout the flood plan be under public ownership. This would assist in the mitigation for FDOT.

The map shows orange cross hatching, which indicates existing wet lands on the site. This is what is being mitigation there will be nothing more, it will not affect the spray field.

The highlights of the agreement; if the district purchases the 15 acre parcel #2 they would conduct the mitigation and then deed it over to the city at no cost. Since the city currently owns most of the parcels around these 15 acres it makes sense to deed it to the city as part of the project.



Other main highlights in the contract would be to place the area under mitigation under a conservation area to protect the wetlands. The cost of the mitigation will be provided by FDOT and the design of the mitigation would be done by SRWMD. There would be no involvement of the city other than the authorization to use the property to mitigate.

The city would still be responsible for the removal of the sediments on Parcel 1 under the original agreement.

They are hoping for some financial help for the city to assist with the cleanup of parcel 1.

Attorney Brown asked when SRWMD could represent to the city how much funding to expect from FDOT and be in a position to guarantee that and know how much it would cost the city?

Mr. Webster responded what they know now FDOT is getting ready to apply for the environmental resource permit. They are trying to move funding in for the mitigation for the next fiscal year, which would be June July. Until we receive the permit application to see what wet lands will be impacted we wouldn't be able to determine what funding would be needed.

Commissioner Chastain pointed out page 3 item L. Either party may terminate this agreement upon thirty days written notice to the other party.

Mr. Webster responded he will need to get with their attorney to understand what this statement means.

Commissioner Chastain referenced section I for the meaning.

Before the commission would make a decision they would like to know what cost the city could have down the road.

Mr. Webster will try to resolve the questions and he will email information to Mr. Thompson. Mr. Brown can work with our attorney to resolve any agreement verbiage.

Clerk Johns reported that Commissioner Chastain reviewed the bills along with the bond trustees and recommended the invoices be paid.

Commissioner Chastain made the motion to pay the invoices and only pay the legal invoices for Mr. Brown. Commissioner Waters asked for clarification to the motion. Commissioner Chastain responded to pay the other bills but only pay Mr. Browns legal invoices. Commissioner Waters made the second; Commissioner Spooner asked these are the bills for tonight? Commissioner Chastain responded yes. Motion passed 5-0.

Clerk Johns asked for the recommendation for the DOT Enhancement Application to submit to the county.

Commissioner Waters made the motion to submit for the completion of the sidewalk along Highway 301 South to Wal-Mart and the second be a sidewalk completion of sidewalk from Mr. Jim Lewis's Property to the Pine Forest Apartments along Highway 100, second by Commissioner Chastain.

Commissioner Spooner asked the location of the Lewis Property on Highway 100. Chief Johnson asked if the sidewalk could go out to the city limits. After additional discussion Commissioner Chastain withdrew his second and Commissioner Waters withdrew his motion.

Commissioner Waters made a motion to complete the sidewalk along Highway 301 South to Wal-Mart and the second submission be complete the sidewalk along Highway 100 West to the city limit sign, second by Commissioner Chastain; passed 5-0.

Clerk Johns asked for a date to hold the requested pension workshop. Mayor Nugent suggested the workshop before the March 6th meeting at 6 PM.

Clerk Johns asked for dates to interview the three finalists for Operations Manager.

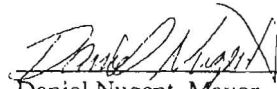
It was decided to hold the interviews Monday, February 13th beginning at 6 PM.

Commissioner Spooner asked for a letter to be sent to the legislature regarding North Florida Planning Council funding being cut. This will have an impact on our cost for their consulting services.

She also suggested the board get on board with the county regarding the privatization of the prison systems and the economic impact.

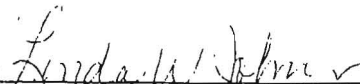
Mayor Nugent asked if any additional business needed to come before the commission. With hearing none he entertained a motion to adjourn,

Commissioner Woods made the motion to adjourn the meeting, second by Commissioner Waters; passed 5-0.



Daniel Nugent, Mayor

Commissioner Tommy Chastain
Commissioner Carolyn B. Spooner
Commissioner Wilbur L. Waters
Commissioner Travis V. Woods

Attest: 

Linda W. Johns, City Clerk

Analysis

In analyzing the Bradford District Schools kilowatt usage from September of 2001 through April of 2012 we find the following:

Average 12 month kilowatt usage for the 12 months ended April of 2012 was
 Average 12 month kilowatt usage for the 12 months ended August of 2003 was

	42 mos	128 mos
Average 12 month kilowatt usage for the 12 months ended April of 2012 was	5,827,859	5,827,859
Average 12 month kilowatt usage for the 12 months ended August of 2003 was	<u>4,744,905</u>	<u>4,401,890</u>
	1,082,954	1,425,969

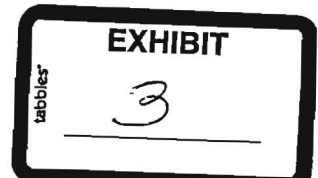
The increase in the rolling 12 month average over the 128 months in usage was 1,425,969 kilowatts or 32.39% and the increase in the rolling 12 month average for the past 42 months were 1,188,350 or 25.61%.

22.82% 32.39%

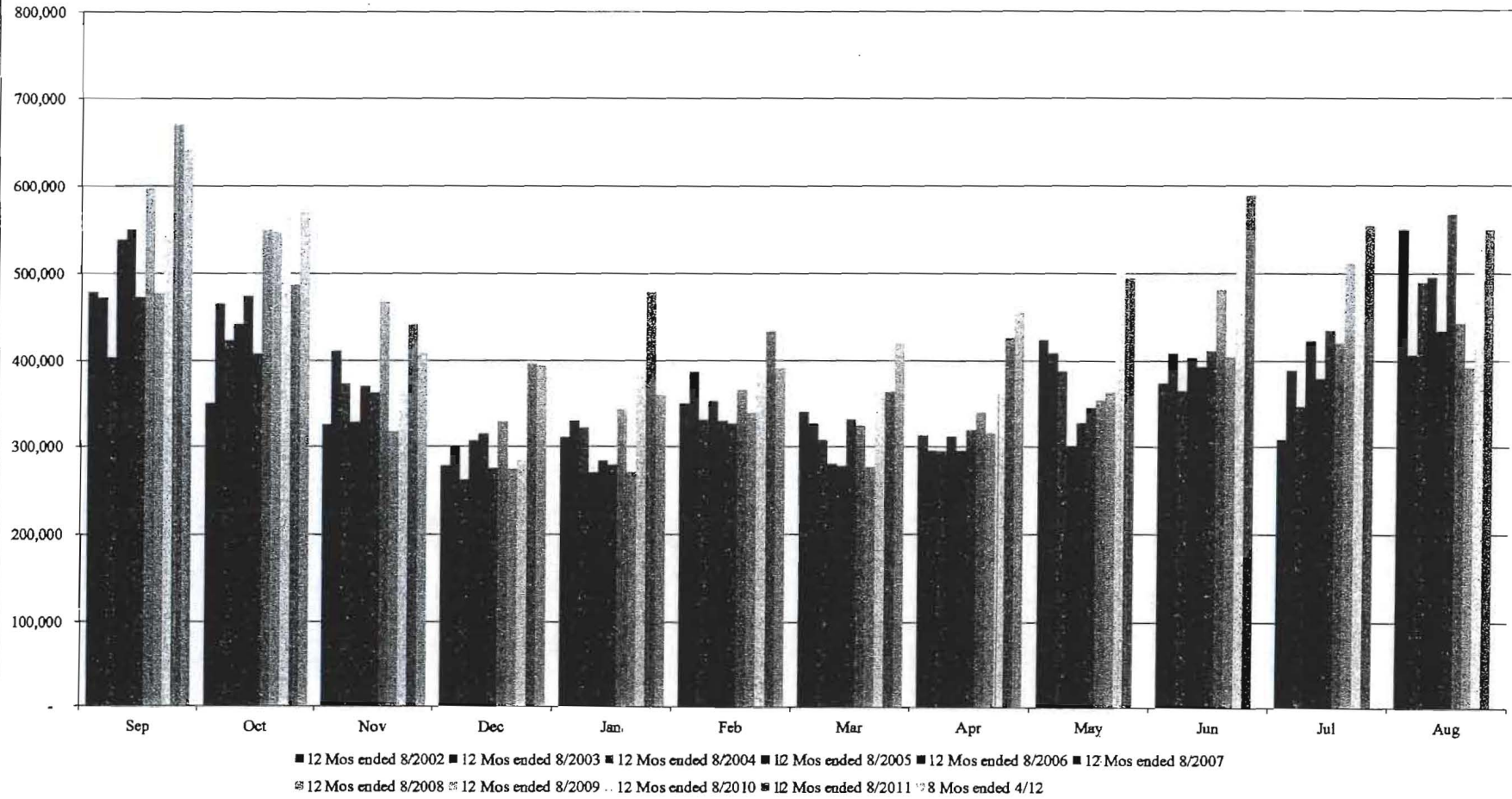
	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	
Average Usage per noted Month-42 Mos	583,304	547,080	382,872	337,102	373,154	387,266	356,519	389,827	457,595	529,971	537,134	495,400	5,377,222
% of Yearly Total	10.8%	10.2%	7.1%	6.3%	6.9%	7.2%	6.6%	7.2%	8.5%	9.9%	10.0%	9.2%	
Average Usage per noted Month-128 mos	531,577	481,885	379,007	310,265	329,969	362,766	328,469	338,868	392,130	442,774	431,526	487,237	4,816,472
% of Yearly Total	11.0%	10.0%	7.9%	6.4%	6.9%	7.5%	6.8%	7.0%	8.1%	9.2%	9.0%	10.1%	
Growth over the past 42 months compared with 128 month average													
Increase (Decrease) in kilowatt hours	51,727	65,195	3,865	26,836	43,185	24,499	28,049	50,959	65,465	87,198	105,608	8,162	560,749
Percentage Increase (Decrease) in kilowatt hours	9.7%	13.5%	1.0%	8.6%	13.1%	6.8%	8.5%	15.0%	16.7%	19.7%	24.5%	1.7%	11.6%

Over the past 128 months 49% of your electricity usage has been incurred from June through October with the months of June, July and August (minimal students) accounting for 57% of that usage.

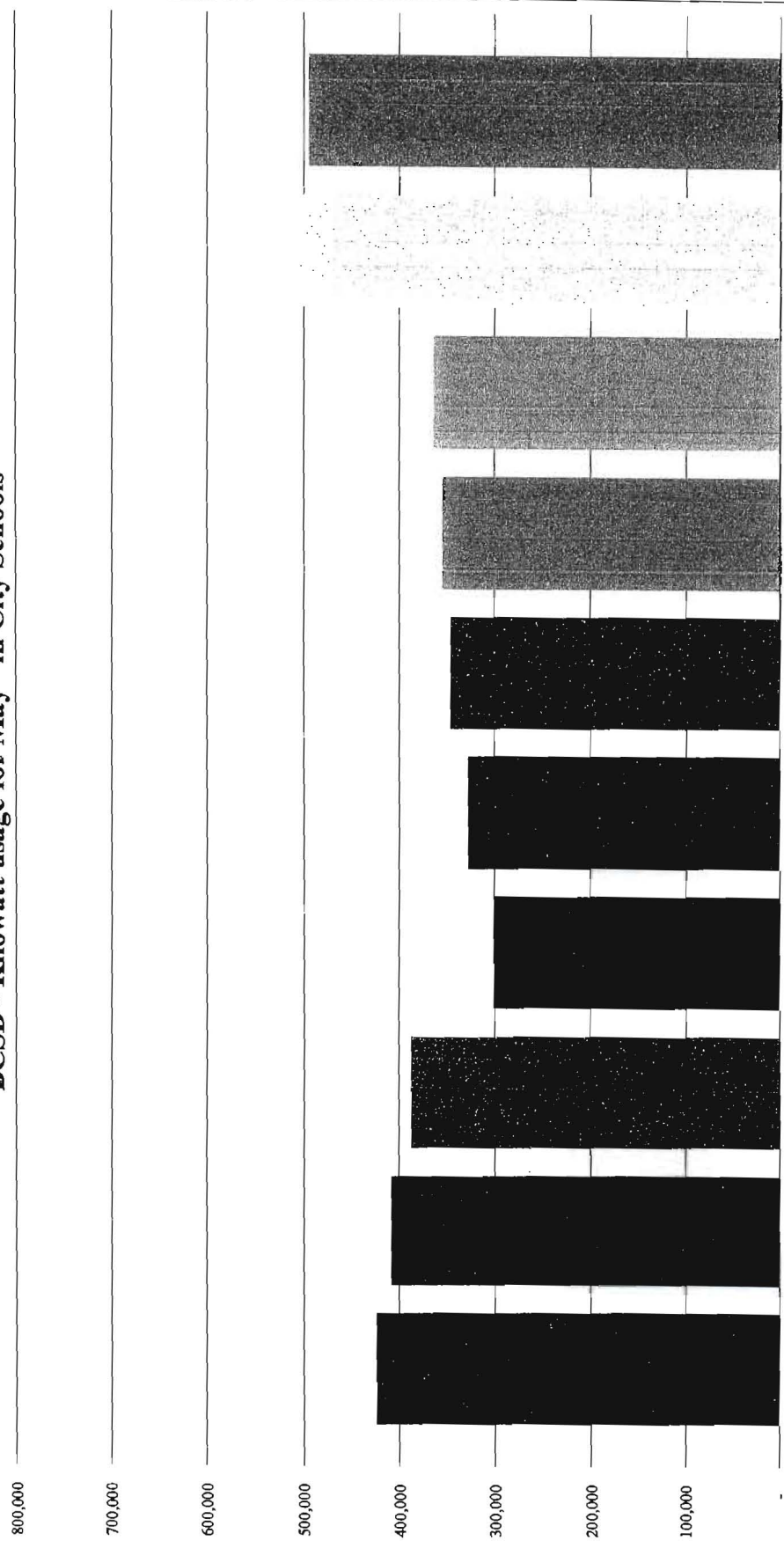
Over the past 42 months 50% of your electricity usage has been incurred from June through October with the months of June, July and August (minimal students) accounting for 58% of that usage.



Kilowatt Usage by Month - BCSD

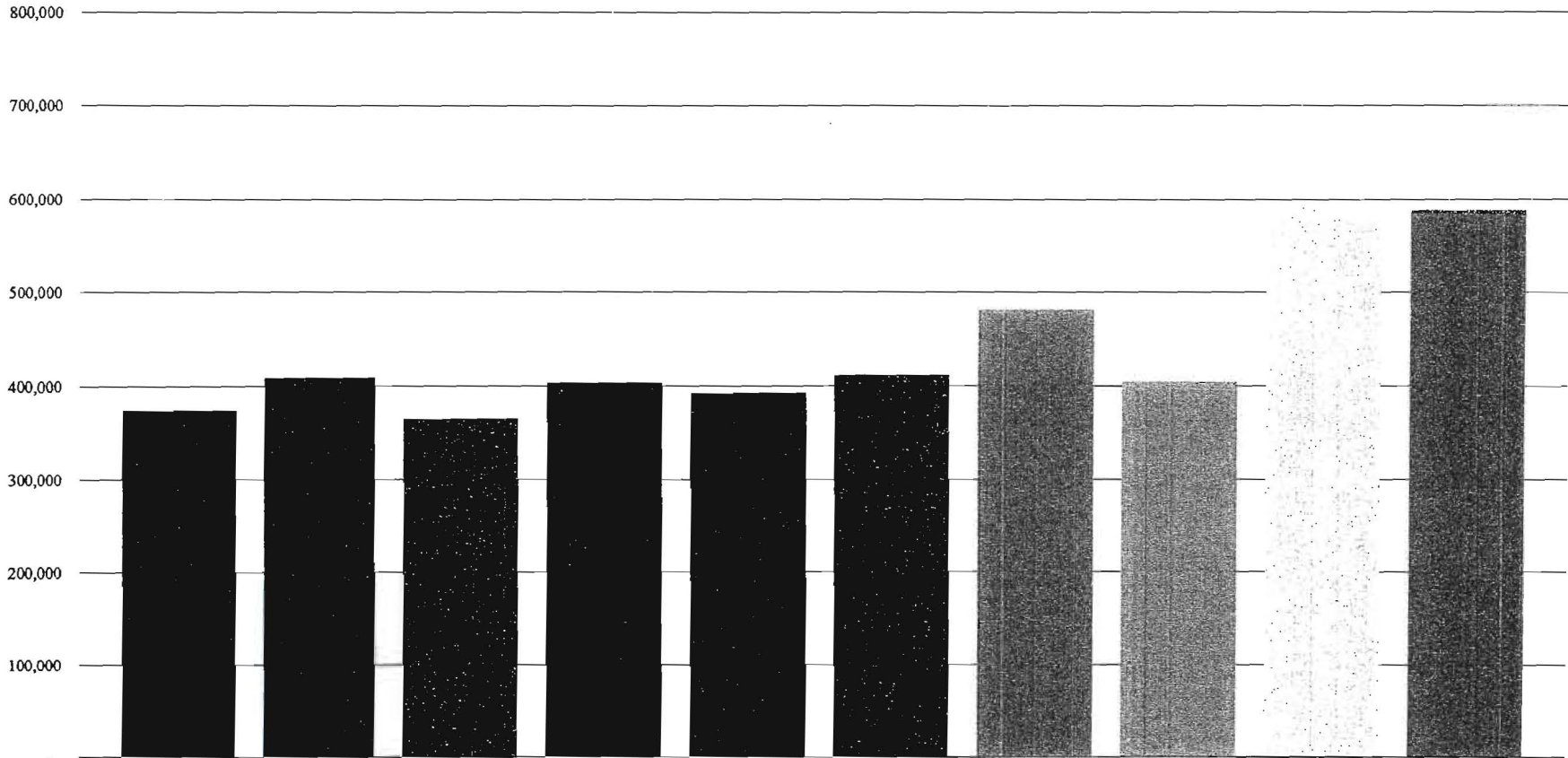


BCSD - Kilowatt usage for May - in City Schools



■ 2002 ■ 2003 ■ 2004 ■ 2005 ■ 2006 ■ 2007 ■ 2008 ■ 2009 ■ 2010 ■ 2011

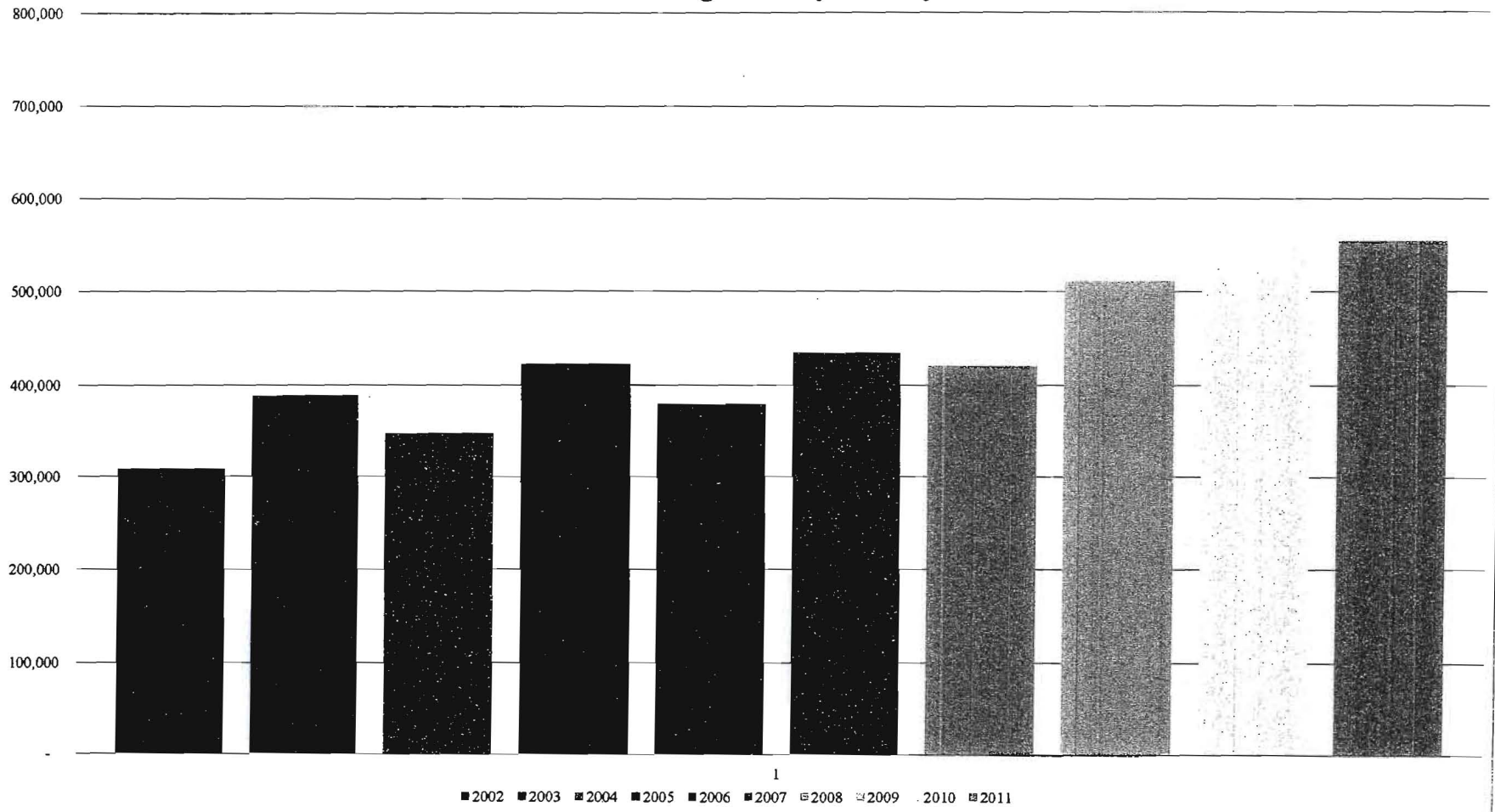
BCSD - Kilowatt usage for June - in City Schools



■ 2002 ■ 2003 ■ 2004 ■ 2005 ■ 2006 ■ 2007 ■ 2008 ■ 2009 ■ 2010 ■ 2011

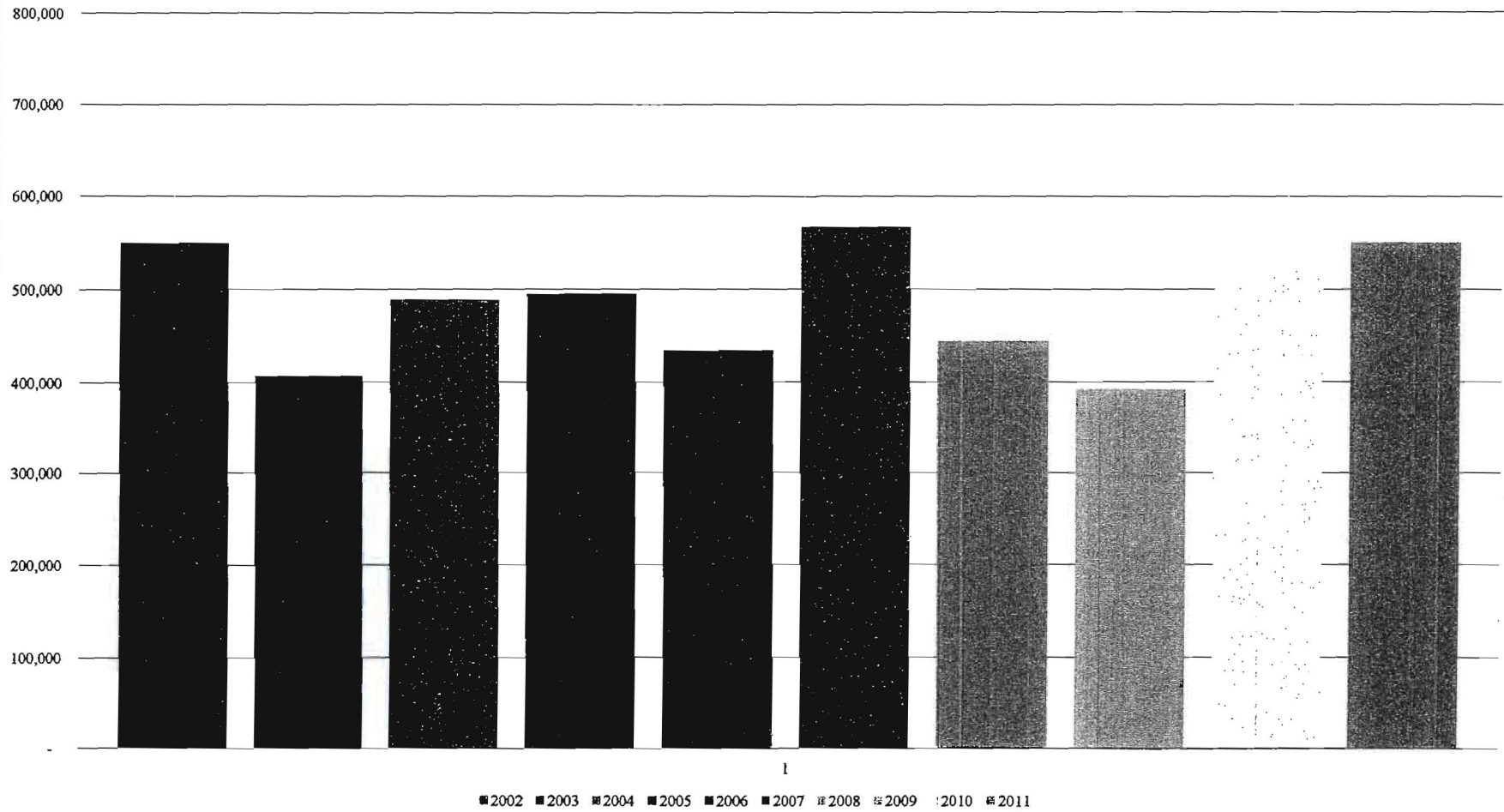
tabbles® EXHIBIT 6

BCSD - Kilowatt usage for July - in City Schools



tabbles®
EXHIBIT
7

BCSD - Kilowatt usage for August - in City Schools



Putnam schools make saving energy a priority

Like most of us, the Putnam County School District has been concerned about the rising cost of electricity. The district has an active program for conserving energy that has greatly reduced energy use and saved a lot of money.

As of last spring, the district had reduced energy consumption by over 21 percent and lowered their power costs by \$2 million over 62 months.

Because the cost of utilities is the second largest budget item for Putnam County Schools, the district made a commitment many years ago to use conservation and efficiency methods to work toward lowering that expense. The district has made energy management a priority for 15 years, but two years ago added energy management duties to a staff member's responsibilities. One of those duties is monitoring usage in every school facility. The systems in place provide for temperature setpoint and tight schedule control for all the District's campuses.

According to Tank Motes, a consultant for the school district, the district is number one in the state for lowest energy expenses for districts with more than 1,000 students. For the 2010-2011 school year, Putnam County schools had a per-square-foot total energy cost of 81 cents. The electricity costs per square foot was 77 cents. The majority of school districts in Florida have electricity expenses of \$1 or more per square foot.

In a typical school building, space heating, cooling, and lighting together account for nearly 70 percent of school energy use. Plug loads—such as computers and copiers—also constitutes one of the top three electricity end uses.

Motes said the biggest items were either tackled as soon as possible or factored into five-year plans. He noted that with the district's schools being served by both Florida Power and Light and Clay Electric, both electric utilities have been good to work with. Clay serves Q.I. Roberts Middle, E.H. Miller School, Kelley Smith Elementary, Children's Reading Center Charter, Melrose Elementary and Ochwilla Elementary.

Educating more than 12,000 students and maintaining more than a million square feet of facilities space at 23 sites makes cost savings a challenging task. Some of the ways they saved energy include:

- **Monitoring:** Pulse meters allow the monitoring of daily kilowatt hours. This allows the district personnel to see any spikes in usage or other changes. This can mean catching a problem before it becomes a much more expensive issue.
- **Lighting:** The district has been installing more

efficient electronic ballasts in classrooms. They have gone from T12 to T8 lamps and from 40-watt to 32-watt bulbs. There are still three schools left to convert.

- **Maintenance:** The district uses an air filter changing service to maintain its air conditioning systems. Just like in homes, the air conditioners in schools must be properly maintained in order to function most efficiently.

- **Behavior:** The staffs and students at the schools are encouraged to turn off lights, shut off electronic devices (such as computers) and close doors, just like at home.

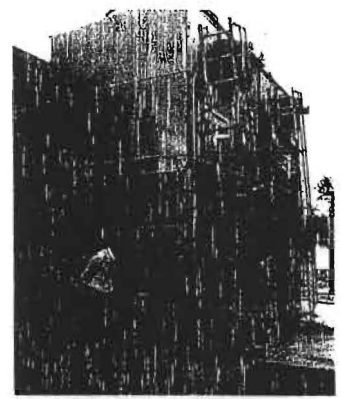
Motes said the installation of a Mamac Maverick system, which allows all connected buildings to have their energy use monitored remotely, has proven helpful. He added that the portable buildings and classrooms have been challenging in terms of modifying energy use.

"It was interesting to discover that over half of the district's energy use was occurring when nobody was at a school," he said.

The school district is constantly watching for new products and strategies for saving additional energy when they find uncontrolled loads. Last year, when the monitoring revealed considerable electric usage when school facilities were vacant, the District began to address the many portable classroom units that have been so difficult to control. A new product manufactured by Mamac Systems called the Maverick Stat, which is currently being installed, provides web-based temperature control and scheduling, trend logs for assuring performance, and email alarms for identifying problems for the maintenance department personnel. The Maverick's low cost is making it practical to control loads in remote areas that before had been cost-prohibitive to control.

Sherman Phillips, energy services manager for Clay Electric, praised the work of the school district.

"These are areas all businesses, and even homeowners, can focus on to reduce their energy use," he said. "The cost savings over time prove that even small changes can really add up."



Tank Motes and Sherman Phillips look at the cooling tower that was installed last summer at Ochwilla Elementary School. In conjunction with the tower, frequency drives allow for the lowering of water flow during times when air conditioning is not needed. These upgrades allow for better cooling and efficiency.

City of Starke -Net Utility System Revenues and Net Income

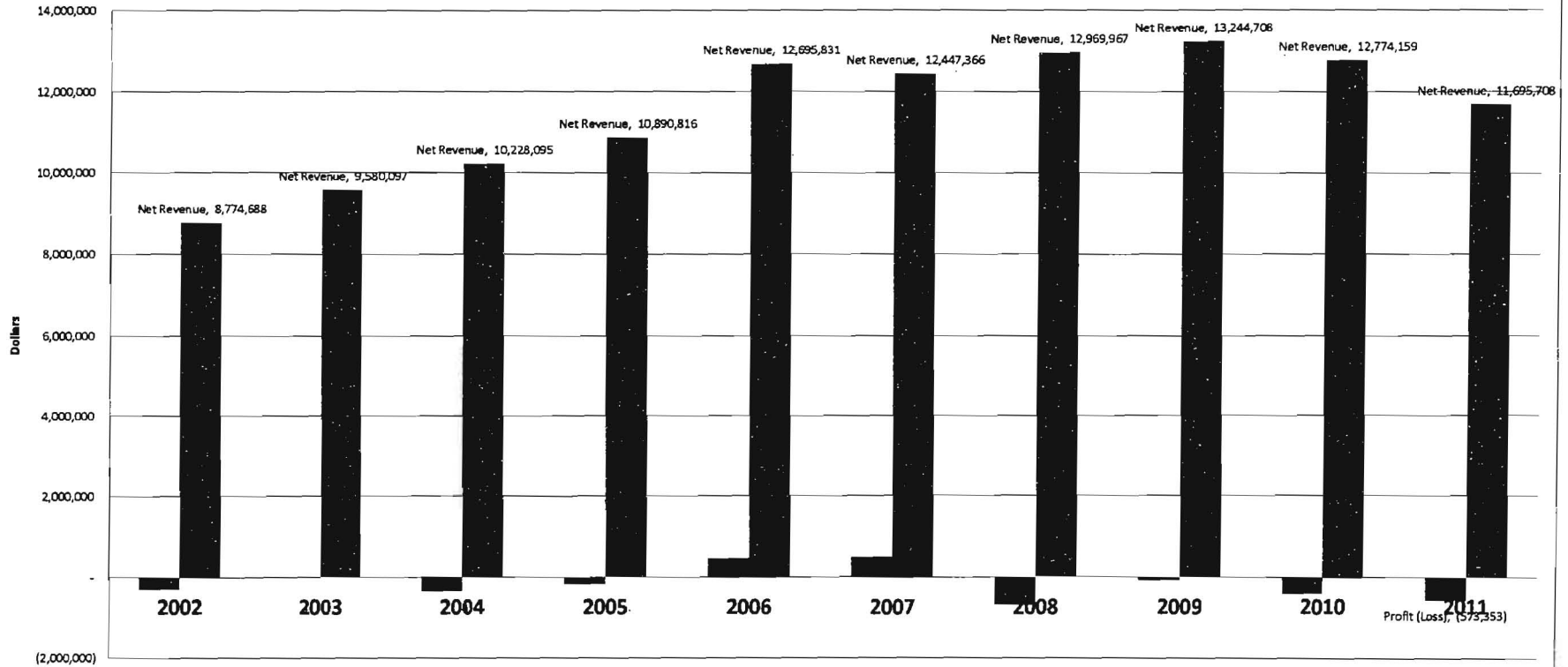
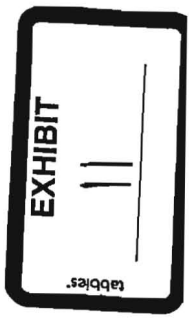
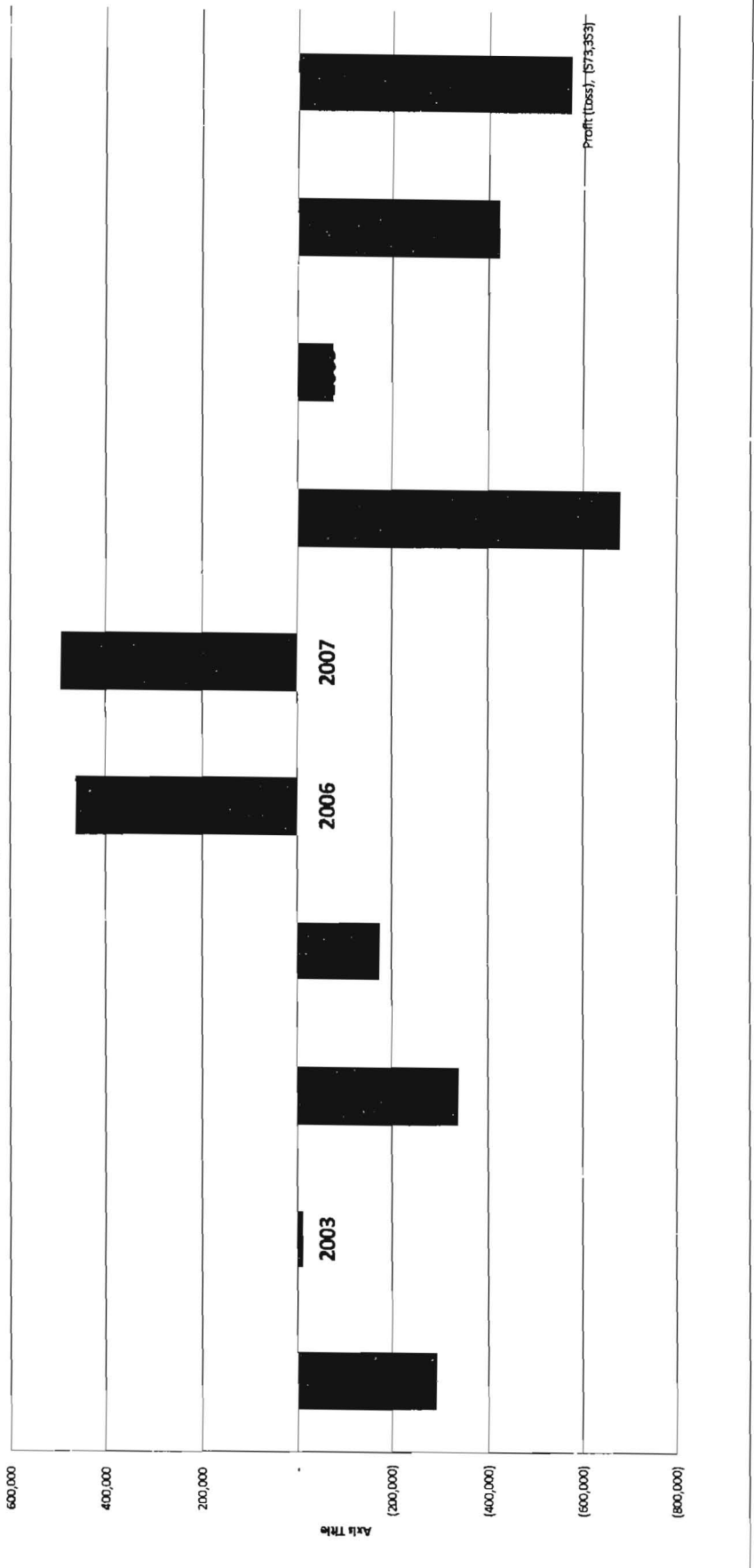
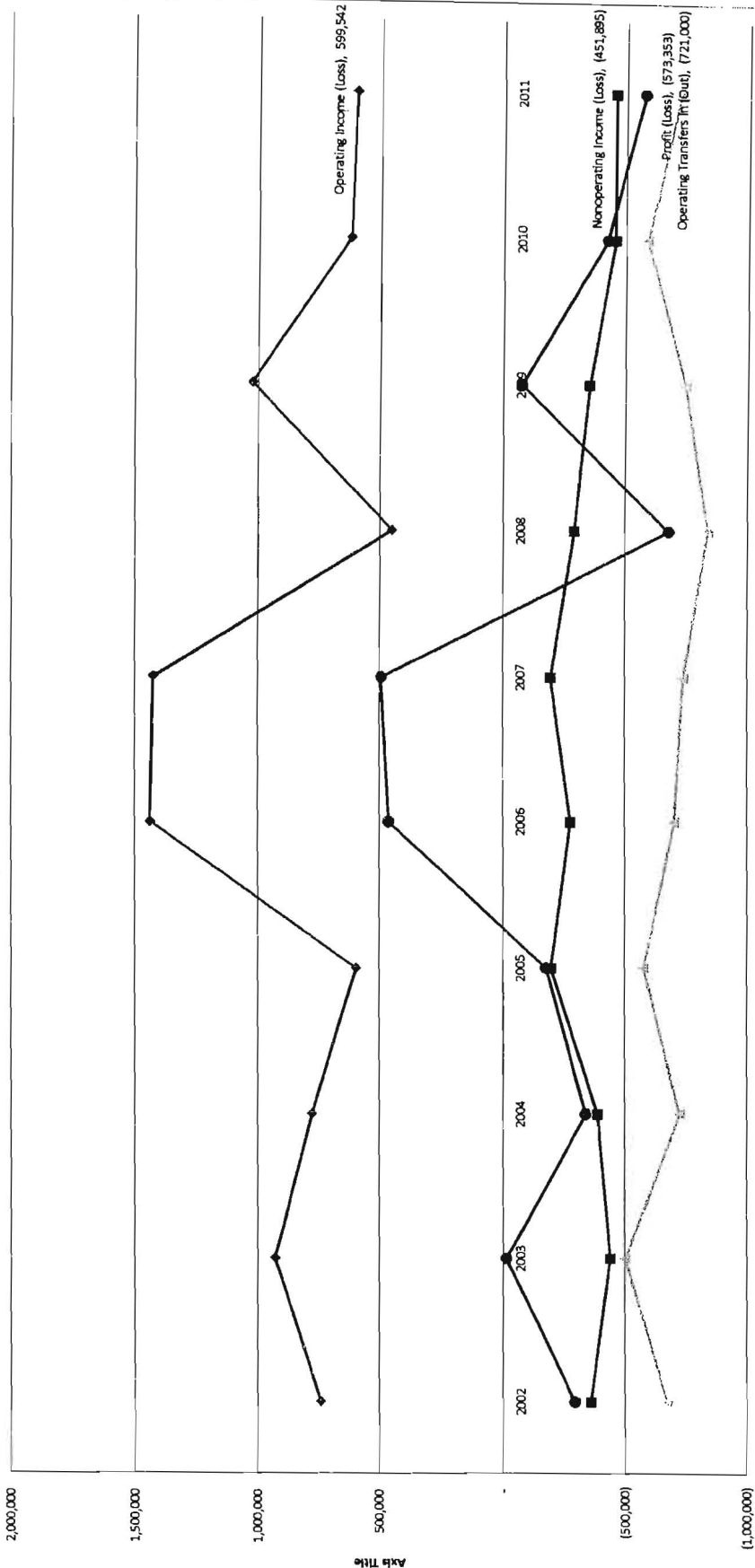


EXHIBIT
 10

City of Starke - Net Income



City of Starke - Net Income



Services to be provided by Consulting Engineer

The following are the services that this scope contemplates would be provided by the Consulting Engineer to the Client:

The scope of services shall include providing advice and direction to representatives of the City in matters pertaining to the preparation of an Electric System Rate Study. These services will be provided, where appropriate, through telephone conversations, letters and memorandums, and meetings. Upon completion of the Electric System Rate Study a report will be prepared setting forth: (a) the methodology used in the study, (b) the assumptions incorporated into the study, (c) the projection of the revenue requirements and revenues, (d) the design of rates, and (e) the comparison of typical bills for electric calculated on the basis of the client's existing rates, the proposed rates and the rates reported for other public and private utilities in the state.

Representatives of the Consultant will attend two meetings in Starke, Florida to obtain data, information and to review the methodology to be used in developing the Electric System Rate Study. In addition, representatives of the Consultant will assist members of the City's management and staff in a public meeting regarding the Electric System Rate Study.

The Electric System Rate Study will address the fiscal year ending September 30, 2012 ("Test Year"). In addition, it is agreed that proposed rate adjustments, if any, will be apportioned based on an allocated cost of service study among the customer classes.

Specific services to be provided by the Consultant will be divided into two phases:

Phase I

- 1.1 Conduct a Kick-off Meeting in Starke, Florida to obtain a clear understanding of the City's goals and objectives, to gather data, to establish protocol, to identify problem areas, to resolve issues, to obtain direction, and to provide for the transfer of knowledge;
- 1.2 Review the City's forecast of demand and energy sales and requirements. Such forecast usually indicates monthly 60 minute integrated peak demands, capacity and energy purchased and sold, and the effects of any demand side management or energy conservation programs;
- 1.3 Refine the City's demand, energy and customer forecast for the fiscal year ending September 30, 2012, detailed by the month, by customer rate classification indicating the average number of customers (in the case of lighting service, by the number and type of fixture) and energy sold, generated and purchased;
- 1.4 Utilize the City's historical billing records of demand and energy as well as revenues so as to provide a reasonably accurate profile of existing usage and existing revenues, and to estimate the effect of changes resulting from any proposed new rates;
- 1.5 Develop projections of existing rate revenue by customer rate class, including revenue associated with the Power Cost Adjustment and other appropriate clauses;
- 1.6 Develop a revenue requirements analysis for the Test Year, recognizing the projected costs of operations, capital additions financing costs and payments to units of local government.

EXHIBIT A
Scope of Services

The development of the projected revenue requirements will include as appropriate the recognition of the various bond resolution/indenture requirements set forth in the City's various financing documents and will be developed on a cash basis methodology;

- 1.7 Prepare a Phase I report and present the results and findings of Phase I activities to the City; and
- 1.8 Participate in a Phase I meeting to obtain direction and guidance from the City.

Phase II

- 2.1 Make final revisions to the projected revenue requirements for the Test Year based on policies and guidelines established or affirmed by the City;
- 2.2 Functionalize the Test Year costs into categories of power supply, transmission, distribution and customer;
- 2.3 Classify the Test Year costs into capacity, variable and customer costs;
- 2.4 Develop appropriate demand, energy, and customer allocation factors, where the demand allocation factors will be based on load research data reported by major investor-owned utilities in the State;
- 2.5 Prepare an allocated cost of service study to identify the cost of providing service to each major customer class to be used in designing cost based rates;
- 2.6 From the cost of service study, from other analyses and experiences, from a review of industry practices, and from guidance provided by the City and the Florida Public Service Commission, the Consultant will develop revised rates and will develop rate riders and charges to recover costs. The proposed rates and charges will be determined in cooperation with representatives of the City's management;
- 2.7 Review the calculation of the Power Cost Adjustment and provide recommendations;
- 2.8 Prepare a comparison of typical bills calculated on the basis of the proposed rates for electric service with the existing rates of the City and with the published rates of other public and private electric utility systems in the State;
- 2.9 Periodically participate in conference calls with representatives of the City to monitor and manage the project and to collaboratively develop the study;
- 2.10 Incorporate comments and finalize the Report; and
- 2.11 Attend a public hearing to be scheduled by the City to present and discuss the findings of the study.

EXHIBIT A
Scope of Services

Services to be provided by the Client

The following are the activities that this scope contemplates would be the Client's responsibility and such activities will be furnished at no cost to the Consulting Engineer:

1. Copies of all existing rate schedules, ordinances, resolutions, reports, master plans, maps, books of account, operating records, detailed budgets, permits, data, etc., as required to complete the work;
2. Copies of the Electric System's sales and customer forecast for the fiscal year ending September 30, 2012 detailed by month and by customer rate classification;
3. Copies of historical records of usage and revenues as reflected in the City's billing records;
4. Legal services and opinions as required in connection with the work, including preparation of a revised rate ordinance.
5. Copies of public published data applicable to the study that may be more readily available to the Client and may result in a lower acquisition cost;
6. Services of personnel of the Client as required to separate and determine total monthly usage, and revenues of each rate class of the Electric System for Test Year; and
7. Services as may be required of the Client's management and staff, to make determinations with respect to the Electric System regarding financial projections of required revenues, expenses, net operating revenues, debt service, renewals, replacements and improvements, expected funding sources and the Client's General Fund.

Schedule

The work is planned to be complete within sixty (60) days after authorization to proceed by the Client, or other mutually agreed upon schedule.

Estimated Budget

The budget estimate is \$30,000 for the Scope of Services set forth in this Agreement unless subsequent phases of work and/or Additional Services are required and authorized by the Client. The Consulting Engineering will not be required to furnish services for follow up phases or furnish additional services or incur additional expenses without written authorization and additional funding from the Client.

Additional Services

As requested and authorized by the Client, the Consulting Engineer will provide additional services not contemplated in the hereinabove Scope of Services and the \$30,000 budget. All such Additional Services shall be beyond the scope of work described hereinabove, and shall be compensated for separately as Additional Services with a corresponding increase to the maximum amount provided for in this Agreement.

For any Additional Services, the Consulting Engineer shall prepare for approval by the Client, a separate agreement or an amendment to this Agreement and such services will be billed to the Client at the Consulting Engineering's established hourly billing rates for the type of services rendered plus Out-of-Pocket Expenses.