

**CITY OF VERO BEACH, FLORIDA
NOVEMBER 4, 2014 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Reverend Scott Alexander of the Unitarian Universalist Fellowship of Vero 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

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

Mrs. Tammy Vock, City Clerk, requested that item 3-9) under the consent agenda be pulled from today's agenda.

Mr. Brian Heady asked that under Public Comment he be allowed to give his minority report after Mr. Daige has finished speaking.

Mayor Winger expressed that anyone asking to be on the agenda can speak longer than the required three minutes. Anyone else speaking will be asked to stay within the time limit.

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

B. Proclamations

Mayor Winger asked for a moment of silence for Mrs. Charlotte Winchester who recently passed away.

Mayor Winger presented Councilmember Craig Fletcher with a plaque for the services that he has given to the City of Vero Beach.

1. Bicycle Friendly Community

Ms. Graves read and presented the Proclamation.

2. Veterans Day – November 11, 2014

Mrs. Turner read and presented the Proclamation.

C. Public Comment

1) Mr. Ken Daige, Chairman of the High Speed Rail Commission, to make a presentation to Council.

Mr. Ken Daige, Chairman of the High Speed Rail Commission (HSRC), stated that the HSRC met on Oct 29th and came up with the Resolution that Council has before them. The public that he meets with want to know what their Elected Officials are going to do about the high speed train and the anticipated extra train freight traffic running through their City. He has reviewed local Resolutions including the one passed by St. Lucie County, who used Indian River County's latest Resolution as an outline, which the HSRC reviewed. He recommended adding additional language to the proposed Resolution as per information from Mr. Phil Matson, Metropolitan Planning Organization (MPO) Staff Director. The following language is what he would like to see included: *WHEREAS: The consensus is that the comments collected from the required presentations by All Aboard Florida will be collated and analyzed by the same firm All Aboard Florida hired to do the Draft Environmental Impact Study and not by an independent firm. The consensus is this same firm has not addressed issues of concern specific to our community. WHEREAS: The City of Vero Beach has concerns with bias that may be included in the results of the DEIS study and shares concerns with other elected officials for a more independent review.* Mr. Daige said as far the Memorandum of Understanding (MOU) with Indian River County, he noted that there is a work order issued and agreed to by Indian River County (please see attached), and for the record there is no mention of the sharing of legal counsel if mitigation becomes necessary.

Mr. Brian Heady, HSRC member, agreed with Mr. Daige that the Resolution they are passing needs to be accurate. He referred to the Resolution on page 1, paragraph 5, and did not know if the City identified All Aboard Florida (AAF) as a risk. In paragraph 8, the word upgrading should be changed to upgraded and that AAF has said that they are going to pay for the cost of the changes being made to the quiet zones and it won't be the City. Council agreed with striking *installing now* from that sentence. On page 2, paragraph 5, where it states that there are real detrimental impacts to the health, safety and general welfare to the communities of the City of Vero Beach that they have at some facts/evidence proving this. In Section 2, page 2, Council will need to decide whether they support All Aboard Florida, oppose All Aboard Florida, or a third option would be taking a neutral decision. He mentioned that Mr. Daige added two new clauses to the Resolution that were not discussed by the HSRC and he has not had an opportunity to explore them.

Mr. Daige went back to paragraph 8, page 1, and indicated that the City has not been provided on what the maintenance costs will be to implement one or more quiet zones. He said their taxes pay for the upgrade costs and it needs to be clear what those costs will

be. He commented that Senator Joe Negron and State Representative Debbie Mayfield have some strong concerns on safety and general welfare to the community. He expressed that they don't have much time left to make their comments on this matter.

Mayor Winger stated that he opposes AAF and asked where do they go from here.

Mrs. Turner commented that after making the changes that they would like to see they could bring the Resolution back at their next meeting for a vote. She did not think it was appropriate under Public Comment to vote on a Resolution.

Mrs. Turner suggested changing the wording on page 2, paragraph 6, that "detrimental impacts" be replaced with "potential threats." Also, in Section 2, changed to read that "the City Council opposes All Aboard Florida." Also, eliminating "high risk" on page 1, have Mr. Heady's changes included ("upgrading" changed to "upgraded") and deleting "installing" in paragraph 8.

Mr. Kramer was fine with the changes, but asked Mr. Coment when they do a Resolution like this will it have any legal standings with any future negotiations.

Mr. Wayne Coment, City Attorney, explained that the Resolution is just a statement of Council's position on the subject on behalf of the City.

Ms. Graves was happy the Resolution will be coming back to them. She said there were some other matters that came up yesterday at the Railroad Coalition meeting, especially with the Army Corp permit that is occurring, that she needs to look at before they approve this final Resolution. She supported moving the Resolution to the next meeting.

Mr. Fletcher also agreed with moving the Resolution to the next meeting so the public would have an opportunity to comment on it.

Mayor Winger reminded the public that on November 5th from 3:00 p.m. to 7:00 p.m. the comment meeting will be held at the Richardson Center for the public to comment on the EIS. He said the process that will be there will be different tables set up and people can go around the room and get their questions answered. The public needs to sign up when they arrive and will be given a comment card to either fill out then and drop in a box or mail to FRA. He said any comments made in writing have to be considered.

Mr. Rusty Roberts, Representative from AAF, reported that the format of the meeting has been set by FRA and they are in charge of the meeting. The public will have an opportunity at the meeting to view the product and ask questions. There will be representatives from FRA, FDOT, and the Engineering staff working on the project. It is not a public town meeting format. He made it clear that AAF did not hire the independent firm that wrote the EIS. He said FRA hires the consultant from a list of qualified firms they receive. However, so the taxpayers do not have to pay for the consultants hired, AAF must pay that cost. He said the consultants do not coordinate with AAF and FRA is their boss.

Mrs. Turner asked Mr. Roberts for the people attending tomorrow's meeting, is there some sort of registration desk for them to sign in.

Mr. Roberts explained that FRA will have a signup sheet and everyone will be given a piece of paper for their comments. They can turn their comments in at the meeting or mail them from home.

Mr. Heady mentioned it was Election Day and commented that he never doubted the genuine position and incredible work that Mrs. Turner has always done. Her term as Mayor and her respect for the public was wonderful. He brought up Mr. Kramer and reminded the public that at the end of Mr. Kramer's term he presented him with a crystal gavel because during his (Mr. Kramer's) whole term as Mayor he never had to use his Mayor's gavel. He thanked both Mrs. Turner and Mr. Kramer for all of the work that they have done.

Mrs. Susan Mehiel thanked Council for letting her speak before them today and forming the HSRC to study the trains. It would have been nice if Mr. Daige would have provided an executive summary of some of the things that the HSRC talked about, because it was quite extensive. She had planned to show a brief video on safety this morning, but because those things have been addressed in the Resolution she will deviate from that. She said as far as the comment about risky financing goes, junk financing has been considered risky by many people. She said the liability issue is still before the municipalities. She has asked Mr. Matson some questions about the liability issue, but he has not gotten back to her yet. As far as crossings go, there have been about five new things brought up in the report and they still do not know what AAF plans to pay for these crossings (quiet zones). There are still a lot of questions that need to be answered, but she knows that there will be a cost to all of the municipalities. She has talked to Representative Mayfield who has some concerns with the safety issue.

Ms. Stephanie Austin spoke in opposition of AAF and felt it was alarming that the AAF website did not allow the public to post their comments on this project.

Ms. Rosemarie Wilson commented on the negative impacts that this project will have on their community. She urged Council to support this Resolution opposing AAF.

Ms. Monique Miller commented that she has been writing articles on this project and her latest article will be about safety and the AAF trains. The information in the EIS does not give them specifics to take into consideration.

Mr. Daige reported on a recent article that stated AAF was moving ahead with their plans and at a rapid pace.

Mr. Joseph Guffanti commented that the speed limit of trains is 79 mph and he recently rode a train at 84 mph. He asked if the proposed changes to the OUC contract were still

being talked about. Mr. O'Connor said yes. Mr. Guffanti felt that the long term proposal was not a good one.

Mr. Lee Olsen presented Council with a petition consisting of approximately 600 signatures from people opposing the two (2) hour parking enforcement on Saturdays. The petition reads "We, the undersigned, are concerned citizens who urge our leaders to act now on stopping the two (2) hour parking enforcement on Saturdays. We should be able to shop, browse, and dine on Saturday without the restriction of time. All members of the community and tourist alike should be able to enjoy our towns beachside without the risk of being ticketed for doing so. Please take our thoughts into consideration before implementing the enforcement." Mr. Olsen said that he has spent the last few Saturdays on the street talking to people and they are asking why is this parking being enforced. This past Saturday it was cool and breezy and a lot of people were at the ocean side enjoying the day. He asked wasn't that what they want the public to do. He said what makes their town better than other towns is the diversity of people who come to the ocean side to visit. There were ten people from the Oceanside Business Association (OBA) who asked for this change and he has presented a petition from 600 people who don't want it. He then read the mission statement of the Farmers Market Oceanside that appears on the OBA website. He said their mission statement would contradict with what they are asking be done. He recalled that Mr. Fletcher said at the last meeting that the law is the law. He has lived in Vero Beach for over 25 years and there has never been an enforcement of the two (2) hour time limit.

Mayor Winger said that he would be bringing this item up again under City Manager's matters.

Mr. James O'Connor, City Manager, requested that they discuss it now.

Mayor Winger stated that he was not in favor of enforcing this parking.

Mr. Fletcher said that if it was not going to be enforced then it needs to be taken off the books.

Mayor Winger suggested holding this decision in abeyance until the next City Council meeting and then face the issue.

Ms. Graves asked Mr. O'Connor if he has gotten anywhere with these different groups in trying to come up with a solution.

Mr. O'Connor commented that he was hesitant in enforcing this time restriction and it has never been enforced before. His biggest concern was families coming to the beach and then being ticketed. He knows that the signs say that this will be enforced seven days a week. He said the Parking Committee that has been meeting have addressed a lot of the issues with the biggest being the parking at Sexton Plaza. He said most of the complaints received are concerning the problems there. He said there may have to be additional enforcement at Sexton Plaza. There is another scheduled Parking Committee meeting

tomorrow and then he will be coming to the City Council with suggestions. He suggested foregoing enforcing the two (2) hour parking limit on Saturdays until they have an outcome from this Committee. He mentioned there are similar problems on 14th Avenue and he did not think that Council would want to enforce the regulations there on the weekends.

Mr. Coment explained that what is provided in the Code is that the City Manager prescribes the time zones and what is being enforced. It is up to the discretion of the City Manager as to whether or not the signs are erected and if they are enforced.

Mr. Fletcher agreed to let this go until the City Manager can come back with some recommendations.

Mr. Tom Ellsworth, who lives in the Pocahontas Building downtown, reported that he called the Police Department last night because of noise coming from a bar right below his apartment. He was happy to report that the bar “The Grove” posted a sign today saying that there are residents who live above their establishment and they need to respect their neighbors and keep the noise level down. He said the main reason he came to the meeting today was to talk about Go-Line buses. He said that he does not see very well so he does not drive a car. He walks and relies on public transportation as much as he can. He said that last year the Go-Line hub was moved and the pickup schedules for the buses have changed. He wondered if they could go back to the way it was two years ago. He said the hub is now located at the Airport and it is difficult for him to go that far.

Mr. Fletcher said the bus routes are controlled by the County and Federal funds.

Mayor Winger told Mr. Ellsworth to contact the City Clerk and she will put him in touch with Senior Resources.

Mr. Olsen thanked Council for listening to him. He invited Mr. Fletcher to attend the Parking Committee meeting tomorrow and become a part of the solution.

3. CONSENT AGENDA

- 1. Regular City Council Minutes – October 21, 2014**
- 2. Special Call City Council Minutes – October 13, 2014**
- 3. Wastewater Biosolids Dewatering and Hauling Annual Service Contract Bid No. 200-14/CSS**
- 4. Restroom Addition to Riverhouse Project – Project Agreement for FIND Grant Project #IR-VB-14-56 – COVB Project #2014-09**
- 5. Original Town Stormwater Treatment Improvements and McAnsh Park Stormwater Treatment Improvements – FDEP 319(h) Grant Proposal – Recommendation for Acceptance**
- 6. AURSI Bid #27-10/01/2014-PWC Stock 600 Amp Stock Switchgear**
- 7. Residential Lease for Marina Agreement, located at 3611 Rio Vista Blvd., to Mr. Michael Rogers**

- 8. Renewal of Emergency Services Contract 1566-C Infratech**
- 9. Renewal of COVB Bid #1568-C Turbine Diagnostics**
- 10. City of Vero Beach Holiday Event**

Mayor Winger pulled items 2-3) and 2-5) off of the consent agenda.

Mrs. Turner pulled items 2-7) and 2-10) off of the consent agenda.

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

- 3. Item Pulled from the Consent Agenda - Wastewater Biosolids Dewatering and Hauling Annual Service Contract Bid No. 200-14/CSS**

Mayor Winger explained that he is in favor of this service. He just pulled it from the consent agenda because he wanted to know the timetable.

Mr. Rob Bolton, Water and Sewer Director, reported that this contract is for the removal and disposal of the residual wastewater biosolids disposal produced by the Wastewater Treatment Plant, which is critical to the proper operation of the Plant. The contract includes centrifuging the biosolids on-site to reduce the amounts that must be hauled along with the associated hauling cost. The new contract with Synagro South, LLC, will be for one (1) year with renewable annual increments for a period not to exceed two (2) one (1) year periods.

Mayor Winger made a motion to approve the annual service contract. Mr. Kramer seconded the motion and it passed unanimously.

- 5. Item Pulled from the Consent Agenda - Original Town Stormwater Treatment Improvements and McAnsh Park Stormwater Treatment Improvements – FDEP 319(h) Grant Proposal – Recommendation for Acceptance**

Mayor Winger fully supported accepting the grants from the Florida Department of Environmental Protection (FDEP) for the Original Town Stormwater Treatment Improvements and the McAnsh Park Stormwater Treatment Improvements. He knows the watersheds account for approximately 340 acres of the 800 plus acre Lateral E watershed. This will allow them to have a mat on the streets that collects the solids and provide for this water getting primary treatment. The issue that he has is how this will be funded in the future. The City only has one-third of the neighborhoods with baffle boxes at this time. At a rate of \$100,000 - \$200,000 a year for baffle boxes what they are faced with is 19 years to get to 67% of taming the outfalls and the outfalls are a problem. They will get an idea from this project what capturing some of the bad material going into the Lagoon will do. He will be bringing up having a Stormwater Utility and the concept is the users who take water service would pay a fee only for a period that the City needs the

money for the good of the Lagoon and then it will go away. He didn't think anyone would oppose paying this minimal fee as long as it was for the good of the Lagoon.

Mr. Monte Falls, Public Work's Director, reported that this is the second grant that the City has received to treat stormwater in this neighborhood. The first grant allowed them to put a structure in the Lateral E canal, but they had to request the grant be transferred to another location because of the Old Vero Man Site. It gave them a lot of time to come up with ways to treat the water at the source where it goes into the inlets. They have found this product called Flexi-Pave, which is an asphalt based material that can be formed into different shapes and goes on top of the basin. The water runs through it and it filters the other stuff out. He asked Council to accept the grant, which will allow staff some time to be able to come up with a funding mechanism and they don't actually have to make the final say until November 2015.

Mayor Winger asked how much the grant is for.

Mr. Falls explained that the amounts are for \$128,000 and \$96,000, which is a third of the cost for the whole project.

Mayor Winger expressed that it is time to face the facts that this City is behind the curb of other cities in Florida and they need to deal with stormwater and the consequences of it financially.

Mr. Kramer made a motion to approve the grant proposal. Mayor Winger seconded the motion and it passed unanimously.

7. Item Pulled from the Consent Agenda – Residential Lease for Marina Agreement, located at 3611 Rio Vista Blvd., to Mr. Michael Rogers

Mrs. Turner commented that this is a residential lease for the Marina apartment located at 3611 Rio Vista Blvd. She was delighted to see that they were looking at going to a lease at market cost on this piece of property, but she still wanted to know why the City was in the landlord business.

Mr. O'Connor explained the reason was because this facility is located right in their Marina and right beneath the facility is the washer/dryers and showers for the tenants at the Marina. He also does not like the City being in the landlord business; however in this case it is \$1,500 going towards the Marina.

Mrs. Turner reiterated that she was happy to see them going from \$157.00 a month to \$1,300 and they should continue looking at all of their assets to make sure they are getting an appropriate return.

Mrs. Turner made a motion to approve the residential lease for the Marina apartment located at 3611 Rio Vista Blvd. Mr. Fletcher seconded the motion and it passed unanimously.

10. Item Pulled off of the Consent Agenda – City of Vero Beach Holiday Event

Mrs. Turner was concerned about the Royal Palm Pointe businesses and restaurants and wanted to make sure that they have given their support to the City for this event.

Mr. O'Connor did not think that there ever have been any objections from the businesses because it brings people to Royal Palm Pointe. In the past there have been some parking issues near the Dockside Restaurant, but he did not think selling beer and wine at the fountain area would have any impact with the Dockside Restaurant.

Mrs. Turner made a motion to approve the selling of beer and wine at the annual City Holiday Event. Ms. Graves 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 the City Council

Mayor Winger read the Ordinance by title only.

Mr. McGarry reported to Council that he made the revisions to the Ordinance that were proposed by Mr. Ken Daige at their last meeting. The revised Ordinance includes: 1) reduced the maximum floor area of a dispensary from 5,000 to 2,500 square feet; 2) changed the requirement for “no loitering” signs to be placed on four sides of the building instead of only three sides; and 3) changed the starting hours of dispensary operation from 8:00 a.m. to 9:00 a.m., Monday through Friday and from 8:00 a.m. to 9:00 a.m. on Saturday.

Mayor Winger opened the public hearing at 11:19 a.m.

Mr. Ken Daige, referred to the map of the area where this marijuana dispensary is proposed to be located and asked that the small “jog” shown on the map be removed. He said there are rental units close to this location and there are people that are not real happy about this being located in the downtown area. He wanted to make sure that the officials (Code Enforcement Officers) have the authority to check licenses and other things in the event that this passes on the ballot. He also requested that the Planning and Development Director give yearly updates on how the dispensaries are being operated.

Mr. McGarry stated that the “jog” area that Mr. Daige is referring to is vacant property and he does not see the necessity to change the map, however that would be up to the City Council. He explained that anyone operating a dispensary will have to show a license before a permit is given. He would be happy to give a yearly update on the dispensaries as a policy matter, but did not feel that it needed to be in the Ordinance.

Mr. O’Connor added that if this “jog” area was pulled out of the map then there could be some land use issues.

Mrs. Turner made a motion to adopt the Ordinance. Ms. Graves 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. 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 Water & Sewer Director

Mayor Winger read the Ordinance by title only.

Mr. Rob Bolton, Water and Sewer Director, recalled at the last meeting he gave a Power Point presentation addressing the STEP system ordinance. He said subsequent to the first public reading certain updates were made to the provisions for clarification. On page 19 of 32 (7) it now reads, *Repair or replacement of the existing septic tank if after inspection it is found to be in such condition as to be unacceptable for use in conjunction with the STEP system or otherwise defective or out of compliance with any applicable code, law, or regulation.* On page 20 of 32 (2), the paragraph now reads, *Property owner provided components and functions. The costs for those STEP system components, connections, and functions specified in this subsection to be provided by the property owner shall be the separate responsibility of and paid by the property owner. In addition, the property owner shall be separately responsible for and pay any and all extraordinary costs and expenses that arise of or from a STEP system installation or connections unique to the subject property.* On page 21 of 33 (c) Operation and Maintenance cost there were two new paragraphs added 1. and 2. On page 22 of 32 (d) a new sentence was added to the end of the paragraph, *Such discontinuance of water utility service shall be restored once the supply of electric current and operation of the STEP system has been restored as long as the water utility service is not otherwise subject to disconnection due to non-payment or other discrepancy. The property owner shall be responsible and pay or cause payment for any and all charges and fees arising from such disconnection and reconnection of water service.* A new paragraph 4 was added on page 22 and on page 23 changes were made to paragraph 5.

Mayor Winger opened the public hearing at 11:27 a.m.

Mr. Joseph Guffanti wanted to know why there is a mandatory pump out every five (5) years. He understands the need for an inspection. If someone has a septic tank that is not functioning properly it needs to be fixed. But, he sees no need for a mandatory pump out and sees no reason the system needs to be pumped out if it is working properly. He reiterated that he was in favor of inspections.

Mr. Bolton explained that if there is going to be an inspection of the septic tank that there has to be a pump out.

Mr. Dan Lamson, Indian River Neighborhood Association, read a prepared statement (please see attached).

Mr. Guffanti responded to Mr. Bolton's comments and said if there is something wrong with a septic tank then it needs to be taken care of. He wanted to see the data and reasons why Mr. Bolton thinks that septic tanks are polluting the Indian River Lagoon. He knows someone who worked for the Department of Protection, who has told him this is all nonsense and the cause of pollution in the Lagoon comes from the runoff of the groves. He then asked if there is damage being done by septic tanks to the Lagoon, what percentage is it. He asked Mr. Bolton to make this research available to him. He has also been told from a boat owner that he sees raw sewage in the Lagoon in the area close to the City Marina. He doesn't understand why there would be runoff from the septic system if it is working properly. He said there should be no moisture above the ground where the septic tank is located.

Mr. Bolton explained if there is water coming down from the bottom of a drainfield to the aquifer it will drain into the Lagoon.

Mr. Rene Donaz, Bethel Creek Drive, was concerned about the health of the Lagoon. He would encourage having a program where they could improve the situation of the Lagoon, but has not seen anything that says this proposed STEP system will be effective. They have the opinion of the Sewer Department that this is going to be effective and the neighbors are saying that it is not going to be effective. He said that the neighborhoods have not been polled to see if they want this. He recalled once before when there was a more expensive system being proposed, meetings were held at Bethel Creek for public input and that has not been done. This is moving forward with little consent from the public. The amount of compliance on part of an individual homeowner is excessive and costly to the resident. He is very concerned about this whole proposal and asked because it is voluntary participation if the City gets very limited participation, how will the City make out financially.

Mr. Bolton felt that Mr. Donaz was confused. He explained that once a property owner is connected to the sewer system there will be no additional monitoring and the costs will be borne by the Sewer Department.

Mrs. Turner asked what minimal participation from the public do they need in order to break even.

Mr. Bolton said that he did not go down that avenue. Mrs. Turner felt that they needed to have a handle on it. Mr. O'Connor felt that this STEP system would provide a more cost effective sewer system for those who want to connect to it. It is a million dollar investment that could take the City 20 years to recoup that money.

Mr. Bolton expressed that the City's goal is to provide this system to someone who has to continuously repair their septic system.

Mayor Winger added that this cost is totally paid for by the Enterprise Fund and not by the taxpayers.

Ms. Graves did not think that it would be hard to estimate how many septic tanks are on the verge of failing and will need to connect to the system.

Mr. Bolton estimated that somewhere between ten and thirty years most people will be in the situation where they will have to connect to the system.

Mr. Mark Mucher brought up the objection of impact fees. He said that he recently had to have a new drainfield installed so he won't need to hook up to the system the first year it is offered and is concerned about the illegal impact fee.

Mr. O'Connor explained that the impact fee is to pay for the cost of the lines.

Mr. Mucher felt if the charge is for providing the service then it is not an impact fee. He said impact fees are for future improvements provided they would have an impact.

Mr. Bolton briefly went over the incentive program as outlined in the Resolution (to be heard next on the agenda). He said a STEP up and save credit of \$2,290 for property owners that sign up within 12 months of notification from the City will be given. The Wastewater Utility Extension Credit of \$1,100 for property owners that sign up within 12 months and pay cash with an option to finance for 10 years at no interest in lieu of the \$1,100 credit will be given. This requires connection within 12 months of signing the application; otherwise credits and/or financing are null and void.

Mrs. Judy Orcutt applauded the City for moving forward with this project. It makes sense to get these lines in place and if the system fails they can address the problem. It also helps them down the road when there will be some mandates coming down from the State.

Mr. Guffanti commented that at their January 6th City Council meeting he will have someone come and speak on this matter. He strongly opposed this because he doesn't know where they are getting their information from.

Mr. Bolton explained the term "failure" would be defined as anything going on with a septic tank that requires a permit from the Department of Health.

Mayor Winger closed the public hearing at 11:56 a.m., with no one else wishing to be heard.

Mr. Kramer commented that he lives in the Bethel Creek area and the septic system in that area is a problem. However, he has some concerns about forcing people to pay money to upgrade their system. He would like to see a questionnaire sent out so people would know what is going on. He asked if that was possible before they “finish” this up.

Mr. O’Connor was not sure what the questionnaire would say because the City is not making this mandatory.

Mr. Kramer stated that it would be mandatory over time. He felt by doing this questionnaire it would bring a lot more peace to the neighborhood.

Mr. Bolton explained that once the Ordinance and Resolution passes he plans to set up meetings in the different neighborhoods and explain the procedures on how this would work. He said that would be the implementation step.

Mr. O’Connor added if there were a lot of concerns about the new STEP program that down the road Council could always reconsider the Ordinance.

Mayor Winger commented that there is evidence that septic tanks are a real problem. The City will treat this as a pilot project and monitor the water for improvement. He felt this was a step forward, but agreed that it needs to be implemented the correct way and discussed.

Mr. Bolton commented that he recently attended some meetings where septic tanks were brought up and this has become a huge topic of discussion.

Mr. Mark Mucher liked Mr. Kramer’s suggestion in asking the residents how they felt about this septic tank system program and that they be educated on how it is going to work. The Mayor said no lets not do that, lets just pass it into law and then tell them (the public) what they have already done and see if they agree with it. He said that doesn’t make a whole lot of sense to handle it that way as the Mayor has suggested. It is known that street runoff and septic tanks cause the most runoff and it is a problem. But, as a procedural matter a law should not be passed before there is public input. He realizes that the City is in a hurry to do this, but he has not heard of any data about septic tank leakage going into the Lagoon.

Mr. Dan Lampson, IRNA, strongly urged Council to pass this Ordinance today. He said at some point they have to step up and say that septic tanks are a problem. It is unfortunate that some neighborhoods will be thinking with their wallets instead of the thinking about the Lagoon.

Mr. Fletcher understood that Mr. Bolton will be giving a presentation on the STEP plan to the different neighborhoods.

Mr. Bolton reported that he plans to set up the first meeting in December at the Bethel Creek House.

Mr. Fletcher made a motion to adopt the Ordinance as presented. Ms. Graves seconded the motion.

Mr. Kramer commented that he fought hard to get this STEP program put into place, but he can't vote in favor of it unless the public knows.

Mr. Bolton commented that it will be cheaper for someone to connect to the septic system then have a new system put in if they had to.

Ms. Graves understood Mr. Kramer's point, but personally felt that the City is giving a lot of "wobble" room.

The Clerk polled the Council and the motion passed 4-1 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer no, and Mayor Winger yes.

B) RESOLUTIONS

- 1. 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 Water & Sewer Director**

Mayor Winger read the Resolution by title only.

Mr. Bolton explained that the passing of this Resolution was the second part of the STEP program, which outlines the "Step Up and Save Program," which he went into full detail earlier in the meeting (prior discussion of the Ordinance just heard).

Mayor Winger opened and closed the public hearing at 12:12 p.m., with no one wishing to be heard.

Mr. Fletcher made a motion to adopt 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.

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

- A) An Ordinance of the City of Vero Beach, Florida, Providing and Establishing Revisions to the Budget for the City of Vero Beach, Florida, for the period beginning October 1, 2013 and ending September 30, 2014, by increasing the**

General Fund by \$226,402; by decreasing the Street Paving and Drainage Fund by \$72,193; by increasing the Electric Fund by \$1,116,823; by increasing the Electric R&R Fund by \$113,466; by decreasing the Water and Sewer Fund by \$263,035; by decreasing the Water and Sewer R&R Fund by 48,365; by decreasing the Airport Fund by \$37,148; by decreasing the Airport Construction Fund by \$759,398; by increasing the Marina Fund by \$15,394; by decreasing the Solid Waste Fund by \$1,185; by increasing the Recreation Fund by \$117,510; by increasing the Recreation Construction Fund by \$26,000; by decreasing the Risk Management Fund by \$320,581; by increasing the Confiscated Property Fund by \$2,500; by increasing the Law Enforcement Education Fund by \$7,500; by increasing the Crestlawn Cemetery Trust Fund by \$8,986; ALL FROM REVISED REVENUE, EXPENDITURE AND TRANSFER ESTIMATES. – Requested by the Finance Director

Mrs. Vock read the Ordinance by title only.

Ms. Cindy Lawson, Finance Director, reported that this Ordinance is the first and final amendment to the fiscal year 2013-2014 budget. The amendment represents current estimates of fiscal year 13-14 revenues and expenditures, pending the final fiscal year closeout and the preparation of audited financial statements. The Finance Commission reviewed a draft of the budget amendment and voted to unanimously approve it.

Mayor Winger opened and closed the public hearing at 12:16 p.m., with no one wishing to be heard.

Mrs. Turner made a motion to hold the public hearing on this Ordinance on November 18, 2014. Ms. Graves 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.

At this time, Council took a lunch break and the meeting reconvened at 1:30 p.m.

6. CITY CLERK'S MATTERS

A) Reappointments to Airport and Recreation Commission

Mr. Kramer made a motion to reappoint Mr. Skip Wood and Mr. Gary Embrey to the Airport Commission and Mr. Richard Yemm to the Recreation Commission. Mrs. Turner seconded the motion and it passed unanimously.

B) New Appointments to the Historic Downtown Vero Beach Economic Development Zone Advisory Committee

Mr. Kramer made a motion to appoint Mr. Terry Torres, Mr. Barry Shapiro, Mr. Scott Chisholm, Ms. Jessica Hawkins and Mr. Garry Rooney to the Historic Downtown Vero

Beach Economic Development Zone Advisory Committee. Ms. Graves seconded the motion and it passed unanimously.

C) Release of Code Enforcement Lien – Seterus, Inc.

Mr. Coment reported that this case was brought to the Code Enforcement Board by a citation issued on April 17, 2014 for an abandoned commercial vehicle in a residential zoning district. Prior to the citation being issued, the property had been vacated by the owner and was subject of a mortgage foreclosure action since at least March 26, 2013 as evidenced by a “lis pendens” filed in the public records. On March 12, 2014, prior to issuance of the citation, a Final Judgment of Foreclosure was entered by the Circuit Court, with the property being subsequently sold to Federal National Mortgage Association (FNMA) on May 19, 2014. Once the property was sold to FNMA the violation was corrected by removal of the commercial vehicle from the property. At the time the citation was issued, only a mortgage servicing company, Seterus, Inc., was named as a violator and served with a citation. However, at that time the owner of the property was not Seterus, Inc. nor was that company in possession of the property. Mr. Coment is of the opinion that the lien is not effective against the current owner of the property, FNMA, and the lien is otherwise not enforceable against the subject property. Therefore, he would recommend approval of the proposed release and satisfaction of the code enforcement lien in order to remove the cloud on the title created by the recorded Order.

Mr. Fletcher asked what they would do in case this happens again.

Mr. Coment explained that the Code states that they must notify the property owner. He said what the Code Enforcement Officer typically does is notify any banks that are involved, but in this case the actual owner was not notified and the Bank had not yet taken ownership of the property.

Mr. Fletcher made a motion to adopt staff’s recommendation and approve the release and satisfaction of the code enforcement lien. Mr. Kramer seconded the motion and it passed unanimously.

7. CITY MANAGER’S MATTERS

A) Electric Utility Rate Study RFP – Committee Ranking & Recommendation

Mr. O’Connor reported that an RFP for the Electric Utility Rate Study was issued on August 28, 2014 and the City received six responses. The proposals were reviewed by the Evaluation Committee and oral interviews were conducted with the top three ranked proposers. As a result of the interviews, the Evaluation Committee selected Public Resources Management Group (PRMG) as the number one ranked firm.

Mayor Winger asked if there would be some sort of work order on what the City expects PRMG to accomplish.

Mr. O'Connor said right now they would be looking at rate sufficiency, rate structure, and give the City some recommendations on what kind of incentives could be put in place to bring down some costs. He said they will work with the City for a five (5) year period. Then once the Optimization Study has been done, the City will ask PRMG to review it.

Mayor Winger wondered if Council should come forward with some questions for PRMG so they don't miss anything.

Mr. O'Connor expressed that during the whole process PRMG will be giving updates to Council and will show the areas that they are addressing.

It was the consensus of Council for the City Manager to proceed awarding and approving this contract.

B) Approve Cayenta Work Order/Statement of Work – Upgrade Cayenta Utilities Billing Software

Mr. O'Connor reported that because the City's billing system is outdated, it requires frequent customization in order to perform functions required by the City. In addition, it does not contain all available functionality for billing, banking interfaces, reporting, and data extraction. Staff recommends that the City Council approve the Statement of Work between the City and Cayenta for the upgrade of the Cayenta Utilities.

Mr. Kramer made a motion to approve the Work Order/Statement of Work. Mr. Fletcher seconded the motion and it passed unanimously.

Mayor Winger asked Mr. O'Connor to give an update on Unit 3.

Mr. O'Connor reported that Unit 3 at the Power Plant has been officially retired as of today. He said that the cost of repairs exceeded the value of what Unit 3 was bringing to the City. He said unfortunately Unit 2 had some problems and approximately \$2,000 had to be spent to correct the problems.

Mrs. Turner recalled that Council talked about meeting today (Election day) and holding their meeting because they thought that there would be some word on the negotiations between the City and the Teamsters and hoped they would be discussing the City's pension plan.

Mr. O'Connor explained that they have to wait for the Union negotiations to be completed and hopefully he will be bringing something to Council in January. Then the implementation stage for the defined contribution will probably be another three (3) months.

8. CITY ATTORNEY'S MATTERS

9. CITY COUNCIL MATTERS

A. Old Business

1) Potential Loss of Indian River Shores Electric Customers – Requested by Councilmember Pilar Turner

Mrs. Turner stated that this item is discussion on the potential loss of Indian River Shores (IRS) as an electric customer. She said their mediation efforts to date are at an impasse. The impact on the potential loss of IRS customers must be evaluated. She felt they could not be evaluating an impact strategy unless they know what the impact will be on the loss of these customers. She said it is time to be looking at the strategy that has failed to date and what else can be done. She said that Indian River County (IRC) and IRS are responding to their ratepayer's frustration. The whole model of Vero Beach Electric is flawed. The City to date has been poorly represented. She believes that Mr. Wright is promoting FMPA and OUC interests. She said when he presented this new proposed OUC contract there was not one negative and she has never heard of a lawyer presenting any type of contract that doesn't have something negative in it. She is still asking for financials on the impact of losing IRS customers. She does believe there is a very strong protection from municipal entities to be able to determine their own fate. She asked what is their strategy from here.

Mr. O'Connor provided a memo outlining the impact on electric utility if they were to lose customers outside of the City limits. He was not sure that they could treat IRS any different than IRC and based on the position that IRC is moving in it is anticipated that they will be a part of the lawsuit.

Mrs. Turner again asked where their strategy is going from here. She said they have wasted three mediation meetings and have not been able to bring anything forward to change that.

Mayor Winger commented that the Public Service Commission (PSC) would be ruling on November 25, 2014.

Mr. O'Connor felt that after the document is presented by the PSC, it will give them some indication of where the PSC stands in the process. It only directly affects IRC and not IRS, but it is fundamental of what IRS is saying, i.e. franchise overrules what is taking place in the State PSC granted service areas. Their strategy is very difficult because they can't give a discount to a customer in IRS that they could if that customer was located in the City of Vero Beach, unless a cost of service could be distinguished. He was not sure that they have any real room to negotiate a deal. To date IRS and IRC have been pretty firm on their position in wanting FPL rates and the City has no method in which to give those rates. He personally felt that this was destined to go to Court.

Mr. Fletcher agreed that this is going to end up in the Courts and that is probably where it belongs.

Mr. O'Connor commented that there is no question if they go to Court that any ruling given to the City would be setting a new precedent to the industry, as well as setting a new precedent for acquisition of public facilities (City assets).

Mr. Fletcher expressed that it would be a huge decision if the Courts allowed IRS to withdraw from the City's utility system. He said this would be a precedent setting that would involve industries all across the State/Nation. He said the people that control everything are OUC and FMFA. However, the City has contracts with OUC and FMFA that they have to honor.

Mrs. Turner asked what is the timing for this to go to Court?

Mr. Coment reported that the mediator has been agreed upon, unfortunately is not able to meet until January. Once mediation has been completed then the parties can activate a lawsuit.

Ms. Graves asked how long will it be to they get a court date when this would be heard.

Mr. Coment said it would just depend on how quickly the other parties are willing to move it along. He knows that the other parties want to get this resolved.

Mr. Guffanti commented that a few years ago he told Council that there will be lawsuits so they should not be surprised this is going to happen. He asked what it is going to cost and who is going to defend the City when they go to court. Also, what happens in 2016 when IRS will be able to get away from their obligations with FMFA and OUC. He questioned what will happen to the City ratepayers and will their taxes go up. He thought they were in "deep weeds". It is disingenuous for this Council to sit up there and not fully express the possibility of what could happen. They owe the public some kind of revelation of what could happen.

B. New Business

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Richard Winger's Matters

1. Correspondence

Council approval to send an endorsement letter for a grant that the Youth Sailing Foundation are applying for.

Council concurred with having the Mayor sign an endorsement letter for the Youth Sailing Foundation so they can apply for a grant.

2. **Committee Reports**
3. **Comments**

B. Vice Mayor Jay Kramer's Matters

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

Mr. Kramer thanked Downtown Mainstreet for such a nice event they held last Friday night. He hopes to continue seeing these Downtown Fridays in the future.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner reported on the Veterans Day ceremony scheduled for November 11th and reminded everyone to get to Memorial Island around 8:30 a.m. She also hoped to see the public attend the meeting to make their comments on the EIS, which will be held tomorrow at the Richardson Center. She reminded the public that they needed to sign up at the registration desk. She then read a few words from an article that Dr. Scott Paine, who writes for the Florida League of Cities, had published.

D. Councilmember Amelia Graves' Matters

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

Ms. Graves agreed that Downtown Friday was a "blast."

E. Councilmember Craig Fletcher's Matters

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

Mr. Fletcher thanked everyone for working with him this year and he especially thanked his wife for standing behind him while he served the City as a Councilmember.

11. ADJOURNMENT

Today's meeting adjourned at 2:01 p.m.

/tv