

CITY OF VERO BEACH, FLORIDA
JANUARY 5, 2016 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

The invocation was given by Chaplain Mindy Serafin of Indian River Medical Center followed by the Pledge of Allegiance to the flag.

1. CALL TO ORDER

A. Roll Call

Mayor Jay Kramer, present; Vice Mayor Randy Old, present; Councilmember Pilar Turner, present; Councilmember Richard Winger, present and Councilmember Harry Howle, 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. Turner made a motion to adopt the agenda as presented. Mr. Howle seconded the motion and it passed unanimously.

B. Proclamations

1. Children's Week – January 24-29, 2016

Mr. Old read and presented the Proclamation.

2. Karl Zimmermann Day – January 5, 2016

Mrs. Turner read and presented the Proclamation.

3. Plaque presented to Councilmember Richard Winger thanking him for serving as Mayor

Mayor Kramer presented Councilmember Winger with a plaque thanking him for serving as the former Mayor.

C. Public Comment

Mr. Herb Whittall stated that he saw on the agenda there was a discussion on stormwater utility. He said some people have said that this is an extra tax and he agrees that it is. But, it is an equitable way of taking care of the pollution that the City dumps into the Lagoon. He noted the City has hired a consultant to do a study on this matter. He said

this will be a tax for people that don't get taxed on their utilities. This is the way to pay for the project besides having to put the money in the budget. He was in favor of having a stormwater utility.

Mr. Brian Heady recalled that himself and Mr. Frank Zorc were the only ones coming to the Council meetings that needed a get out of jail card. He said at a previous City Council meeting, he asked Mr. Howle if he had read his book, "Liars, Cheats & Thieves, and Mr. Howle said that he had read parts of the book and hoped to have time to read the rest of the book. Mr. Heady recalled in April 2008, there was a contract between OUC and the City of Vero Beach and that contract was delivered the night before it was to be voted on by uniform Police Officers. In conversation with City Council members there are different point of views on the contract not being redacted after they looked at. When they voted on the contract consultants came to Council and talked about what is going to be done to give the City lower rates. In 2009, the unredacted contract was finally released to the public and there were mistakes. When Mr. Heady and Mr. Wilson were elected to Council the unredacted contract raised lots of concerns because it appeared the numbers were changed. The City Attorney at the time asked the City Council to retroactively approve those changes and the City Council at that time would not retroactively approve the changes to the contract. He said when changes are made to a contract, there is not a contract in his opinion, because it takes an agreement between the different parties. The City continues to pay higher electric rates. He asked Mr. Howle if he read his book because it explained a lot of these things. He said everything contained in that book is factual. He asked Mr. Howle to go back and read it. He said Mr. Howle ran a campaign on fixing the electric issue and Mr. Heady believed he (Mr. Howle) will do this. He said the deal now is can you do something for the citizens, which he can by turning over the keys to Florida Power & Light (FPL).

Mr. Howle told Mr. Heady that he has not read his entire book.

Mr. Heady commented that the City did not receive the rates promised in the 2008 OUC contract. He told Mr. Howle it would be nice if he gave them a late Christmas present and turned their utilities over to FPL. All he has to do is make a motion.

Mr. Howle did not think that was feasible at this time.

Mr. Heady commented that FPL agreed to buy their utilities and the City agreed to sell it to them. He said this could be a done deal. If it can't be done he wants to know why.

Mr. Winger felt that Mr. Heady was out of order. He said Mr. Heady should not be directing his questions to one Council member.

Mayor Kramer explained that Mr. Howle is engaging in the conversation. He suggested that Mr. Howle speak to Mr. Heady privately or put this matter back on another agenda for discussion.

Mr. Heady told Mr. Howle all he had to do was make a motion to get rid of the utility customers that the City has from Indian River Shores and the County and give those customers to FPL. Then FPL will charge them FPL rates and FPL will pay the City for those two (2) territories. The City will not only get income, but it will end the lawsuit. He told Mr. Howle he probably would not get a majority vote if the motion is made. He will return in two (2) weeks when this item is brought back as an agenda item. He said the public needs to hear why this fraud continues.

Mrs. Laura Moss, Utilities Commission member, referred to the item on the agenda concerning stormwater utility and asked if a consultant had been retained.

Mr. Jim O'Connor, City Manager, answered yes. He said the consultant is studying the design of the utilities.

Mrs. Moss asked him what is the time line concerning the stormwater utility.

Mr. O'Connor explained the consultant is in the process of gathering data at this time and they are in the first phase of the project. He anticipated the consultant appearing before the Utilities and Finance Commission in late May or early June with their findings.

Mr. Winger felt strongly that it will take about 90 days or more of vetting from the Commissions and the community concerning the stormwater utility. He said there should be a lot of thought and feedback put into the matter. He expressed that half of the money that they approved be allocated to the consultant for this study has been spent. Once they receive the recommendations from the consultant then there will be long discussions on what they want to do.

Mrs. Moss was looking forward to hearing the discussion today (later on in the agenda) and reviewing the contract in the future. She brought up another item on the agenda regarding potential elimination of electric utility impact fees. She was surprised to see it on the agenda when the Utilities Commission has not reviewed it.

Mr. O'Connor said that he was just looking for direction from Council.

Mr. Joseph Guffanti recalled at the last meeting he brought up an item having to do with records and was told by the City Attorney that is the way they do things. He said staff gathers in the backroom and conducts City business and then comes to the City Council and they vote on it. He was not singling out the City Attorney because this is the way they do business throughout the whole system. Mr. Guffanti said any comments that he makes are designed to address the activity of personnel at the City. He doesn't want to be accused of making a personal attack. He appreciated the City Attorney for coming clean.

Mr. Guffanti brought up the traffic lights in the City of Vero Beach. He said the other day he was going south on Indian River Boulevard and the light was red and he stopped and then it turned green and no one was in the left hand turning lane, yet cars going north were stopped and could not proceed. There were over 50 cars stopped at the light and

were prevented from moving forward. He called Mr. Joe Baird, County Administrator, and asked him to meet him at the intersection and watch this light for five (5) minutes and observe the problem, but he did not hear back from Mr. Baird.

Mr. Old did not think some of the remarks made by Mr. Guffanti were called for. He said the comment about working in smoke filled rooms was not correct. He said that this City is run very well and there is nothing going on in back rooms.

Mr. Guffanti said that he heard what the City Attorney said at the last meeting, that this is the way they do business and he takes offense to that. He doesn't want business done that way. He wants the information to be forthcoming.

3. CONSENT AGENDA

- 1. Regular City Council Minutes – December 1, 2015**
- 2. Special Call City Council Minutes – November 30, 2015**
- 3. Debris Removal Contracts Renewal – Bid No. 260-13/JO**
- 4. 2016 FRCC Non-Statutory Assessments**
- 5. MacWilliam Park Restroom Remodel – RFP #360-15/JO – COVB Project #2014-09**

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

4. PUBLIC HEARINGS

Quasi-Judicial Hearings

- A) An Ordinance of the City of Vero Beach, Florida, Requested by 1745 SR 60 LLC, to amend the Comprehensive Plan Future Land Use Map by changing the Future Land Use Designation from Commercial (15 to 18 Units per acre) to Mixed Use (17 to 18 Units per acre) for Property located at 1745 20th Street, in the Original Town of Vero, now City of Vero Beach, totaling 0.34 of an acre, more or less, and Providing for an Effective Date – Requested by the Planning and Development Director**
- B) An Ordinance of the City of Vero Beach, Florida, requested by 1745 SR 60 LLC, amending the Official Zoning Map by changing the Zoning District Designation of C-1B, General Commercial Trades and Services District, to DTW, Downtown District, for property located at 1745 20th Street, in Original Town of Vero, now City of Vero Beach Corporation totaling 0.34 of an acre, more or less; Providing for an Effective Date. – Requested by the Planning and Development Director**

Mayor Kramer read both Ordinances by title only. The Ordinances were discussed together.

Mr. Old disclosed that he has visited this site.

The City Clerk swore en masse anyone testifying at today's meeting.

Mr. Tim McGarry, Planning and Development Director, stated that the property owner is requesting a combination small scale comprehensive plan map amendment and zoning map amendment to change the land use designations of property comprising of approximately 0.34 of an acre generally located on the south side of 20th Street/SR 60 and east of 18th Avenue. The address of the property is 1745 20th Street. Directly abutting the subject property to the east are offices, which have a future land use designation of Mixed Use and a zoning designation of DTW, Downtown. Directly abutting the property to the west is commercial/retail use that is designated C, Commercial on the Future Land Use Map and C-1B, General Commercial Trades and Services District on the zoning map. The property is located within the City's electric, water and sewer service areas. The property has road frontage along SR 60/20th Street along the north property line. The property abuts SR 60/20th Street. In 2014 the average daily traffic volume of the roadway segment was 19,587. The existing C, Commercial future land use designation is applied to those areas that are suitable for urban scale development and intensities. The existing zoning of the property is C-1B, General Commercial Trades and Services District. Residential development is not permitted in this zoning district (0 units/acre). Both the existing C and proposed MX future land use designations are applied to areas that are suitable for urban scale development and intensities and are similar in description. The differences in the development guidelines of the two zoning districts are maximum floor area ratios (0.50) C-1B and the (2.00) DTW, open space (25%) C-1B and (10%) DTW, and parking requirements (DTW district provides for parking exemptions). The DTW district by design is meant to provide more flexible development guidelines. Staff reviewed the requested Future Land Use Map and Zoning Map amendments based on the standards for considering such amendments to the provisions of Chapter 65 and finds that the requested amendments are warranted and justified to provide for the continuation of the central core and downtown district and its corresponding development pattern as outlined in the submitted applications. Staff finds the requested amendment is consistent with zoning district standards and criteria. The property to the south of the property is zoned POI, Professional Office & Institutional and is currently vacant. The POI district is considered compatible with and a transition or buffer to the more intense commercial zoning district and is prevalent in this area and south and adjacent to the SR 60/20 Street corridor. The amendment is consistent with the concurrency requirements of the Comprehensive Plan and Land Development Regulations. The traffic analysis prepared by the applicant concludes based on the hypothetical assumptions used that: "the development of the property as a viable Mixed Use projects is not anticipated to have a significant impact to the adjacent roadway networks." Staff concurs with the applicant's analysis that the potential impacts of the proposed rezoning will not have an adverse impact on LOS standards for public services and infrastructure. Based on the analysis and findings, staff recommends approval of these Ordinances.

Mr. Joseph Schulke, of Schulke, Bittle & Stoddard, was at today's meeting representing the applicant. He said everyone can see that their downtown area is becoming more vibrant and what they are asking for is to be more consistent with the comprehensive plan. He would be happy to answer any questions that Council might have. He thanked the Planning Department for all of their assistance with this application.

Mayor Kramer opened and closed the public hearing at 10:26 a.m., with no one wishing to be heard.

Mr. Howle made a motion that based on the competent substantial evidence presented and the applicable Code provisions to grant the application and adopt the Ordinance to amend the Comprehensive Plan Future Land Use Map by changing the Future Land Use designation from Commercial to Mixed Use for property located at 1745 20th Street. Mr. Old seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Winger yes, Mrs. Turner yes, Mr. Old yes, and Mayor Kramer yes.

Mr. Old made a motion that based on the competent substantial evidence presented and the applicable Code provisions to grant the application and adopt the Ordinance to amend the Official Zoning Map by changing the Zoning District designation of C-1B, General Commercial Trades and Services District, to DTW, Downtown District, for property located at 1745 20th Street. Mr. Winger seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Winger yes, Mrs. Turner yes, Mr. Old yes, and Mayor Kramer yes.

Legislative Hearings

- C) A Resolution of the City Council of Vero Beach, Florida, approving the Transmittal to the State of Florida Department of Economic Opportunity of a Proposed Ordinance amending the Future Land Use Map of the Vero Beach Comprehensive Plan; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning and Development Director**

The City Clerk read the Resolution by title only.

Mr. McGarry reported this change is a housekeeping measure to correct an incorrect designation of this property for conservation. The property is used by the City Police Department and other law enforcement agencies as a pistol range. As the requested change in the Future Land Use Map involves more than 10 acres, it must go through the large scale comprehensive amendment process. The process requires holding this transmittal hearing and then submitting it to the Florida Department of Economic Opportunity for its review prior to the adoption of the final Ordinance. Once this is reviewed by the State then a public hearing will be scheduled on the Ordinance. The Planning and Zoning Board unanimously approved the proposed amendment to the Future Land Use Map.

Mayor Kramer opened the public hearing at 10:31 a.m.

Mr. Mark Mucher asked if there were special procedures removing land from conservation.

Mr. McGarry explained that this is clearly the inappropriate designation for the pistol range to be located in. He was not sure why it was done that way, but it needed to be cleaned up.

Mr. Winger made a motion to adopt the Resolution. Mr. Howle seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Winger yes, Mrs. Turner yes, Mr. Old yes, and Mayor Kramer yes.

D) An Ordinance of the City of Vero Beach, Florida, amending Chapter 62, Article III, C-1A, C-1B, B-1, and C-1 Commercial Districts, and Article X, Downtown District, of Part III, Land Development Regulations, in the Code of the City of Vero Beach, to Provide for Government Use as a permitted use; Providing for Codification; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning and Development Director

The City Clerk read the Ordinance by title only.

Mr. McGarry reported that the need for this text amendment was because of the proposed location of a needed GoLine shelter on vacant Indian River County owned land near the County Courthouse. If an existing principal use occupied the property, the shelter could be permitted as an accessory use. Unfortunately, as the property is currently vacant, the proposed bus shelter cannot be approved at this location since a bus shelter is not a listed principal use in the downtown zoning district. Staff finds the proposed text amendments to be justified and warranted pursuant to Code Section 65.22(i)(1) and it is consistent with the Comprehensive Plan. The Ordinance will enhance the interpretation and administration of the Land Development Regulations and staff finds that the text amendment is consistent with the Land Development Regulations and would recommend approval of the Ordinance.

Mayor Kramer opened and closed the public hearing at 10:33 a.m., with no one wishing to be heard.

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

5. RESOLUTIONS

A) A Resolution of the City Council of the City of Vero Beach, Florida, Establishing a Special Assessment Lien in the amount of \$4,845.00 for a

Septic Tank Effluent Pump (STEP) System to serve the real property located at 4504 Sunset Drive, Vero Beach, Indian River County, Florida; Providing for an Effective Date. – Requested by the City Attorney

The City Clerk read the Resolution by title only.

Mr. Wayne Coment, City Attorney, explained this is a lien Resolution for a STEP System to serve the single-family property located at 4504 Sunset Drive. The property owners have elected and agreed to pay for the City's expenditure for the improvements by making periodic special assessment payments to the City pursuant to the Resolution. The STEP System Ordinance provides for payment of the costs and fees by special assessment in order to encourage participation in the STEP System Program. He said the first payment has already been made.

Mr. Winger asked if they will see a lot of these requests.

Mr. Rob Bolton, Director of the Water and Sewer Department, commented that 95% of the people are paying up front and taking advantage of the incentive program.

Mr. Winger asked how many people have signed up and where is the program as far as boring lines in the City.

Mr. Bolton explained that they are now working in the Bethel Creek area. They have fallen behind because of all the jumping around they have been doing like connecting people who have a failing system or are building a new house. He said they are being effective, but not being efficient. He noted they are also under a deadline as far as using the grant money they received from the State. He said right now they are well under budget then what was originally proposed. He said about 20 people have connected at this point and they have not sent out any letters promoting the STEP program. He knows once they send out the letters that there will be a lot more people interested in hooking up. He wanted to make sure that they were caught up first. He said anyone interested can go on the City website and look at the interactive map showing where the water lines are, if someone can connect, and it also shows the people who have connected.

Mrs. Turner commented that she felt that they have a successful project moving forward and agreed once the letters go out they will be swamped again.

Mayor Kramer opened and closed the public hearing at 10:41 a.m., with no one wishing to be heard. It was noted the property owners in this case were not in attendance at today's meeting.

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

Mr. O'Connor commented that Mr. Bolton has been successful in getting grants that allow them to use the money and have the contractor come out and do the work.

Mr. Winger reported that there will be an Indian River Lagoon Coalition meeting in Sebastian on Friday and requested that someone from staff be present for the meeting.

Mr. Howle noted that some of the grants have expiration dates. He asked what those expiration dates were.

Mr. Bolton explained that one grant is good until March 2017 and with the second grant awarded the monies would only be available in 2016-2017, which means they probably would be able to take advantage of 70% of that grant money. However, he is trying to extend the expiration date.

6. PUBLIC NOTICE ITEMS

None

7. CITY CLERK'S MATTERS

Mrs. Vock reminded the Council that she was trying to set up a City Council workshop on January 26th to discuss foals for the Charter Officers. She reported that Councilmember Winger appointed Mr. Stephen Lapointe to the Utilities Commission.

Mr. Winger said he was interviewing some candidates to serve on the Finance Commission. He asked Mrs. Vock to go over some of the openings that they currently have on their Boards.

Mr. Old explained the reason for this workshop was to come up with some guidelines on how they judge the three Charter Officers that report to them. He said they have to do reviews on them and they (City Council) need to figure out a process. The other item for that meeting was to talk amongst themselves on what they would like to see get done this next year.

Mayor Kramer told Council if there are any items that they would like to discuss that they need to get those items to the Clerk to put on the agenda.

8. CITY MANAGER'S MATTERS

1) Discussion Regarding Potential Elimination of Electric Utility Impact Fees

Mr. O'Connor reported that they have put into abeyance the collection of electric utility impact fees while waiting for direction from the City Council. He said it is all predacted on the fact that they could go back and tell contractors that the impact fee will be imposed if that is what Council chooses to do. The issue of impact fees came up when a study was done by their rate consultants. He said they are one of the few cities who still

have impact fees. He used Ft. Pierce as an example and said that they quit imposing impact fees many years ago. Council has been provided with the information regarding the revenue stream that it generates. In FY 14-15 it was \$129,110. The average revenue over five years is \$159,276. He said this is a small amount of money coming in for capital projects and he felt it could be made up in other areas. Also, when they do their rate structure analysis one of the things FPL does is shift some of their rates, which goes to the impact on the system users and has generated the revenue as opposed to impact fees. Staff feels that this impact fee should be eliminated. He has no problems taking this matter before the Utility and Finance Commission and then back to City Council.

Mr. Winger commented that he would not vote in favor of this today because it has not gone before the Finance and Utility Commission. He did not think it was important on what other cities are doing. He said they just need to look at what is important for this City.

Mrs. Turner made a motion to hold collection of those fees in abeyance before collecting them.

Mr. Mucher asked where did the impact fees go when they collected them. He was told straight to the Electric Fund and then into the Capital Fund. He questioned with the Capital Fund being decreased with the closing of the Plant so wouldn't the loss of this impact fee not have any impact on the rates.

Mr. O'Connor commented that even though they are closing the Plant there may be other capital items that need to be done. He reiterated that this is a relatively small revenue stream.

Mr. Mucher said as long as the money is spent on reliability he is happy.

Mrs. Turner restated her motion that they suspend the collection of electrical impact fees until a resolution is reached in their future.

Mr. Winger made an amendment to the motion that the impact fees would be held in abeyance, but the matter will be considered by the Finance and Utilities Commission and then come back to Council.

Mrs. Turner stated that was the intention of her motion.

Mr. Howle seconded the amendment.

Mr. Old seconded the motion and it passed unanimously.

**2) Reverse Osmosis Plant Water Treatment Facility Expansion –
Recommendation of Award – WS Project No. WS09009**

Mr. O'Connor reported that this award of this bid would go to expansion of the reverse osmosis at the Water Treatment Plant. He said they are trying to get out of the shallow wells and go to the deep wells for better water quality. He said the lowest bidder was Florida Design Contracts for \$2,379,000 and this is a budgeted item.

Mrs. Turner commented that in the analysis it talks about the annual cost savings for this RO, but she did not see any estimates or substantiation of these cost savings that they are going to be utilized for other projects.

Mr. Bolton explained the analysis was done years ago when they originally hired a consultant and he forgot to include it. He said they have a considerable amount of surficial wells that need constant maintenance and with this expansion it will cut back on the maintenance of those wells, along with the fact when you are running those wells you are not getting a whole lot of water out of them compared to running one floridan well, which we get a lot of water out of. He said there will be about a \$200,000 cost savings.

Mrs. Turner asked Mr. Bolton to provide a copy of his spreadsheet for Council and include it in the record for this item.

Mr. Bolton mentioned that they did receive grant money from St. John's Water Management District for this project.

Mr. O'Connor pointed out the water quality will be improved.

Mrs. Turner asked Mr. Bolton if he anticipated any service interruptions for their customers in the implementation of this system. Mr. Bolton answered no. Mrs. Turner commented that she did not see any time schedule included in the backup material. Mr. Bolton stated that the contractor expects 240 days on site and the total contracted is estimated at 430 days from when the contract is signed. He said this fits in with the grant money that expires in September, 2017. Mrs. Turner noted that when the bid tabulation was done she did not see any comparison from the different vendors on how long each one of them anticipated the project to take. She said it is important to include this information.

Mr. O'Connor commented that they received bids from five (5) different contractors and the bids were very close. They went with the lowest bidder who is Florida Design and has done work for the City in the past and they have always been happy with their work.

Mrs. Turner made a motion to award this bid to the low bidder, Florida Design Contractors, Inc., in the amount of \$2,379,000. Mr. Winger seconded the motion and it passed unanimously.

9. CITY ATTORNEY'S MATTERS

Mr. Winger was amazed at the stack of documents regarding the City's position in the short term rental case for Mr. Fitz.

Mr. Coment expressed there will be more paperwork forthcoming because Mr. Frost has asked for information from Mr. Fitz's attorney. He gave a brief update on this case.

Mrs. Turner asked Mr. Coment what the significance was of the notice they received for supplemental authority.

Mr. Coment explained what that means is after a case is filed and more information is found, this is just a method of getting in front of the Court.

10. CITY COUNCIL MATTERS

A. Old Business

1) Discussion of Stormwater Utility – Requested by Councilmember Harry Howle

Mr. Howle wanted to speak about the stormwater utility, which was to be brought forth in a 2016 agenda. He wanted to bring up his concerns for this utility before the City gets started on it. He said a lot of concerned citizens have approached him in regards to the creation of this utility. Some of their concerns are that it creates regressive tax much like the utilities they pay today. It would be a greater percentage of the income of a poor or middle class family as opposed to someone that is very well to do. This helps to drive people away in this community that they want and need, which is unfair. It also bypasses the homestead exemption that these people might have. It is also something that they have seen so many times before, it will never go away. In fact it will likely grow and the cost will also grow. There is a question in his mind about the previous area for commercial businesses. He said commercial businesses are also going to be paying for this utility and it is based on pervious area. He felt that there were some businesses with large parking lots that will be paying hefty fees with the way that this has been proposed to be structured. The City already has a system in place that takes care of this stormwater and that is in the Public Works Department. The Public Works Department is funded by the General Fund and subject to the General Fund process.

Mr. Howle made a motion that any and all stormwater projects brought forth are handled by Public Works and are funded by the General Fund in its process. This is the system that is already in place. Mrs. Turner seconded the motion.

Mr. Winger commented that they have no idea what this will look like until after the study has been completed. At this point in time there is no money in this year's budget to cover the stormwater project. If they would have kept going at the rate of spending \$400,000 a year it would take them 19 years to get to 67% of the outfalls. Right now they are at 37% and they will fall short of the State mandates for what they put into the river. This is an issue of the river. He said that this could go away if they had it by being sunsetted. It is not necessarily a fee on the utility bill, but that has not been decided yet. They also do not know what the fees will be at this point. In the case of his particular

house he would pay no fees because when he built his house he made sure it was completely self sufficient and no water goes anywhere. They know that the septic tanks and the runoffs are the two (2) largest issues they have. Beyond that all of the surrounding cities, Ft. Pierce, Sebastian, etc., have stormwater utilities. This has to be done and if they take the money out of the budget that would be difficult because the budget is extremely thin. If they tried to pay for this with the existing budget then that would mean layoffs of lifeguards, police officers or projects delayed in the Recreation Department. He said this is one of those things that it takes long term consideration. They have talked about having a referendum on it. He has talked to a lot of people in favor of having a stormwater utility. He felt that this whole discussion will run all the way through the budget sessions on how they should handle the stormwater utility and the streets. To make a motion at this point in time to kill something that you don't understand is premature. He said all water goes into the Lagoon so everything that comes off the streets, yards, etc., goes into the Lagoon. He respected Mr. Howle's opinion on this and felt that he was not suggesting that they not do something about stormwater. If he was suggesting that they should do something about stormwater and it should be done by ad valorem taxes then there would be an unfair tax. They would be putting it on the working people when much of the problem is institutions around the City that don't pay taxes. He said Mr. Howle campaigned in favor of the Lagoon and he was more than willing to have a mature conversation about this. He will vote no to something that kills it today.

Mayor Winger opened up the discussion to the public at 11:11 a.m.

Mrs. Deborah Eckert was not sure why this program was a subject for debate. The purpose is to install devices on City pipes to reduce solid waste flow into the Lagoon. She said stormwater utility is not a new level of government. She asked if any of them could disagree that the Lagoon is a critical asset to their community. The baffle boxes this program installs are low tech and low in price. There would be an increase in taxes if this is funded out of the General Fund. She wondered if Mr. Howle was aware of a report done by Mr. Bill Messersmith some years ago. The report explains the purposes of this program. She read some excerpts from that report. She showed on the doc-cam where the outfall sites are and where the heaviest pollution is identified, which is the same location of where these outfall sites are. She felt if this matter went to referendum that it would be overwhelmingly supported. She asked that Council not consider dropping this.

Mrs. Turner commented that back in 2012, when she introduced the Fertilizer Ordinance to the City she engaged Dr. Widder's help and she brought her information to the City. In May 2013, she requested the City staff to prepare some quantitative scientific data of the amount of pollution in the outfalls. She said when reviewing the report that was done you will notice that the City of Vero Beach meets the DEP's 50% reduction of nitrogen and phosphorus. She said they not only meet that level, but they exceed it by almost 30%. She agreed they must take care of the Lagoon and this is not a place to stop. But she wanted to say that they have taken steps to quantify it, applied the science and are getting the best bang for their buck when spending taxpayer's money. She recently was walking her neighborhood and was looking at the flexi pave system and in four (4)

locations where they had been installed on Club Drive, they have been replaced. It is because the flexi pave is not sufficient for the water flow to go through and there was flooding in the neighborhood. She said when you look at these areas on the map, and you drive around Vero Isles the water flows right into the Lagoon from everyone's yard. She said there are a lot of things they can do in continuing to protect the Lagoon. However, the City of Vero Beach is less than one-percent of the entire watershed of this Lagoon. If they are going to do something they need to spend their money as effectively as they can and get the best results from it. There is no question that they should continue with the Lagoon projects and over the last five (5) years they have averaged spending over \$800,000 in stormwater projects. She said prior to 2011, there was a separate stormwater department, which cost the City \$700,000 a year and they were not getting anything more done. She feels the City has been effective in addressing the Lagoon and they will continue to do so. There is no need to create government in order to do it.

Mrs. Eckert thanked Mrs. Turner for her comments. She said that the Indian River Neighborhood Association (IRNA) thanks the Council for the efforts that they have made concerning adopting the Fertilizer Ordinance and creating a septic system plan that will remove the most effluent into the system. She said it is not only the properties located directly on the Lagoon, it also includes the whole inland area of residential properties. She felt there needed to be an increase of funding that goes into this program so it is complimentary.

Mr. Winger asked Mr. O'Connor how much is the stormwater project being done in McAnsh Park going to cost.

Mr. Monte Falls, Public Works Director, did not have the exact number, but said it was in the million dollar range for the total project.

Mr. Winger knew that there were two matching grants for this project totaling around \$540,000. He asked Mr. O'Connor where they were going to come up with the \$540,000 this year since this amount is not in the budget.

Mr. O'Connor stated that when they get closer to the time when those grants may be terminating and the Council says they are not going to do a stormwater utility then the money needs to come from Fund Balance for this one particular project or they don't do the project.

Mr. Winger commented that they have a project and he would hate to see them pass up \$540,000 in grant money to cure a major problem. He said what they are going to do is take \$540,000 from their cash reserve, regardless of their cash reserve policy that is not finished yet, and they are going to be spending this money. He asked Mr. Howle if he wanted to spend their reserves or does he have some way of reducing the City's expenditures enough to fund this.

Mr. Dan Stump stated that he does not think there has been an Ordinance adopted for a stormwater utility. He agrees there is a problem and everyone wants to save the Lagoon,

but he thinks they need more information. This should go before the Finance Commission and the Utilities Commission because no one knows what the costs are. He understands that Mr. Howle is suggesting shifting it to the Public Works Department, which is one area in the City, instead of eliminating it. He brought up the ongoing costs of litigation, which they don't know how much that will be. He said if this stormwater utility ever goes forward then it needs to be determined by referendum.

Mr. Winger agreed that they need to send this to the Finance and Utilities Commission for their review and not do anything today.

Mrs. Turner commented that they authorized this study on stormwater without any budget and now they have expended half of that money and the money was not even in the budget. She said that Mr. Winger seems to be concerned with cost spending when it suits his purpose. She suggested shutting it down now (not implementing the project) because they don't need it.

Mr. Winger said the money has already been spent.

Mr. Stump asked if the City was committed in spending the rest of the money for the completion of the study.

Mr. O'Connor explained that the contract has a termination clause in it. However, they will have to pay for services that have already been done.

Mr. Howle commented that the City meets their requirements as far as what goes into the river. He cannot stand behind something that creates more bureaucracy that will never go away. He said currently nitrate and phosphate remediation is taken care of by the Public Works Department and clearly based on the figures their part of the Lagoon is clean. One other point he wanted to make was the quote made by Mr. Winger that they can't look at what other cities are doing and they need to do what's best for Vero Beach. He said they need to look at what is the best interest of the people of Vero Beach, which he believes would be to keep this project under the control of the Public Works Department and under the General Fund budget process. He stands by his motion.

Mr. O'Connor clarified that they were not creating any more bureaucracy. He said the way this stormwater utility is being designed is the money would go to capital projects and not to City staff. He said when Mr. Howle states that the Public Works Department takes care of the stormwater project, then the budget would have to be realigned to include projects this year or projects they could do next year, but money would have to be put in the budget for the projects that Council wants done. He said that Mr. Howle was correct that the Public Works Department up until this point has taken care of stormwater utility and the money has been taken out of the General Fund at the sacrifice of other projects. He said there will be tradeoffs and that might include personnel (layoffs) or possibly delaying different projects in order to come up with \$500,000.

Mr. Mucher commented that the reason nothing is in the budget is because other than Mr. Howle and perhaps Mrs. Turner, Council played politics with the budget and the milage rate so badly and said that they would use stormwater utility money in order to accomplish certain projects. He said that is the reason there is nothing in the budget. The other problem he has is that the majority of Council have homes in the half a million dollar ranges and he doesn't believe that Mrs. Turner and Mr. Winger should pay the same amount that he would or someone else whose home is not worth as much as theirs is. They need to figure out a way to make it ad valorem. He also wanted to know the success or failure of the flexi pave project.

Mr. Winger told Mr. Mucher if they needed \$500,000 then they would have to raise taxes from 2.38 to 2.61. However, he did not want to see any tax increases. He said one of the things they know is that no one government can solve the Lagoon problem. What happens in this Country so often is we say let our "neighbor" handle the problem. He said their neighbor is Sebastian and Sebastian is facing these issues and facing them well. He felt that each government must do their share and their share is to do all of the outfalls that are on the map shown by Mrs. Eckert.

Mrs. Turner commented that Mr. Winger stated that their neighbors in Sebastian, Fellsmere, and Ft. Pierce are doing this. She asked Mr. Winger if he was trying to imply because these cities have a stormwater utility that they are addressing the Lagoon issues. She said all you have to do is drive to Ft. Pierce and observe what is being dumped into the Lagoon without any infiltration at all. She would question how many baffle boxes they have, what progress of their reduction of nitrogen and phosphorus have they made. She said if Mr. Winger is saying that these cities have done more than Vero Beach has because they have a stormwater utility then she would disagree wholeheartedly.

Mr. Winger told Mrs. Turner that he thought she was wrong.

Mr. Herb Whittall stated that he lives in Vero Isles and explained where baffle boxes are needed in this area.

Mr. Old commented that the idea of this tax is for those people who are causing the problem. The people polluting the Lagoon have an option to change the way the water hits their property by changing the surface and making it more able to absorb. Having a tax that is against those people who actually create the problem is the way this should be handled. He said they are only part way through the process. They don't know what the cost will be and how it is going to be set up. He said they are already part way to having the study done so they should finish getting the study completed and then bring this matter to a referendum. What is being suggested today is not take this concept to a referendum to let the public decide if they want a stormwater utility (we know better than the public so lets stop the project right now). He thinks that is premature. He said lets follow this all the way through.

Mayor Kramer stated his opinion on this was he doesn't like having to pay higher taxes with some large institutions not having to pay anything to help the Lagoon, which he

feels is wrong. He is not in favor of using this as a “great fundraiser,” but doesn’t want them to have to raise taxes. He said those people that pollute the most, should be paying the most.

Mr. Winger made an amendment to the motion to table this until after it goes to the appropriate Commissions, which is what has to happen. Mayor Kramer seconded the amendment.

Mr. O’Connor questioned what they were taking to the Commissions. Mayor Kramer said that they want the details as to what the costs are going to be, what the structure is going to be and how is it going to work. Mr. O’Connor said so they will proceed with the study and once they get the results take that to the Commissions. Mr. Kramer answered yes.

The amended motion passed 3-2 with Mr. Howle and Mrs. Turner voting no.

The main motion to move it forward to the Commissions passed 3-2 with Mr. Howle and Mrs. Turner voting no.

B. New Business

1) Requested clarification on Indian River Shores Valuation of Electric System – Requested by Mayor Jay Kramer

Mayor Kramer stated that he had a conversation with the Mayor of Indian River Shores (IRS) last week and he expressed some interest in gaining more understanding as to the valuation that Mr. Schef Wright came up with for IRS. He told the Mayor of IRS that he would take his request to the City Council to ask permission for Mr. Wright to be able to sit down with IRS’s representative to go over those numbers and explain them in greater detail. He said they could ask Mr. Wright to meet with Mr. Deeson (representative from IRS) in Tallahassee where they both reside so neither party would have to come to Vero Beach. He said this would expend a little bit of money so he needed to get approval from the Council.

Mrs. Turner commented that she thought it would be wonderful to have an open discussion and vote those numbers. However, she was concerned that as they have been dealing with these electric issues they keep running across a roadblock concerning propriety data and there is no way to verify those numbers. She said if that is the case then why go through this exercise and spend money.

Mayor Kramer explained that propriety data usually involves a third party. He said this request is about allowing IRS to ask questions and to get clarification.

Mrs. Turner explained what she was asking is this financial data verifiable. She assumes that someone has seen the backup material associated with the sixty-million dollar figure that was given to IRS. She questioned if the backup material was verifiable.

Mr. Old said that they have seen the backup material up to an 80% range. But, what they haven't seen is the technical side of how they project rates on oil prices, which is proprietary.

Mrs. Turner would agree to setting some type of spending limit, but she wants to know what the objectives of this conversation would be and that there is data that they can actually verify that will be of help.

Mr. Winger believed any party can sign an agreement and look at the data.

Mr. O'Connor said that was his understanding. He did not know how much of that information was propriety other than Mr. Harrington's numbers. He thought that Mr. Harrington would be able to share his numbers with another professional. The declaration could be signed by a representative for IRS, but he doesn't know if it will be necessary.

Mrs. Turner asked Mayor Kramer if he had a clear objective of what will be accomplished by doing this.

Mayor Kramer explained that he was responding to a request made by IRS for clarification on this information.

Mr. Stump commented that as he understands it, FPL made an offer to the City for the purchase of IRS utilities and the City made a counter offer. Mayor Kramer told Mr. Stump that the City never made a counter offer.

Mr. O'Connor explained the sixty-four million dollar figure was what the impact would be to the City of Vero Beach to sell their IRS utility customers.

Mr. Stump understands the makeup of a contract.

Mr. O'Connor clarified that the City did not discuss the thirteen-million dollar figure with IRS. Their discussions were with FPL. They showed FPL how they came up with the sixty-four million dollar figure. He said FPL understood what the components were that the City was using. The negotiations were with FPL and not with IRS because IRS was not buying their system.

Mr. Stump wondered if this Tallahassee trip was necessary. He asked if they could just have an informal meeting between the Council and IRS.

Mayor Kramer explained the only reason that Tallahassee was mentioned was because both parties live in that area and they would not have to travel to Vero Beach.

Mr. Mucher did not have any problem further discussing the offer and clarification be made by both sides. He said from an outsiders view point it seems like someone from the

City gave Mr. Wright the job to come up with the safest number he could think of to not counter offer the thirteen-million dollar offer from FPL. He knew that FPL and IRS had information on their side why they felt the thirteen-million dollars was a fair number. So it probably is a good idea for them to talk. He said it doesn't seem right to him that Mr. Wright negotiates for the City with no marching orders from staff or Council. He felt when this meeting is held there needs to be more people in the room than just these two people. It just seems like it needs to be more of an open process. He felt a little bit more transparency was in order.

Mr. Winger asked Mr. O'Connor if the sixty-four million dollar figure included all the contingent liabilities.

Mr. O'Connor answered no. It did not cover everything that could be a potential liability.

Mr. Winger told Mr. Mucher that he felt the sixty-four million dollar figure was too low of a number. He said what Mayor Kramer is suggesting is that Mr. Deeson meet with Mr. Wright to understand how these numbers were derived.

Mr. Bob Auwaerter, Utility Commission member, explained there was a lot of discussion at the Utility Commission meeting about Mr. Harrington giving out the propriety numbers. He objected through the whole procedure that the Commission did not have the opportunity to review those numbers to see if there were any errors. This is a disservice by not letting the ratepayers see those numbers. He said there was nothing propriety about those numbers. He objected during the procedures as to why the Assistant City Attorney was letting them (Mr. Wright and Mr. Harrington) get away with this.

Mr. Winger made a motion to carry forth what Mayor Kramer is suggesting.

Mrs. Laura Moss, Utility Commission member, agreed with the comments just made by Mr. Auwaerter concerning what took place at the Utilities Commission meeting. She said that she and Mr. Auwaerter felt unsettled that they did not have all of the information when being asked to make recommendations on the OUC contract. She agreed that this information needs to be exchanged and asked if there was a way to do it publically. She asked if the meeting has to take place in Tallahassee, could there be a transcript made or is there another means of doing this to make it public.

Mayor Kramer did not have a problem with inviting both parties to come to Vero Beach and look at the numbers. It is just a matter of how much Council wants to pay to have this take place.

Mrs. Moss felt it was unfortunate that this was never discussed before the Utilities and Finance Commission. She said the large number just appeared. It would be nice if the expert would explain how the number was derived to the Utilities and Finance Commission. She would like to see this done in the public instead of just a conversation between two (2) experts.

Mayor Kramer suggested to Mrs. Moss that she put it on the Utilities Commission agenda and the experts can come and explain it.

Mr. O'Connor presumed that Mr. Deeson would be making a presentation back to IRS concerning the numbers.

Mr. Winger commented that it makes sense to let the experts talk. He said this is a highly technical matter and to do it in Tallahassee makes sense.

Mrs. Moss felt that having a transcript of the conversation between Mr. Deeson and Mr. Wright might be helpful and could be made public.

Mr. Winger made a motion to authorize the Mayor to have their expert staff meet with IRS's expert staff in their City residence, which is Tallahassee.

Mr. Howle asked if they could amend that motion to include a transcript. He made a motion that they approve the meeting of the two (2) professionals in Tallahassee as long as a transcript or recording is provided.

Mr. O'Connor suggested just having individual reports from each of the professionals as opposed to having a court reporter at their meeting.

Mr. Winger amended his motion that they are authorizing the Mayor to authorize their experts to meet with IRS experts in the general area of their domicile, which is Tallahassee, to facilitate IRS in understanding the valuation that the City brought forth. It will be the choice of the experts as to whether there will be two (2) reports coming back or just a consolidated report. He withdrew his previous motion. Mr. Howle seconded the motion with the caveat that this is transparent and they go with whatever the cheapest way to do it would be.

The motion passed unanimously.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

- A. Mayor Jay Kramer's Matters**
 - 1. Correspondence**
 - 2. Committee Reports**
 - 3. Comments**

Mayor Kramer brought up how their Council meetings are run. He has been thinking about changing where they have Public Comment on the agenda and putting it at the end of the meeting. This would enable them to get through their business sooner and then they can hear Public Comments after City Attorney's Matters. He said the public still has the ability to make comments on whatever matter they are discussing. He said that as they move through the year they will see a lot of zoning changes being made in updating their Comprehensive Plan and he hates to have attorneys sit through the whole meeting

waiting for their particular item to come up, not to mention whoever hired this attorney is having to pay them while they have to sit through the whole meeting. He said if it is okay with the Council they will try it next time around and have Public Comments heard after City Attorney's Matters.

Mr. Old thought that was an excellent idea.

Mr. Howle asked if it would be more reasonable to set a time limit as to how long someone can speak. He did not think that three minutes was enough time, but give them a reasonable amount of time to speak and it be done prior to Council's business.

Mayor Kramer explained that the problem with putting time limits in place is there are certain people who will get combative with it.

Mr. Dan Lamson, Executive Director of the Indian River Neighborhood Association, felt that this was a good idea and they need to give it a try. He said both the County and the City of Sebastian hear Public Comments after their public hearings have been heard. He said it might make their meetings go a little better.

Mr. Mucher felt this item belongs under New Business. He said the public had no way of knowing that this matter was going to be brought up.

Mr. Old asked if it is up to Council to set how these meetings are run.

Mr. Coment explained that it is in the Code, but amendments can always be made.

Mrs. Turner commented that moving Public Comment to a different place on the agenda will require a Code change in order to finalize it. If they are going to do it on a trial basis then it should be put on a future agenda for discussion.

- B. Vice Mayor Randy Old's Matters**
 - 1. Correspondence**
 - 2. Committee Reports**
 - 3. Comments**

Mr. Old brought up his membership on the Florida Municipal Power Agency (FMPPA). He felt that someone needs to take his place in representing this Agency and it should be someone that has not done it before. He suggested that it either be Mr. Howle or Mr. O'Connor. He recommended Mr. Howle because it would give him a good chance to learn about FMPPA.

Mr. Winger agreed.

Mrs. Turner told Mr. Old that she was perplexed as to why he would recommend someone who has not been involved with FMPPA to take this over when he has said

repeatedly how complicated FMPA is. She would think that he certainly would want someone who has had three (3) years of experience and is willing to fill that position.

Mr. Old explained when Mrs. Turner served as their representative on the Agency nothing positive ever happened.

Mr. Howle appreciated Mr. Old recommending him for this position. He said it has become clear that Mr. Old does not want to continue serving on the FMPA. He said if they need to have a replacement the most qualified person to serve on this Agency would be Mrs. Turner.

Mr. Winger felt that if they were not concerned with having an Elected Official serve on the Agency then it would be Mr. O'Connor. He recalled that Mr. Howle was engaged in a twenty-eight minute dialogue with Mr. Heady and it was largely about FMPA. He said since he has been on Council nobody has had any success with FMPA. He felt it was time for new blood.

Mrs. Turner objected to Mr. Winger's comments. She said they have seen some response from FMPA. She said there certainly is much more discussion then when she first started serving on the FMPA Agency.

Mr. Old made a motion that the representation on FMPA be changed from him to Mr. O'Connor. Mr. Winger seconded the motion.

Mrs. Turner objected to this. She said they have been fighting to have their utility represented by an accountable Elected Official. She said one of the real drawbacks of the FMPA is that they are setting rates without having an accountable elected representative at their meetings.

Mr. Howle mentioned that there is something strategic going on here, which he can't put his finger on, but it strikes him as odd. He felt that if a change is going to be made that it needs to be Mrs. Turner serving as their representative. She is the most qualified and he recommended that she be their representative to the FMPA.

Mayor Kramer commented that certainly it is "strategic." He said that is politics. Mr. Howle said he should have used the word "underhanded." Mayor Kramer said that all politics is underhanded.

Mr. Mucher stated that it seems to him that having this Agency made up of City Managers and Utility Directors is part of the problem. He said at one point there was progress in not only getting this City to have an Elected Official serve on the FMPA, but trying to get all of the other cities to have an Elected Official sit on the board. He then asked if procedurally items could be voted on that are brought up under Member's Matters.

Mr. Coment stated there are no restrictions saying that motions can't be made under Member's Matters.

Mr. Mucher felt that this should be an item on the agenda so the public is aware of it.

Mrs. Moss understood Mr. Old's request to leave this position. She said they need to keep in mind that they are not just changing a person, but changing an entire category going from an Elected Official to a City Manager. She felt this was highly inappropriate. She suggested discussing this matter at the upcoming workshop that they will be holding. She felt it was important to keep an Elected Official as their representative on this Agency.

Mayor Kramer commented that everyone needs to keep in mind that all the FMPA meetings are open to the public and minutes are taken and no information is withheld unless it is propriety.

Mr. Old commented that Mr. O'Connor wears two (2) hats. He is accountable and has experience. Those two (2) things would make him a good appointment to this Agency.

The motion to appoint Mr. O'Connor to the FMPA Agency passed 3-2 with Mr. Howle and Mrs. Turner voting no.

Mr. Old mentioned that he will be attending an upcoming FMPA meeting where the selection of a Committee to discuss the search for a new General Manager is going to be discussed.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner reported that she attended an Metropolitan Planning Organizational (MPO) meeting and they approved the Indian River County long range plan going out to 2040 for the road system. She said there still is a little controversy about expanding 43rd Avenue and they will be looking at some other options. She said All Aboard Florida was discussed and they should have received their 90% plans yet no one from Indian River County has received them to date. She said a final decision has not been issued on the environmental plan by DOT. She thanked everyone at the Heritage Center for making the New Year's celebration possible in their downtown and looks forward to having many more New Year celebrations held there.

D. Councilmember Richard Winger's Matters

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

Mr. Winger reported that he would be attending a Treasure Coast Council of Local Government's (TCCLG) meeting in the morning.

E. Councilmember Harry Howle's Matters

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

Mr. Howle reported that he attended the New Year's celebration held downtown and thanked everyone who worked so hard to put it together.

Mr. Howle brought up his concerns with the amount of people being injured when walking and riding bicycles in their streets. He said this has become a big problem in this area and making people aware of it is the first step. Things need to be changed and safety needs to be a concern.

11. ADJOURNMENT

Today's meeting adjourned at 12:26 p.m.

/tv