

**CITY OF VERO BEACH, FLORIDA
OCTOBER 21, 2014 6:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Rabbi Michael Birnholz of the Temple Beth Shalom followed by the Pledge of Allegiance to the flag.

1. CALL TO ORDER

A. Roll Call

Mayor Richard Winger, present; Vice Mayor Jay Kramer, present; Councilmember Pilar Turner, present; Councilmember Amelia Graves, present and Councilmember Craig Fletcher, present **Also Present:** James O'Connor, City Manager; Wayne Coment, City Attorney and Tammy Vock, City Clerk

Mayor Winger called for a moment of silence for Jeff Barton who recently passed away.

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

Mayor Winger asked Mrs. Turner if she had any problems with her item 9A-2) being heard along with item 2C-1) on the agenda. Mrs. Turner had no problem with that change to the agenda.

Mrs. Tammy Vock, City Clerk, requested that the City Council add to the agenda item 4B-3) A Resolution authorizing the Time and Place for the Joint Public Meeting scheduled for October 28, 2014.

Mrs. Turner made a motion to adopt the agenda as amended. Mr. Kramer seconded the motion and it passed unanimously.

B. Proclamations

1. National Arts and Humanities Month – October 2014

Mr. Kramer read and presented the Proclamation.

C. Public Comment

1. Attorney Schef Wright to give an update on utility litigation

Mr. Schef Wright reported that he met with Senior Management of Orlando Utilities Commission (OUC) asking them for ways to implement rate reduction measures for all

City of Vero Beach electric customers. He explained that OUC has agreed to recommend to the OUC Board reductions in the capacity payments under the 2008 PPA between OUC and the City by approximately \$7 million per year for the first three years following implementation of the revised PPA. Part of the revised arrangement includes the City purchasing peaking capacity from OUC for the remainder of the PPA term, which would enable the City to retire the City Power Plant. Together with additional savings that would be realized through reduced costs of compliance with North American Electric Reliability Corporation (NERC) regulatory requirements and the corresponding reduction in the General Fund transfer from electric rates (assuming that the transfer is re-set to be six percent of the new, lower revenues), these savings would – assuming that all other things remain equal and that they can be implemented promptly – enable the City to reduce its bill for 1,000 kWh of Residential electric service by approximately \$10.00 per 1,000 kWh, i.e., from \$123.93 to \$113.93 at full implementation. The key factors upon which prompt implementation depends are (1) agreement by Florida Power and Light (FPL) that the City entering into the revised PPA with OUC would not constitute a breach of the City's agreements with FPL, (2) completion of any necessary transmission studies and upgrades to accommodate receipt of the peaking capacity from OUC, and (3) approval by OUC's Board and City Council. A copy of this memo has been sent to FPL.

Mr. Wright continued by saying in order to implement this, there will need to be an amended and restated Agreement for Purchase and Sale of the Electric Energy and Capacity, Gas Transportation Capacity and Asset Management Services between the City and OUC replacing the existing 2008 PPA. The pricing terms that would produce the \$7 million in annual savings for the first three years are described in his memo (please see attached). He explained that reductions start with discounts of approximately \$7 million per year for the first three years of the amended PPA, and range between \$4.1 million and \$5.3 million per year for the remainder of the term and purchase by Vero Beach of 54 MW of peaking capacity to replace the capacity currently provided by the Vero Beach Power Plant. This purchase will enable the City to retire the Vero Beach Power Plant and reduce costs accordingly. He said that OUC would have a one-time option to terminate the PPA, no earlier than 2020, with two years notice. If OUC gives notice, OUC and the City would agree to negotiate in good faith towards a renewal and extension based on the then-current market conditions, but neither party would be obligated to agree to such a renewal or extension. OUC would have a one-time option to acquire Vero Beach's rights to the output of the St. Lucie Project through a power purchase agreement. OUC would be allowed to permanently retain the gas transportation rights that are presently assigned to OUC under the 2008 PPA.

Mrs. Turner referred to the \$7 million that was being offered for the first three years. She said from what she understood, they would have to be purchasing the excess power (54 mega watts) from OUC at that time. Mr. Wright told her that was correct. Mrs. Turner said that last March she did some extensive research on the Emerson tie line. She said allowing the City to take their Plant off line, the time period for getting that work accomplished would be around two to two and a half years. She said if it is going to take that long to do these necessary things she wondered if they would be getting any break at all.

Mr. Wright explained the City can't take the Power Plant off line until the transmission arrangements are complete because they need the capacity for liability purposes and will need FPL's cooperation in getting a transmission in place. He said that Mr. Tom Richards, Utilities Director, does not feel that it will take two years in order to get this in place. He said they (the City) would still get the savings if it should take longer than they think it would, just not be as soon as they hoped for. He knows that once this is all in place, there will be some winding down costs associated with the Power Plant.

Mr. Wright went over the net effect on City's rates compared to other Florida Utilities. He said if and when the City is able to reduce its bill for 1,000 kWh of residential service to \$113.93 per 1,000 kWh, the City's rates would be lower than those of Duke Energy Florida, Gulf Power Company and both divisions of Florida Public Utilities Company, while remaining above those of FPL and Tampa Electric Company. The City's rate for 1,000 kWh of residential service would also be lower than 25 of the other 32 municipal utilities based on current rates. The City's residential rate would be the 8th lowest of the 33 Florida municipal utilities.

Mr. Wright went over some other potential rate reduction measures. He said in regards to the option of financing Transmission & Distribution capital spending with debt, there are potential annual cost and rate reductions available for doing so. He said replacing \$3 million of capital spending in a year with a year's worth of debt service would reduce the Electric Utility's required revenues by about \$2.7 million per year. One concept is that the City might pursue this course for 2-4 years, with a view toward returning to the current practice of financing T&D capital spending from current revenues in 2018 or 2019, when it is hoped that the debt service costs associated with the Stanton Project will be eliminated upon retirement of the existing Stanton Project debt. Those bonds are scheduled to be retired no later than October 1, 2019, and when he asked OUC whether they plan to undertake any significant capital spending measures on the Stanton 1 Plant, they indicated that they do not. The Stanton Project debt service runs about \$8.7 million a year on average, and the City's share is 32.521 percent, or about \$2.8 million per year. He noted that the Finance Commission and the Utilities Commission have recommended against this course of action at least until the rate consultants complete their work. The scope of services for the new rate study includes the consultants reviewing the electric system's five year capital improvement plan, evaluating the effects of alternative capital funding strategies on future revenue requirements, debt service, and rate sufficiency over the next five years, and assisting the City with developing appropriate capital funding strategies based on standard industry practices. Other measures include potential reductions in customer service spending, technology improvements, and possible outsourcing of some functions. These measures will be addressed in the Optimization Study.

Mayor Winger asked how this would affect the contract that the City currently has with FPL.

Mr. Wright reported that he has had email communications with FPL letting them know this was coming up and transmitted to them not to view it as a breach of contract. He did not think that FPL would object to this. He said if they do have a problem, then the City will need to respect what they have to say.

Mrs. Turner stated waiver letters signed sometime back with FPL and OUC regarding allowing Vero Beach to proceed with negotiations to take the Power Plant off line.

Mr. O'Connor explained that both entities agreed to hold reservations until something concrete was in place.

Mayor Winger brought up a good question that was asked at the Utilities Commission meeting today and that was why the City hasn't taken this action sooner to reduce the cost of the 60% of the power that they buy from OUC. He said Mr. Wright answered that by saying that on July 14th, the executed agreement with the various parties (FPL & OUC) was signed. It is not that they were not trying to accomplish this, they just needed permission to do so.

Mr. Wright brought up that on June 2nd is when they received the unfortunate correspondence between FMPA and OUC. He said until then they were moving forward in trying to sell the system.

Mrs. Turner was still confused on how they were going to get to the new rate of \$113.93. She said they will need to do numerous things at the Plant such as moth balling the Plant, draining lines, insurance, security, etc., There will be employee termination costs, pension obligations, etc. She recalled back in March, the figure she was looking at was 54 mega watts which is what they would have to provide for peaking. She said at that time, utilizing OUC rates, it ended up being a cost of \$8.5 million a year. She said this would eat away any savings they would have.

Mr. Wright explained OUC has offered a separate peaking product for 54 1/2 mega watts with significantly lower capacity payments.

Mrs. Turner felt that they needed more detail analysis of the numbers. She said their 2014/2015 budget has an expected increase of 7 1/2% in their power costs. She said at the FMPA meeting last Thursday, Stanton and Stanton II budgets were raised, they are now 20% and 26% higher than they were this year. They are looking at a \$3 million liability on the Taylor Swaps, which will come up in 2015 and have to be paid out through rates. She would love to see a thorough analysis of these costs and the timing brought forward.

Mr. Wright said that he would work with staff in getting that information.

Mayor Winger asked Mr. Wright to speak about the status of the employees of the Plant once it retires and also they have no capital maintenance planned for the Plant.

Mr. Wright explained that the budget this year to keep the Plant running is \$4.1 million. If they were to keep the Plant running it would cost about \$2 million a year in capital upkeep costs. He said the first couple of years, it will basically be a wash and the real savings will be the \$7 million a year in capacity cost reductions and the NERC compliance costs and the associated reduction in the General Fund transfer.

Mrs. Turner asked if they have a value of the rights assigned on the natural gas transportation that they will be turning over to OUC.

Mr. Wright recalled that the consultant from PA put a value of \$10 million on that in a study they did two years ago.

Mrs. Turner could see why OUC would be interested in St. Lucie because OUC is predominately coal based energy and wanting to diversify their power supply. However, that is the most inexpensive power they receive from FMPA, so she doesn't understand why they would turn that over to OUC.

Mr. Wright commented that in the totality of this deal, they will be seeing a \$7 million savings for the first three years.

Mr. O'Connor pointed out that even though PA consultants estimated a \$10 million value on the gas, actually OUC owns that gas right now under contract until 2029.

Mr. Wright expressed that OUC said that they would be happy to interview any displaced employees at the Plant. If they did get a job, the person would have to relocate to Orlando.

Mr. Wright went over the next steps. He said that the joint meeting will be held next week at the Richardson Center. He will continue having communications with FPL, renegotiating the PPA with OUC. His goal is to have something to the Utilities Commission on December 9th and then have something to Council on December 16th, if not it will be January and he will get the information to the Finance Commission in this general time frame.

Mr. Kramer was happy to see that they were finally moving towards lowering the rates.

Mrs. Turner did not think that their customers would see a rate reduction in 2015. She didn't want to raise unrealistic expectations of the public.

Mr. Wright said they will do the best that they can.

Mrs. Turner stated these new negotiations with OUC, they need to keep their eyes open and keep asking questions to be assured they are not being fooled for a second time.

Mr. Wright stated that what they do is going to be fully transparent and there will not be any redactions to the PPA.

Mayor Winger recalled that in January, they reduced their rates by 1.2% and in June, they reduced the rates again by 4.2% so in total the rates were reduced 5.4%. So this is a work in process. He said they will have a rate study done and learn where their rates can be optimized. When they did the Optimization Study for the Water & Sewer Department three years ago, the study showed where they could save \$7 million and they have been implementing those different savings since that period of time. He is confident that after this study has been completed, they will find additional savings. He said 60% of their power will come from OUC and they will be buying it at current market, which is much lower than 2010. He said unfortunately they will still have to buy the other 40% of power from FMPA. He said the FPL contract is still out there and it is their job as a Councilmember to get the lowest rates possible for their customers. He thinks they can do better than what Mr. Wright has said that they can.

Mrs. Turner pointed out that the 4.2% reduction in January was strictly because of an over budgeted amount of power costs in Vero's budget.

Mayor Winger feels that their utilities are being run better than they were before. He agreed that in the past some of the decisions made were not the best.

At this time, item 9A-2) Indian River Shores (IRS) and County Mediation Review, was discussed.

Mrs. Turner said that her item included review of proceedings to date and financial analysis substantiating negotiation strategy. She said after two mediation meetings they are no closer to avoiding a battle in court. It is clear that Indian River Shores is a valued customer to the City. She had asked that economics be provided. She received a short memo from the City Manager that said if they lost 60% of their customers what the impact would be. She did a brief analysis on her own and noted losing 10% of their customers i.e. Indian River Shores, is a huge impact to the City. She said this 10% would mean the loss of the \$10 million transfer and it puts them into debt by \$3.5 million in their operations. She said losing Indian River Shores as a customer would be detrimental. She said as of today, the City has offered no firm commitment on rate reductions or timing. They are saying today that their best options would be to negotiate with OUC. She said they need to be thinking if IRS is successful in leaving Vero Beach, then what are they going to do. She doesn't feel that have provided IRS with anything to say they will drop their case. She asked the Mayor what his backup plan was.

Mr. O'Connor commented that he did not think they could separate IRS from the County because they are both part of the immediate process and anticipated they will both be part of the litigation.

Mayor Winger asked Mr. O'Connor what his numbers were if they lose both IRS and the County as customers.

Mr. O'Connor explained what would happen if they lose 60% of their customers. They anticipate there would be a 30% increase in their rates for their customers. He said in order to do an in-depth analysis, they would have to see what their load profile is. He said if the services the City provides remain the same and they returned 6% to the General Fund, they would be somewhere around \$2 million, which would be a 25% impact on property taxes.

Mayor Winger explained in his analysis he came up with a 20% higher cost to the customers of Vero Beach, but pointed out the people in Vero Beach would no longer receive the 10% reduction so the figures would be the same as Mr. O'Connor's projections. He said regardless if they lose IRS and the County, they will have a big increase in rates and taxes and would have to cut services.

Mr. Wright said that his direction is to defend the City and citizens of this community and do everything that he can to address the substantive issues raised by IRS and the County. He realizes what they (IRS and the County) want is lower rates, which is the same thing that the City wants. Where they stand today depends on getting the transmission service in place and getting the definitive agreement with OUC. He will offer having an election in maximum feasible compliance with Florida Statutes. Mrs. Vock has sent a letter to the Supervisor of Elections asking her if she could run the election and Mrs. Swan sent a letter back saying no she could not because she could only conduct elections of registered voters in their precincts. However, she could help by programming the machines and Mrs. Vock could conduct the election. He said they are headed in that direction. He is also working on a Utility Authority Ordinance.

Mrs. Turner felt that they have had a very unsuccessful strategy. The complaint was filed in July and with all the meetings that have been held, they still are not any closer in getting anything finalized. She said these lawsuits are the results of the frustrations of their ratepayers and their (IRS and County) Elected Officials are stepping up and trying to do something about it. She doesn't feel that the City has done their part in trying to stave off further litigation.

Mayor Winger expressed that they will do what it takes to defend the City and bring down their rates. He asked Mrs. Turner if she was happy as to how the meeting is going to proceed next week.

Mrs. Turner answered no. She said they are still not presenting any clear strategy or dates. She asked for numbers and timelines, which were not provided.

Ms. Graves commented they have also said that they don't want to put any dates out there that they cannot realistically meet.

Mrs. Turner felt that they could come up with a good estimate of what a practical date would be.

Ms. Graves recalled that the dates that they have put out there they have never met them. She didn't think it was a good idea to put dates out there that they can't meet.

Mr. Fletcher stated that it is called setting a goal.

Mr. Kramer commented that they have signed the letter of intent a couple of times, sent the voters to the polls a couple of times and now they need to get to the point of lowering the rates. He thanked Mr. Wright for the action that he has taken.

Mr. Scott Stradley, Chairman of the Utilities Commission, informed Council that Mr. Wright appeared at their Utilities Commission meeting today and the Commission spent a lot of time going over his memo. He agreed that the \$7 million savings is enticing, but he has some concerns. He said that this savings is not really what they are paying for power, but for the capacity that they are reserving. He said the City must pay daily for the amount that they need in case of a freeze, which hasn't occurred in a long time. He explained that was their bulk of charges from OUC. He said it is good to reduce the capacity costs, but it is not reducing the retail cost of the electricity that they are paying for. The Utilities Commission looked at the contract that the City of Lake Worth has with OUC and noted that the City of Vero Beach did not get the kind of deal that Lake Worth has. His concern was that this City has a history of making short term decisions in long term contracts, which have not turned out well in their favor. The projected savings in Mr. Wright's memo are pretty much based on the unknowns, and the City does not know what the cost of the transmission upgrades will be and until they know those costs, they don't know if there will be any savings at all. He would like to see that number quantified before they move forward with this contract. He said right now the City does not have a take or pay contract with OUC. So they would be converting their OUC contract from paying what they use to, to a take or pay, which means they would have to pay for 85 mega watts whether they use them or not. He also had some concerns with the one-time option that would be offered to OUC to get out of this contract. He said this offer has not been given to the City. He felt if OUC has an option to get out, then the City should also have an option to get out. Mr. Stradley commented that another thing that bothers him is the one time offer to purchase the St. Lucie project. He said it is more like an assumption than a pure purchase. He said OUC will assume the power and the cost, but Vero Beach will still be fully liable for the power and the costs. The City will be billed by FMPA and then send the bill to OUC, and they will pay the City and then the City will pay FMPA. He said this will keep the City in the utility businesses. He does not see any benefit in the long run for entering into this new contract with OUC. He certainly sees that there are benefits in the first three years, but this contract runs for about 45 more years. He asked Mr. Wright if the City was to start to renegotiate a sale and they did not have the gas contract and the St. Lucie contract and only had the two Stanton contracts, would it be more or less difficult to move forward with finding a buyer.

Mr. Wright commented that under some scenarios there would be a positive value in keeping the St. Lucie contract and the gas transmission contract. If they don't have those assets to sale as an overall sales transaction, then they will not be in a strong position to

sell the system. He agreed there will be a lot of decisions that the Council will have to make.

Mayor Winger asked if there was any room for a mutual option.

Mr. Wright explained the problem with that is OUC has offered the City significant discounts for their existing PPA or they (the City) live with the existing PPA until 2029. If they ask OUC for an out say in 2020, they are going to say that the City is asking them to give up revenues from 2020 to 2029 as part of the value exchange for them giving the City \$7 million a year for three years. He said if they decide to stay with the existing PPA then they would either have to keep the Power Plant or go find peaking capacity somewhere else.

Mr. Stradley continued by bringing up the penalty that is in their contract at this time with OUC. He said by contracting into a new PPA they would be giving this up by going with this new PPA. He reiterated that OUC would have the right to get out without penalty in 2020, but the City would not have the right to get out without penalty. They need to be very careful making long term decisions. He also wants to lower the rates and would like to see this rate savings. He just does not want the next generation to look back and say what did "Stradley" or "Mayor Winger" do to us, like people have said about earlier Councils.'

Mr. Charlie Wilson, 2134 18th Avenue, stated the net result here is that it gets what some people want. It kills the utility sale and keeps the City in the electric business forever. They went from a done deal to a dead deal in six months. He remembers two candidates saying that this deal will be done in 2014. He is hearing that it is a done deal and there will never be an agreement with FMPA. He said there is still an FMPA agreement available to them and there are a couple different ways to get there. He asked what about amending the FMPA agreement, like they are doing with the OUC agreement. They are now faced with legal challenges that were not here before as a direct vote of three Councilmembers decision on March 5, 2014. He said if these legal actions are successful, they are being told that their taxes will go up 75% and rates will be 30% higher if they lose their IRS customers. He said that this plan is a red poisoned apple. He said if they eat this apple, then they will be doing the same thing they did when they took on the creation of the FMPA. He said they are so far over their heads. They have another lawyer coming before them telling them to be able to get their rates down, they will have to trade their assets. They are endangering their citizens and this City with this proposed agreement. He said this plan presented to them has no exit. He wondered when they were going to learn not to get into contracts that have no exits. If they enter into this new agreement, they will be in the utility business way into the next century in order to have three years of possible temporary rate reductions.

Mr. Joseph Guffanti asked if they were paying for surplus or extra power that they might use, but they don't use.

Mr. Wright explained the City pays capacity charges to FMPA for Stanton, Stanton II and St. Lucie. They pay whatever costs are necessary to keep the Power Plant operating and they pay OUC for an amount of capacity that is set on a year to year basis. The start amount that they pay to OUC is their expected peak for the next year to which is added 15% for reserves, which satisfies their reliability requirement as a member of the FRCC. He said from that they can deduct 54 1/2 mega watts and 51 1/2 mega watts of their entitlements to Stanton, Stanton II and St. Lucie. The amount is calculated on the basis of what they think their peak is likely to be. The City pays for the capacity so that it will be there when they need it. This year they are paying for 93 mega watts and next year they will be paying for 96 mega watts. They do not use all of these mega watts, so they are paying for the capacity to be there, but are not using it all. But they have to have it there in case it gets real cold or real hot.

Mr. Guffanti brought up the pending lawsuits from the County and IRS. He heard Mr. Wright say that it would be highly unlikely that a judge would rule against the existing contract. Mr. Wright said that is what he relayed at the last Council meeting. Mr. Guffanti said the other question he had is what is the value of the concessions that they are making in order to get this \$7 million over a couple of years. He said the City has a tradition of people making decisions, which they should not be making. He doesn't have time to get involved in this and why should he do it for the public when they don't pay attention to what is going on. He recalled the public allowed the OUC contract to be passed and for Mr. Tom Nason to be their City Manager.

Mr. Mark Mucher, 617 Indian Lilac Road, commented that it appears that the negotiations with OUC are finished without any input from the Council. One thing that bothers him the most is the St. Lucie option. He said in the memo, it is outlined as a one-time option before 2029 to do it and doesn't say anything about the City having to agree with it. He felt they needed to go back to the negotiation table. It was mentioned tonight that the City has three entitlements that have a blended rate. They have the high cost of Stanton and Stanton II and lower costs from St. Lucie. If OUC takes St. Lucie then the City will be stuck with probably the highest cost in the State. He also had some questions about the \$10.00 savings. He thinks he understands where it came from, however it doesn't consider any of the other costs in terms of their rates from FMPA going up in the future. The only thing considered here was the OUC savings.

Mr. Brian Heady commented that when speakers come up to the podium and mention people's names, is not the position of the Mayor to tell individuals that they can't name names when speaking at the podium. Most people know that he (Mr. Heady) has wrote a book and in his book he names people's names. He was asked recently where he has been (not attending Council meetings) and said that he has not been at the meetings because it is a dangerous place to be. He said it is dangerous when you take a chance of being arrested because you mention someone's name. He recalled that Mr. Fletcher was the most recent Mayor to have him arrested and the current Mayor has threatened to. He said the public needs to know names of who is being referred to. He knows there is an election coming up and two incumbents are running for reelection. The public knows where each of these candidates stand on various issues. He said that Mr. Wilson is also

running for election and he knows the position that Mr. Wilson has taken. He mentioned that he recently did a eulogy at a funeral for one of the local veterans who passed away. He was asked to speak at the funeral because the family appreciates him because he keeps things real and keeping things real means naming names. It is important when candidates come to the podium to be able to name names. He mentioned that the Council can sit back and watch the police take people out of the Chambers just like the Council watched when he was being taken out by a Police Officer. There were no formal charges filed, but he never knows that until such time that they aren't filed. He said when a uniform officer takes you by the arm, you are under arrest and you don't know what will happen. This City has a history of doing that because someone comes to the podium and mentions someone's name. He said that any Councilmember who sits back and allows this to happen doesn't deserve to sit in authority.

At this time, Council took a break and the meeting reconvened at 7:45 p.m.

Mr. Lee Olson, General Manager of Waldo's Restaurant, and who also sits on the Board of Directors for the Driftwood Inn, briefly gave his background. He said that he moved to Vero Beach 25 years ago and business was good when the Dodgers were in town. After the Dodgers left, the Chamber of Commerce worked hard on building up the tourism in this community. They put Vero Beach on the map by promoting the beachside and making it a destination for weddings. At yesterday's Special Call meeting, Ms. Laurie Connelly displayed a photo of what the City looked like this July, which was awesome. If the City agrees to enforce the two hour parking requirements on Saturday, then they are going against everything that the Chamber of Commerce has fought so hard for. He recalled that on December 26th there was an announcement made that the parking restrictions were going to be enforced on Saturdays at a request of the Oceanside Business Association (OBA) and that same day the request was cancelled at the request of the OBA and now it is a topic again. He said that is what is known as "flip flopping." He has an issue with this, because he does not know who the OBA is speaking for. He said they are a non-profit organization making these decisions and not Elected Officials. He knows the parking issue exists, but allowing a non-profit organization to speak for a few business and property owners is not fair. He has made several phone calls to some of the business owners on the beachside asking to lease some of their parking spaces for his employees to park in, but he has not received any calls back from them. He said there are 22 parking spaces untimed in front of Humiston Park, along with two handicap spaces. This is also the location of where the Saturday Farmers Market takes place and the monthly OBA jazz festival. He attended an OBA meeting where they discussed moving the Farmers Market over to Riverside Park, but has not heard anything more about that. He feels that the two hour parking enforcement on Saturdays and Sundays needs to be left alone. He said there are over 250 licensed businesses in the 32963 area code and 83 OBA members, which is less than 1/3rd of the population, so how do they (OBA) have the right to dictate what is in the best interest for the majority of businesses. He questioned if they are they looking for a solution, because they are the biggest problem.

Mr. O'Connor reported there was a vote taken by the OBA to enforce the two hour parking. He said that this was the second request. He is having a meeting tomorrow with

the OBA and the Chamber of Chambers breaching this topic. He realizes that this is a sensitive issue. He recalled at one of the OBA meetings, they had Senior Resources attend to talk about having a shuttle take employees back and forth to Riverside Park in order to allow more parking spaces on Ocean Drive. However, there is a cost in doing that and he made it clear that the City could not pay for it. He said the starting date for enforcing the two hour parking on Saturdays will begin on November 8th. He would like to keep that date active and if something changes he will let Council know. He didn't like when he heard that Mr. Olson, who represents the Driftwood Inn, would no longer be a member of OBA.

Ms. Graves would like to see that date held in abeyance until they have heard from everyone. She doesn't want them to start the season off by handing out parking tickets on the beach.

Mr. O'Connor also had some concerns with families going to the beach and being given parking tickets. He said the reason he felt that the OBA wanted to enforce this was because they had such a good summer, that they knew the season was going to be even better, which would bring more parking issues.

Mr. Fletcher suggested going ahead and enforcing the two hour parking requirement as scheduled.

Mayor Winger suggested putting this matter on the November 4th meeting and discussing it further. He heard someone speak at the meeting yesterday saying that the reason people go to the beach is because of the beach. He agreed with Ms. Graves that there should be more discussion heard on this matter.

Mr. Olson commented that he has asked retail owners how many lost money due to this situation and no one has answered. The growth of his business has gone up by 25%. He feels if this two hour parking limit is enforced on the weekends his business will go down, which means he will have to raise the prices of his food in the restaurant and probably have to lay people off. He feels it is a bad idea. He suggested giving the Parking Committee time to come up with solutions before implementing the two hour parking enforcement.

Mr. Rob McGarter (spelling may not be correct), Assistant Manager for the Holiday Inn, stated that he was not against the policy being put in place, but looking for the solution. He requested allowing time for the Parking Committee to meet to come up with a common solution. He asked that the starting date of the enforcement be pushed back in order for them to have time to come up with a solution.

3. CONSENT AGENDA

- 1. Regular City Council Minutes – October 7, 2014**
- 2. Agreement Consenting to Transfer of Interest of Tenant in Commercial Lease Agreement (Vero Airport Business Center, LLC)**

3. **Utility Easement #2014-EG-0149 – IMG Enterprises, Inc. – 2600 45th Street**
4. **Utility Easements #2014-EG-0151 and #2014-EG-0152 – Florida Veggies and Kenneth & Marsha Peterson**
5. **Work Order #1588-3 between the City of Vero Beach and URS Corporation to Construct/Mark/Light West GA Apron, Phase III (FDOT #422489-1-94-01)**
6. **Award of Contract to Construct/Mark/Light West GA Apron Taxiway B Repair (Bid No. 220-14/CSS)**

Mrs. Turner made a motion to adopt the consent agenda as presented. Mr. Kramer seconded the motion and it passed unanimously.

4. PUBLIC HEARINGS

A) ORDINANCES

- 1) **An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations, Part II of the Code of the City of Vero Beach, relating to Medical Marijuana Dispensaries; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by City Council**

Mayor Winger read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, informed Council that he revised the Ordinance to include the increased separation requirements between medical dispensaries and residential zoning districts from 200 to 500 feet and changed the days of the week that medical marijuana dispensaries may operate to only Monday through Saturday. He also noted that the attached map to the Ordinance indicates the area eligible for the location of a medical marijuana dispensary based on the revisions to the separation requirements.

Mayor Winger opened the public hearing at 8:11 p.m.

Mr. Ken Daige handed out some suggestions for the revised draft Ordinance amending the City's Land Development Regulations relating to medical marijuana dispensaries (please see attached). He told Council to feel free to give him a call if they want to know where he gathered this information from and he would be glad to share it with them. He would like to have these things implemented in the final Ordinance that will be coming back to Council.

Mr. McGarry stated that he would look at these things being requested by Mr. Daige. He noted that number 2) on Mr. Daige's list was "No Medical Marijuana Treatment Centers within the selling zone."

Mr. Daige said that he would be glad to share the information he has gathered concerning treatment centers.

Mr. McGarry explained they have to be very careful when saying “prohibitive” in the Ordinance.

Dr. Harold Brooks commented that marijuana is a drug and no one is permitted to it without a prescription. He said right now some States are allowed a right to Schedule 1. Then if the government downgrades to Schedule 3 or 4, then people will be able to get marijuana at area drug stores. He said who can change this. He said it could be Congress, Eric Holden, a simple treaty, etc. He felt that this will happen in the near future. He didn’t feel all people should be arrested for drug use, but be treated for an addiction problem. He said 9% of people using marijuana are addicted. He said there are marijuana patches available for people who don’t want to smoke it. He said marijuana is great for people who have insomnia problems. He felt the location for these dispensaries should be near the hospital rather than in an alleyway.

Mr. Fletcher made a motion to hold the final public hearing on this Ordinance on November 4, 2014. Mrs. Turner seconded the motion.

Mr. Kramer referred to the map and suggested looking at putting this designated use near the hospital. He was told that the hospital is located in the County.

The Clerk polled the Council and the motion passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

A) An Ordinance of the City of Vero Beach, Florida, Abandoning all of the 15’ Alley shown on the Plat of The Ocean Corporation Subdivision lying between Tract D and Tract E and lying between the East right-of-way of State Highway A1A and the West right-of-way the abandoned Coral Avenue as recorded in Plat Book 4 at Page 81 of the Public Records of Indian River County, Florida; retaining a Utility Easement; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Public Work’s Director

Mayor Winger read the Ordinance by title only.

Mr. O’Connor reported that the City received an application for the abandonment of a 15’ wide alley between 1410 and 1400 Highway A1A to facilitate the redevelopment of the property at 1410 Highway A1A. The application was routed to all utility providers and approved with the condition that an easement be retained as they have facilities located within the alley. He would recommend approving the abandonment of the 15’ wide alley in Ocean Corporation Subdivision, Unit 2 between Highway A1A and Coral Avenue in the block lying south of Turtle Cove Lane. The City will retain an easement over the alley for utility purposes.

Mayor Winger opened and closed the public hearing at 8:32 p.m., with no one wishing to be heard.

Mr. Kramer made a motion to approve the Ordinance. Mrs. Turner seconded the motion and it passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

B) RESOLUTIONS

1) A Resolution of the City Council, of the City of Vero Beach, Florida, Supporting reauthorization of the Florida Enterprise Zone Program, currently set to sunset on December 31, 2015; Providing for an Effective Date. – Requested by City Council

Mayor Winger read the Resolution by title only.

Mayor Winger opened and closed the public hearing at 8:33 p.m., with no one wishing to be heard.

Mr. Fletcher made a motion to approve the Resolution. Mr. Kramer seconded the motion and it passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

2) A Resolution of the City Council of the City of Vero Beach, Florida, Supporting Florida State Senator Thad Altman's request for a Florida Attorney General Opinion concerning certain provisions of the Lease Agreement between the Orlando-Orange County Expressway Authority (now known as the Central Florida Expressway Authority) and All Aboard Florida – Operations, LLC; Providing for an Effective Date. – Requested by City Council

Mayor Winger read the Resolution by title only.

Mr. O'Connor explained that All Aboard Florida has entered into a lease agreement with the Orlando-Orange County Expressway Authority, now known as the Central Florida Expressway Authority, in which All Aboard Florida has agreed that any additional stops would require, among other things, an increase in rental payment to the Authority and an opinion from the Authority's bond counsel that the additional stops will not jeopardize the Authority's bonds.

Mayor Winger opened and closed the public hearing at 8:34 p.m., with no one wishing to be heard.

Mr. Fletcher made a motion to approve the Resolution. Mrs. Turner seconded the motion and it passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

- 3) **A Resolution of the City Council of the City of Vero Beach, Florida, Authorizing the Time and Place for a Joint Public Meeting between the City Council of the City of Vero Beach, the Town Council of Indian River Shores, and the Board of County Commissioners of Indian River County; Providing for an Effective Date. – Requested by the City Clerk**

Mayor Winger read the Resolution by title only.

Mr. Coment reported that the Florida Statutes requires that joint meetings between the governing bodies of municipalities to receive, discuss, and act upon matters of mutual interest with the governing body of the county within the municipality is located or the governing body of another municipality shall be authorized as to the time and place as shall be prescribed by Resolution.

Mayor Winger opened and closed the public hearing at 8:36 p.m., with no one wishing to be heard.

Mrs. Turner made a motion to approve the Resolution. Mr. Fletcher seconded the motion and it passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

**5. ORDINANCES AND RESOLUTIONS FOR FIRST READING BY TITLE
(FUTURE PUBLIC HEARING REQUIRED)**

- A) **An Ordinance of the City of Vero Beach, Florida, Amending Divisions 1 and 2 of Article III in Chapter 78 of the Code of the City of Vero Beach, relating to Sanitary Sewers, Septic Systems, and Septic Tank Effluent Pump (“STEP”) Systems; Providing for Conflict and Severability; Providing for Codification; and Providing for an Effective Date – Requested by the Director of Water & Sewer**

Mayor Winger read the Resolution by title only.

Mr. Rob Bolton, Water and Sewer Director, gave a Power Point presentation (please see attached). He said that this was presented to the Utilities Commission this morning and they have recommended approval.

Mayor Winger opened the public hearing at 8:52 p.m.

Mr. Samuel Diel (spelling may not be correct) would like to have more information and find out a little more about the costs of the project and what kind of incentives might be available.

Mr. Bolton told him that the Resolution will probably answer most of his questions. He also gave him names of different websites to refer to.

Mr. Don Lamson, Director of Indian River Neighborhood Association, read a prepared speech (please see attached).

Mayor Winger closed the public hearing at 9:02 p.m., with no one else wishing to be heard.

Mr. Fletcher asked if this Ordinance will require that someone hook up to the step system.

Mr. Bolton explained they did not make it mandatory. He said when they started this, it was a proactive project.

Mr. Fletcher made a motion to hold the public hearing on the Ordinance on November 4, 2014. Mrs. Turner seconded the motion and it passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

B) A Resolution of the City Council of the City of Vero Beach, Florida, relating to Septic Tank Effluent Pump (“STEP”) Systems; Providing Incentives for Installation of Step Systems; Amending the Existing Water and Sewer Rate Structure to address Step Systems; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Director of Water & Sewer

Mayor Winger read the Resolution by title only.

Mr. Rob Bolton, Water and Sewer Director, gave a Power Point presentation (please see attached).

Mayor Winger opened and closed the public hearing at 9:16 p.m., with no one wishing to be heard.

Mr. Fletcher made a motion to hold the public hearing for this Resolution on November 4, 2014. Mayor Winger seconded the motion and it passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

C) A Resolution of the City Council of the City of Vero Beach, Florida, Authorizing the Time and Place for a Joint Public Meeting between the City Council of the City of Vero Beach, The Town Council of Indian River Shores, and the Board of County Commissioners of Indian River County; Providing for an Effective Date. – Requested by the City Clerk

Mayor Winger read the Resolution by title only. He opened and closed the public hearing at 9:17 p.m., with no one wishing to be heard.

Mrs. Turner made a motion to approve the Resolution. Mr. Fletcher seconded the motion and it passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

6. CITY CLERK'S MATTERS

None

7. CITY MANAGER'S MATTERS

Mayor Winger asked Mr. O'Connor for the status of the Downtown Post Office lease.

Mr. O'Connor explained that there is a lease between the City and the Post Office located on 13th Avenue, which includes a clause that the Post Office had until September 30th to notify the City if they were interested in purchasing the property. He did not hear anything from the Post Office. Then in October he received a call from a real estate agent who said that the Post Office was interested in renegotiating the lease agreement. He made it clear to the real estate agent that the City did not wish to be landlords anymore and wanted to sell the building. He was told that the Post Office does not buy buildings. The other issue the City has is that they have to maintain the outside of the building, plus maintain the handicap doors at the Post Office. Mr. O'Connor was asked by the real estate agent to put a proposal together. Mr. O'Connor asked the real estate agent what kind of timeline was the Post Office looking at. He was told that they would like to have five years with a five year option without an escalator every year. He ended the conversation saying that the City would try to put together a proposal that would make it advantageous to the City to lease the building to the Post Office. He has asked the Airport Director to take the FAA requirements and look as to what FAA would require them to get back as a rate of return if they were put under the same constraints as the Post Office wants to put the City under. He will be working on something and will bring it to Council. He noted that there have been at least two people who have shown an interest in the building if they were to sale it.

Mr. Fletcher agreed that they need to give the Post Office some commercial acceptable terms and find out what that property would go for if they rented it out to someone else.

Mr. O'Connor noted that the buildings near the hospital are being leased out for around \$14.00 a square foot.

Mrs. Turner would like to see the City get out of the leasing business.

Mayor Winger asked with the Post Office, what kind of deferred maintenance they were looking at, such as the shape the roof is in, etc.

Mr. O'Connor stated that the roof is in bad shape and the City has not done any extensive maintenance on the building.

Mayor Winger requested to see some remedial costs for the building.

Mr. O'Connor recommended that they sell the building "as is." He said that the City has no use for the building.

Mr. Fletcher asked for an update on the old Diesel Plant.

Mr. Coment reported that the City's attorney is in the process of taking depositions and trying to move things along.

8. CITY ATTORNEY'S MATTERS

Mrs. Turner asked Mr. Coment if he knew the outcome of the vote taken by Brevard County. She said they were looking at passing a Resolution to permit issuing revenue bonds to help fund All Aboard Florida.

Mr. Coment reported that the Resolution passed 3-2.

9. CITY COUNCIL MATTERS

A. Old Business

- 1) Establish a Stormwater Utility within 100% of the City boundaries to fund baffle boxes at outfalls, and to otherwise improve the quality of street and land water run-off entering the Lagoon to improve the health of the Lagoon. As a secondary goal, limit the need to dredge much from the Lagoon in areas such as the Fingers, and therefore reduce on-going expenses. – Requested by Mayor Richard Winger**

Mr. Winger tabled his issue until the next Council meeting.

- 2) Indian River Shores and County Mediation Review – Requested by Councilmember Pilar Turner**

This item was heard earlier in the meeting.

B. New Business

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

- A. Mayor Richard Winger's Matters**
 - 1. Correspondence**
 - 2. Committee Reports**
 - 3. Comments**

Mayor Winger felt that Council should consider a special bill when the legislative session meets in December concerning short term rentals. The Florida League of City (FLOC) normally would help them lobby on a special bill, but they have already chosen two other legislative priorities for the Treasure Coast area. They (FLOC) said the first step in the process is finding bill sponsors, which means reaching out to their legislators to see if they would be interested in filing legislation to remove the preemption. The bills filed last year were opposed by the Florida Realtors Association, the Florida Vacation Rental Managers Association, Vacation Rental by Owner, among others. He said whoever is Mayor in December, when the Legislative session is held, could present the bill if that is Council's wishes.

Mr. Fletcher wondered if the FLOC was asking the City to do their job. He didn't feel any local bill that they presented has a chance of getting passed.

Mrs. Turner said they could check with their local Representatives to see if they would have any interest in supporting it.

Mayor Winger will pursue with taking the issue before their Representatives.

B. Vice Mayor Jay Kramer's Matters

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mr. Kramer reported on the Vero Beach Arts Club fundraiser that was held at Springhill Marriott Suites entitled Art-tini.

C. Councilmember Pilar Turner's Matters

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Mrs. Turner reported on an FMPA meeting that she attended.

Mrs. Turner covered some upcoming events. She said Walk a Mile in her shoes will be held Saturday at the Indian River Mall, the City Halloween Parade will also take place on Saturday, and then on Friday October 31st spend Halloween enjoying the 20th anniversary of Downtown Friday.

D. Councilmember Amelia Graves' Matters

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

Ms. Graves commented that early voting is going well at the Library and she complimented the Supervisor of Elections for doing a good job.

E. Councilmember Craig Fletcher's Matters

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

None

11. ADJOURNMENT

Tonight's meeting adjourned at 9:32 p.m.

/tv