



**Report to  
Governance Committee  
March 22, 2012**

**Governance Committee**

**Grant Lacerte, Kissimmee, Chairman  
Vince Ruano, Bushnell  
Lee Garner, Chattahoochee  
Tom Richards, Fort Pierce  
Howard McKinnon, Havana  
Roy Trotter, Jacksonville Beach  
Lynne Tejada, Key West  
Bill Conrad, Newberry  
Matt Brower, Ocala**

**Meeting Held 11:00 a.m.  
(or immediately following the Executive Committee meeting)  
Thursday, March 22, 2012  
Florida Municipal Power Agency  
8553 Commodity Circle  
Orlando, FL 32819**



Florida Municipal Power Agency

Nicholas P. Guarriello  
General Manager and CEO

## MEMORANDUM

**TO:** FMPA Governance Committee  
**FROM:** Sue Utley for Grant Lacerte, Chairman  
**RE:** Governance Committee Meeting  
Thursday, March 22, 2012 – 11:00 a.m. (or immediately following the  
Executive Committee meeting)  
**DATE:** March 15, 2012  
**PLACE:** FMPA, 8553 Commodity Circle, Orlando, FL 32819, Board Room

**DIAL-IN INFORMATION – 866-411-8247, Code 13244#**  
**(If you have trouble connecting via phone please call 321-239-1132)**

## AGENDA

1. Welcome, Roll Call, Declaration of Quorum
2. Consent Agenda – Approval of Minutes-Meeting of February 16, 2012
3. Discussion of Weighted Voting Options from the February 16, 2012 Meeting
4. Other Governance Matters
5. Member Comments
6. Adjournment.

GL/su

One or more participants in the above referenced public meeting may participate by telephone. At the above location there will be a speaker telephone so that any interested person can attend this public meeting and be fully informed of the discussions taking place either in person or by telephone communication. If anyone chooses to appeal any decision that may be made at this public meeting, such person will need a record of the proceedings and should accordingly ensure that a verbatim record of the proceedings is made, which includes the oral statements and evidence upon which such appeal is based. This public meeting may be continued to a date and time certain, which will be announced at the meeting. Any person requiring a special accommodation to participate in this public meeting because of a disability, should contact FMPA at (407) 355-7767 or 1-(888)-774-7606, at least two (2) business days in advance to make appropriate arrangements.

CLERKS DULY NOTIFIED .....February 8, 2012  
MATERIALS EMAILED TO COMMITTEE .....February 9, 2012

**FMPA GOVERNANCE COMMITTEE MEETING  
THURSDAY, FEBRUARY 16, 2012 – 11:00 AM  
FLORIDA MUNICIPAL POWER AGENCY  
8553 COMMODITY CIRCLE  
ORLANDO, FL 32819**

**MEMBERS PRESENT:** Grant Lacerte, Chairman, Kissimmee  
Vince Ruano, Bushnell  
Tom Richards, Fort Pierce  
Roy Trotter, Jacksonville Beach  
Lynne Tejada, Key West  
Matt Brower, Ocala

**MEMBERS ABSENT:** Lee Garner, Chattahoochee

**OTHERS PRESENT:** Fred Hilliard, Fort Meade  
Gregg Griffin, Green Cove Springs  
Howard McKinnon, Havana  
Bill Conrad, Newberry  
Pilar Turner, Vero Beach  
Mike Perri, Fort Pierce  
Bill Thiess, Fort Pierce

Paul Kalv, Leesburg  
Ed Bierschech, VB Press Journal

**STAFF PRESENT:** Nicholas Guarriello, General Manager and CEO  
Fred Bryant, General Counsel  
Jody Finklea, Assistant General Counsel and Manager of  
Legal Affairs  
Mark Larson, Assistant General Manager, Finance and CFO  
Mark McCain, Assistant General Manager, Member Services,  
Human Resources and Public Relations  
Bud Boudreaux, Executive Consultant  
Sue Utley, Executive Asst. to the CEO/Asst. Secy. to the Board

**Item 1 – Welcome, Roll Call and Declaration of Quorum**

Chairman Grant Lacerte, Kissimmee, called the Governance Committee meeting to order at 12:05 p.m. on Thursday, February 16, 2012 in the Board Room of the offices of Florida Municipal Power Agency, located at 8553 Commodity Circle, Orlando, Florida. The roll was taken and a quorum was declared with 6 members present out of a possible 7.

**Item 2 – Consent Agenda – Approval of Minutes-Meeting of December 8, 2011**

**MOTION:** Vince Ruano, Bushnell, moved approval of the consent agenda as presented. Tom Richards, Fort Pierce, seconded the motion. Motion carried 6-0.

### **Item 3 – Discussion of Weighted Voting**

Jody Finklea, Assistant General Counsel / Manager of Legal Affairs, explained the voting structure for the Executive Committee and Board of Directors.

Discussion ensued and the suggested voting structures, as alternatives to the existing Executive Committee supermajority voting structure, deemed appropriate for further discussion were:

1. Status quo – keeping the voting structure as one vote one city. A super majority vote could be called by two Members on the issuance of debt, contracts longer than 7 years, and rates. This vote requires a 75 percent vote to pass.
2. Majority plus 1 vote instead of a 75 percent vote for the supermajority requirement.
3. Called Two Reading Requirement – simple majority first vote, but for the same matters that are currently subject to a supermajority confirming vote, any two members can call for a second reading and vote at the subsequent meeting, with the second vote being (a) simple majority, or (b) simple majority plus 1.

Bill Conrad, Newberry and Howard McKinnon, Havana asked to be on the Governance Committee.

A date for the next Governance Committee was set for March 22, 2012 following the ARP Executive Committee meeting.

### **Item 4 – Other Governance Matters**

No other matters were discussed.

### **Item 5 – Member Comments**

No comments

### **Item 6 – Adjournment.**

There being no further business the meeting was adjourned at 1:10 p.m.

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Date Approved

GL/su



Florida Municipal Power Agency

Jody Lamar Finklea  
Assistant General Counsel | Manager of Legal Affairs

## MEMORANDUM

TO: FMPA Governance Committee

FROM: Frederick M. Bryant, General Counsel  
Jody Lamar Finklea, Assistant General Counsel | Manager of Legal Affairs

DATE: 16 March 2012

RE: March 22 Governance Committee Meeting

When the Governance Committee met last month, it narrowed its consideration of alternatives to the current Executive Committee supermajority voting structure to three ideas: (1) keep the status quo, (2) change the supermajority requirement to a simple majority plus one, or (3) replace the supermajority voting structure with a called two reading requirement with either (a) two simple majority votes, or (b) a simple majority vote on first reading and a simple majority plus one vote required on second reading to take action.

The purpose of this memo is to summarize the Committee's discussion of the three alternatives and to present suggested language to implement each idea. Our understanding is that the Committee plans to discuss these three alternatives and vote to recommend one of the three to the Executive Committee.

### 1. Status Quo

Currently, article IV, section 5 of the Executive Committee By-Laws provides the detail of the supermajority voting structure as follows:

*Section 5. Quorum and Voting. A majority of the Committee Members present (in person or by the use of communications technology consistent with Florida law governing public meetings) shall constitute a quorum for the transaction of business by the Committee. Committee Members may participate in any meeting of the EC by means of conference telephone, video conference or other communications equipment by means of which all persons attending such meeting can hear each other. During any such meeting, one or more Committee Members, may, but need not, be together in one location. Participation in such a meeting of the EC shall constitute presence in person at the meeting. A quorum need not be physically present in a single location. All action of the Committee shall be taken by vote of the quorum present (in person or by the use of communications technology consistent with Florida law*

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*governing public meetings). Each Committee Member shall hold and exercise one (1) vote. Action can only be taken if a majority of those Committee Members present vote in favor of such action; provided, however, for any action which expressly requires ARP Participant approval pursuant to the ARP Contract, as set forth in Article IV, section 6, two or more Committee Members may request a second affirming vote. Then, for action to be taken by the Committee, such second affirming vote must pass by a supermajority of no less than 75% of the votes present as a quorum (in person or by the use of communications technology consistent with Florida law governing public meetings).*

*If a second affirming vote is requested by two or more Committee Members, the first vote by the Committee shall be deemed to be a vote by the Participants as such and the second affirming vote shall be deemed to be a vote of the Executive Committee to satisfy the requirements of the ARP Contract. If a second affirming vote is not requested by two or more Committee Members, the vote taken shall be deemed to be both a vote by the Participants, as such, and a vote by the Executive Committee to satisfy the requirements of the ARP Contract.*

The current supermajority voting structure applies, generally, to (1) any power supply agreement or other contract having a term of longer than seven years, (2) anything requiring the issuance of debt, and (3) any amendment or adoption of rate schedules. The applicable By-Laws provision is as follows:

*Section 6. ARP Contract Requirements. Pursuant to sections 4(b) and 6(d) of the ARP Contract, the following actions expressly require Participant approval:*

- (i) the participation of FMPA in any project for the construction, acquisition, purchase, lease or other use of any generation, dispatching, load management or transmission resources, output of services that is to be included in the System requiring
  - (a) the issuance of bonds by FMPA or assumption or guaranty by FMPA of other obligations, or*
  - (b) requiring the execution by FMPA of any power supply contract or agreement (other than interchange agreements with other utilities) with a basic term of more than seven years; or**
- (ii) adoption of a new or revised rate schedule which*

- (a) *represents a change in the manner of determination of rates other than a change that does not have a significant economic impact on any Participant,*
- (b) *eliminates the separate rate schedules for FPC Participants or FPL Participants, or*
- (c) *establishes or eliminates any other separate Rate Schedule or Schedules for any Participant or Participants.*

*If the ARP Contract is amended in a manner that effects this Article IV, section 5, this section 6 shall be deemed to be amended to comply with the ARP Contract as amended.*

For any such matter, then, two or more members of the Executive Committee can call for a second confirming vote of an initial affirmative action. If called for, this second vote, for action to be taken, must be approved by a supermajority of 75% of the votes present as a quorum. If all 14 members are present that means the second confirming vote must pass by a margin of at least 11-3 to take action.

## **2. Simple Majority + One**

One alternative that was discussed was to change the definition of supermajority in the current voting structure from 75% to a simple majority plus one. That would mean that two members of the Executive Committee could still call for a confirming vote where available, but that vote would only need a simple majority of the quorum present, plus one, to approve the action. If all 14 members are present (8 votes is a simple majority) that would mean the confirming vote would have to pass by a margin of at least 9-5 to take action. The suggested change to article IV, section 5 of the Executive Committee By-Laws to implement this alternative is as follows:

Section 5. Quorum and Voting. A majority of the Committee Members present (in person or by the use of communications technology consistent with Florida law governing public meetings) shall constitute a quorum for the transaction of business by the Committee. Committee Members may participate in any meeting of the EC by means of conference telephone, video conference or other communications equipment by means of which all persons attending such meeting can hear each other. During any such meeting, one or more Committee Members, may, but need not, be together in one location. Participation in such a meeting of the EC shall constitute presence in person at the meeting. A quorum need not be physically present in a single location. All action of the Committee shall be taken by vote of the quorum present (in person or by the use of communications technology consistent with Florida law governing

public meetings). Each Committee Member shall hold and exercise one (1) vote. Action can only be taken if a majority of those Committee Members present vote in favor of such action; provided, however, for any action which expressly requires ARP Participant approval pursuant to the ARP Contract, as set forth in Article IV, section 6, two or more Committee Members may request a second affirming vote. Then, for action to be taken by the Committee, such second affirming vote must pass by a ~~supermajority of no less than 75% simple majority, plus one,~~ of the votes present as a quorum (in person or by the use of communications technology consistent with Florida law governing public meetings) (e.g. if 14 Committee Members are present, a simple majority is 8 votes and, thus, a simple majority plus one is 9 votes).

### 3. Two Readings

The last alternative that was teed for discussion in March was to replace the supermajority voting structure with a called two reading requirement. In other words, instead of any two members of the Executive Committee calling for a confirming supermajority vote after an initial affirmative vote, they would call for a second reading and vote on the matter at the next regular or special-called Executive Committee meeting. Then, for the Executive Committee to take action that second reading opportunity would also have to be approved (a) by a simple majority vote or, (b) alternatively, by a simple majority plus one vote. As we understood last month's discussion, the Governance Committee members articulated this idea as providing the opportunity for a "time out" to give further individual consideration to the matter at hand. The suggested change to article IV, section 5 of the Executive Committee By-Laws to implement this alternative is as follows:

Section 5. Quorum and Voting. A majority of the Committee Members present (in person or by the use of communications technology consistent with Florida law governing public meetings) shall constitute a quorum for the transaction of business by the Committee. Committee Members may participate in any meeting of the EC by means of conference telephone, video conference or other communications equipment by means of which all persons attending such meeting can hear each other. During any such meeting, one or more Committee Members, may, but need not, be together in one location. Participation in such a meeting of the EC shall constitute presence in person at the meeting. A quorum need not be physically present in a single location. All action of the Committee shall be taken by vote of the quorum present (in person or by the use of communications technology consistent with Florida law governing public meetings). Each Committee Member shall hold and exercise one (1) vote. Action can only be taken if a majority of those Committee Members present vote in favor of such action; provided, however, for any action which expressly requires ARP Participant approval pursuant to the ARP Contract, as set forth in



Article IV, section 6, two or more Committee Members may request a second reading and vote on such action to be heard at the next meeting of the Executive Committee, emergency meetings notwithstanding~~second affirming vote~~. Then, for action to be taken by the Committee, such second reading must also be approved by a majority~~second affirming vote must pass by a supermajority of no less than 75%~~ of the votes present as a quorum (in person or by the use of communications technology consistent with Florida law governing public meetings).

**(b) ALTERNATIVELY, THE LAST SENTENCE ABOVE WOULD READ:**

**Then, for action to be taken by the Committee, such second reading must also be approved by a simple majority, plus one, of the votes present as a quorum (in person or by the use of communications technology consistent with Florida law governing public meetings) (e.g. if 14 Committee Members are present, a simple majority is 8 votes and, thus, a simple majority plus one is 9 votes).**

If a second ~~reading~~affirming vote is requested by two or more Committee Members, the first vote by the Committee shall be deemed to be a vote by the Participants as such and the second ~~reading~~affirming vote shall be deemed to be a vote of the Executive Committee to satisfy the requirements of the ARP Contract. If a second ~~affirming vote~~reading is not requested by two or more Committee Members, the vote taken shall be deemed to be both a vote by the Participants, as such, and a vote by the Executive Committee to satisfy the requirements of the ARP Contract.

#### Amendment Process

To change the supermajority voting structure, the Executive Committee By-Laws would have to be amended by vote of the Executive Committee. Amendments to the Executive Committee By-Laws must be approved by a supermajority of 75% of the votes present as a quorum.

We look forward to discussing these issues with you on March 22. Please do not hesitate to call if there are any questions.

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