

**CITY OF VERO BEACH, FLORIDA
JANUARY 6, 2015 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Reverend Timothy Womack of First Presbyterian Church, 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 Randolph Old, 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

Mayor Winger requested that Attorney Schef Wright be added to the agenda to speak on the Town of Indian River Shores versus the City of Vero Beach Proposed Waiver Letter and Interim Mediation Agreement. He also asked that they move items 7-A) Update on the Selection of a Trial Attorney and 7-F) RFQ 190-14/JO – Electric Utility System Study and have these items heard at the same time.

Mayor Winger then requested that anyone at today's meeting wanting to speak on item 9B-1) To prohibit use of electronic cigarettes where conventional cigarettes are prohibited that they be allowed to speak under Public Comment.

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

B. Proclamations

1. Florida First Responder Appreciation Week – January 5-9, 2015

Mr. Kramer read and presented the Proclamation.

C. Public Comment

Mr. Brian Heady commented that he attended the meeting yesterday concerning the selection of a trial attorney. He noted that there were no Councilmembers attending the meeting and it was interesting that there were four (4) respondents and none of them were at that meeting so the public could ask them questions. He said that this involves the

electric issue and again the public was left out. He told the Committee yesterday that if they are going to hire a lawyer that there are some questions that need to be asked before a decision is made. He said one of the biggest concerns is that the electric rates in the City are high and they are about to get sued over those high rates. He felt the rates in the City are average when you look around the State. He thought for someone to sue them because their rates are too high is bizarre. However, he would like to have FPL rates. He remembers in 2008 when the City Council was presented with a contract (OUC contract) and the consultant told them at that time that the contract would give the City FPL rates or lower. He said that contract does not give them FPL rates because someone switched the contract. He said the numbers that were presented to the City Council at that time are not the numbers being used to establish their rates. He said if someone is going to be sued over the high rates then the responsible parties need to be sued and that would be the people who lied or changed the numbers that were blacked out in the contract. Another question that is being asked is whether or not the utility ratepayers living outside the City limits should vote in their election and he thought that could be solved by the City Councilmembers right now. He said all they have to do is agree that any item that involves the electric that the ratepayers can vote. There was a question as to whether or not the ratepayers were being denied their rights because they couldn't vote for a Councilmember. He said anyone that wants to have a vote for any elected office just has to contribute to someone's campaign and then they will have a vote. He suggested to end the Indian River Shores lawsuit they should allow the residents of Indian River Shores to vote in the Vero Beach City Elections. He said if that is what Indian River Shores wants then let them vote in the City Elections, but to keep things fair that the residents of the City of Vero Beach would be allowed to vote in the Indian River Shores Election. He said that there is not a need to hire another attorney. He said if their rates were comparable to FPL no one would be complaining.

Mr. Kramer commented that Indian River Shores was suing them because Florida Power and Light (FPL) could not because of contractual obligations.

Ms. Graves noted that Council agreed to allow Mr. Wright and Mrs. Spurlock to speak before opening comments up to the public. Mr. Wright was asked to come forward and be heard.

Mr. Schef Wright, Attorney, gave an update on the various legal proceedings. The City's petition for Declaratory Statement asking the Public Service Commission (PSC) to declare that the County's Franchise Agreement has no effect on the City's ability to continue serving once their franchise expires. This will be heard before the PSC on March 3, 2015. The County's petition for Declaratory Statement is still pending with the PSC and scheduled to be heard on February 3, 2015 and he will be prepared to present the City's position. He recalled that the mediation hearing was heard on December 17, 2014 and the outcome of that was a conceptual agreement that is now in writing and states that the Town of Indian River Shores will continue to abate its lawsuit until March 2, 2015 and the City will not object to either the Town or the County investigating alternative electric providers. The City will continue doing everything they have been doing, which includes trying to lower rates, pursuing a referendum, negotiating with

OUC, doing a utilities rate study, proceeding with an optimization study, and anything else they can do in order to lower rates. He said they have a copy of the mediation agreement and the waiver letter and recommended that Council approve them at the proper time in the meeting.

Mrs. Turner commented in reviewing the waiver letter she did not see anything about contacting FMPA/OUC to make sure that FMPA/OUC do not accuse anyone with interfering with existing contracts. She recalled during the mediation hearing it was noted that FMPA/OUC would need to also submit a waiver letter. She asked Mr. Wright if a letter has been sent or drafted to be sent.

Mr. Wright answered no. He said that both Mr. Dylan Reingold, County Attorney, and Mr. Bruce May, Indian River Shores Attorney, have agreed to the waiver letter that they have before them and he does not see that FMPA has any cause of action regarding this because their contracts are completely with the City. He knows that FMPA was mentioned at the mediation hearing, but then the attorneys realized that FMPA does not need to be involved.

Mrs. Turner asked Mr. Wright if they have agreements to that fact from the County and Indian River Shores.

Mr. Wayne Coment, City Attorney, agreed that FMPA and OUC were both brought up at the mediation hearing and it was the choice of the County and Indian River Shores to exclude them from this letter.

Mrs. Turner did not remember the discussion occurring that way and still believed that they needed to make sure that is clarified.

Mr. Wright added that the different attorneys exchanged emails concerning this letter and that is the letter that they have signed.

Mrs. Turner still asked that they require waivers from both FMPA and OUC.

Ms. Graves referred to the mediation agreement, page 2, number 6, where it states the City will provide a report on the status of efforts to lower rates. She asked if they could also get a report from FPL and find out where they are concerning the sale.

Mr. Wright did not feel that it needed to be part of this agreement, but he will be talking to them and was sure they would provide something. Ms. Graves wanted to hear any ideas that FPL may have come up with that the City has not entertained.

Mayor Winger commented that it seems like the City has offered many things in order to settle the lawsuit.

Mr. Wright agreed. He said they have been trying to lower rates with the constraints they have. At this time, the discussion of the selection of the trial attorney took place. Mr.

Wright expressed that he was not a civil trial attorney. If this case is going to go to court and the City wants to defend it then they need to hire a trial attorney. There was Request for Proposal (RFP) sent out and the City received four responses back. The Selection Committee (Mr. Schef Wright, Mr. Jim O'Connor and Mr. Wayne Coment) met yesterday to discuss their rankings (on file in the City Clerk's office) and after discussion settled on the consensus to recommend to Council to hire the law firm of Frost Van den Boom Frost, who have offices in Bartow and Gainesville. He said this is a very successful law firm.

Mr. O'Connor explained later on in the meeting, staff will be asking Council to approve their recommendation and allow him to bring back a letter of engagement from this firm.

Mr. Old felt that this lawsuit had the potential of being very big and wondered if this firm would be able to handle it.

Mr. Wright was confident that they could. He said that he would continue handling the utility issues.

Mr. O'Connor explained that they are hiring a firm that specializes in what the City needs at this time. He said if other specialization is needed down the road, they can always bring on someone else at that time.

Mayor Winger commented that one of the other firms who submitted a proposal charged twice as much hourly as this firm does.

Mr. O'Connor told him that was correct and he did not think that the City needs all of the expertise that this larger and more expensive law firm has to offer.

Mr. Tom Richards, Utility Director, discussed the Electric Utility System Study. He said that an RFQ went out that specified the procedures for selection of Professional Engineering Services in accordance with Florida Statutes 287.055. The City received eight (8) responses to the RFQ and on the December 4, 2014 the Evaluation Committee (Mr. Scott Stradley, Mr. Ted Fletcher, and Mr. Tom Richards) met and ranked all firms and determined to interview the top four (4) firms. Subsequently, Black & Veatch notified the City that they were withdrawing from the process due to a possible conflict of interest. On December 15, 2014, the Evaluation Committee interviewed the remaining top three firms: Power Services, GDS Associates, and Burns & McDonnell, and would recommend to Council that they instruct staff to commence negotiations with the top ranked firm, in accordance with Florida Statues 287.055.

Mrs. Turner commented that this is going to be a large contract and in reviewing the rankings there was no set criteria on how the firms were evaluated. She expected to see some firm criteria and evaluation of each firm.

Mr. Richards briefly explained the detailed ranking that was used in coming up with their top choice firms.

Mrs. Turner requested to see the backup material on how this was developed.

Mrs. Turner went back to the selection of legal services and said the ranking for the firms was a joke. She said talking to someone on the telephone is not an adequate evaluation.

Mr. Wright explained that Mr. Frost would be attending their meeting on January 20th and Council will have the opportunity to talk with him at that time.

Mr. Heady requested to make some comments while Mr. Wright was still present for the meeting.

Mayor Winger told Mr. Heady that he was not going to recognize him and he must abide by the order of the speakers as agreed upon by Council.

Mr. Wright stated that he knows at least five (5) of the principles who work for Power Services and offered his personal support for the company.

Mrs. Turner made it clear that her issue was not with Power Services. The question is the documentation. They (City Council) are public servants and have to do their job and justify the decisions they make.

Mayor Winger stated that management is getting things done through others. He said the City has a team that Council has appointed and the team's Captain is Mr. O'Connor. He did not want to get back into the system they had a number of years ago where every question is looked at in great detail by the City Council. He said Council is not equipped to do that and he has confidence in Mr. O'Connor and the people selected to be on this Evaluation Committee, which consisted of Mr. Wright and Mr. Coment. He said unless there is some grievous reason, he feels the job needs to get done through the people they have appointed to do it.

Mrs. Turner told the Mayor it was not a grievous reason. It is about transparency and the responsibility that Council has in handling the taxpayer's funds.

Mrs. Leslie Spurlock, Tobacco Prevention Specialist with Tobacco Free Partnership of Indian River County, told Council that she thought prohibiting the use of electronic cigarettes is a wonderful idea and she applauded them for doing that.

Mr. Bob McFarland spoke on electronic cigarettes and said kids see these things and want to give them a try. He said people are puffing on electronic cigarettes where tobacco use is not allowed. Cigarette companies are in cahoots to get them to use these products, which is hampering the efforts to reduce cigarette smoking. He said these electronic suppliers want be like tobacco products, but don't want to follow the guidelines of the use of tobacco.

Dr. Hummel recalled that this Council looked at prohibiting electronic cigarette where conventional cigarettes are prohibited, but at that time did not feel it was the right time to do it. He said it is the middle school students' number one use and the number two use for high school students. He said that when someone takes these devices out and is puffing on them one doesn't know what is in the device. He was talking about other drugs. He mentioned a recent City that banned the devices throughout their whole community.

Ms Vicki Soule stated that "an ounce of prevention is worth a pound of cure."

Mr. Brian Heady thanked Mrs. Turner for bringing up FMPA and signing the waiver. He said if FMPA has no cause of action then they will have no problem signing the waiver. He said Council should insist on it and not listen to poor legal advice. He said regarding the rate study their rates are too high – study over. He just saved the City a couple hundred thousand dollars. He brought up that Mayor Winger chastises people for not supporting his views. He thanked Mrs. Turner for the different points that she brings up.

Mr. Mark Mucher, 617 Indian Lilac Road, commented that it seems to him that FMPA would be concerned about Indian River Shores wanting to get out of providing City utilities to their customers because this could affect their bond holders. He thought they (FMPA) would have some interest in this and sign the letter. He looked at the backup provided for the new Electric Utility System Study and said the leading person from Power Services (recommended choice) was employed in Leesburg for many years, whose rates are even higher than the City of Vero Beach. He said this person was also at one time the President of the FMPA. He doesn't doubt that the Selection Committee did their job and ranked them accordingly, but he had some concerns with the Principle attached to this firm.

3. CONSENT AGENDA

- 1. Regular City Council Minutes – December 2, 2014**
- 2. Organizational Minutes – November 17, 2014**
- 3. Special Call City Council Minutes – December 17, 2014**
- 4. Municipal Elections Agreement**
- 5. Commercial Lease Agreement between the City of Vero Beach and the Honorable Debbie Mayfield for the Rental of City Hall Office Space**
- 6. Indian River Farms Water Control District Permit and Interlocal Agreements**

Mrs. Turner noted that the annual lease for the rental space to Representative Mayfield had expired. She wondered why it was not presented to Council earlier. Mr. Coment explained that the agreement had been in Representative Mayfield's office and once they received it, it was put on the City Council agenda.

Mrs. Turner asked about the dates on the Indian River Farms Water Control District Permits being stricken through and changed. Mr. Coment explained that he made the dates on the agreements retroactive back to what is owed to Indian River Farms. He needed to do this in order for the Finance Department to issue a check for the obligated pay rates.

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

4. PUBLIC HEARINGS

A) ORDINANCES

- 1. An Ordinance of the City of Vero Beach, Florida, Amending the Text of the Land Use Element of the Vero Beach Comprehensive Plan to include an Objective and Policies for the Original Town Neighborhood and Technical Appendix IV; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning and Development Director**

Mayor Winger read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, reported that the Ordinance was approved for transmittal to the Florida Department of Economic Opportunity (FDEO) and other state, regional, and local agencies, and is now ready for final adoption by the City Council. He asked that some minor amendments be made to the Ordinance. In Exhibit A, Policy 12.6: Change the date for completion of the draft report from “July 15, 2015” to “December 31, 2015;” and in Exhibit B, page 7: Change the date in line 3 of the first complete paragraph on page 7 from “July 15, 2015” to “December 31, 2015.” Mr. McGarry expressed this year staff will be working on the major update to the Comprehensive Plan and some of the analysis required for this report will also be done in preparation of updating the Comprehensive Plan. He recommended adoption of the Ordinance with the proposed amendments to Exhibits A and B.

Mayor Winger opened and closed the public hearing at 10:36 a.m., with no one wishing to be heard.

Ms. Graves made a motion to adopt the Ordinance with the proposed amendments to Exhibits A and B. Mayor Winger seconded the motion and it passed 5-0 with Mr. Old 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 Section 2-301, Subsection 2-302(C), and Section 2-303 of the Code of the City of Vero Beach, Florida, Relating to Code Enforcement Board Hearings; Hearing Notices; and Interpretation of Code Provisions; Providing for Conflict and Severability; Providing for Codification; Providing for an Effective Date. – Requested by the City Attorney**

Mayor Winger read the Ordinance by title only.

Mr. Coment stated that this would be the final public hearing on this Ordinance. The reason for passage of this Ordinance was for clarification of who can interpret the Code. He said clarification has been added since Council approved the Ordinance on first reading. He has included designated administrative authority and it has been defined at the end of the Ordinance and made it clear that it does not include the Code Enforcement Board. He brought this Ordinance up and discussed it with the Code Enforcement Board and they were split as to whether or not they thought it was a good idea, but understood where Council was coming from.

Mrs. Turner commented that she has not seen the Code Enforcement Board minutes, where this item was discussed. She felt before they voted on this Ordinance that the minutes should be made available to Council. She wanted to table the Ordinance until Council has had time to review the Code Enforcement Board minutes. The motion died for lack of a second.

Mayor Winger opened and closed the public hearing at 10:41 a.m., with no one wishing to be heard.

Mr. Kramer asked if the Code Enforcement Board made a recommendation. Mr. Coment said they did not take a vote on the matter. He said there was just some discussion that took place and they understood that the Ordinance was going to be adopted by the City Council.

Mr. Kramer made a motion to adopt the Ordinance. Mayor Winger seconded the motion and it passed 4-1 with Mr. Old voting yes, Ms. Graves yes, Mrs. Turner no, Mr. Kramer yes and Mayor Winger yes.

3. An Ordinance of the City of Vero Beach, Florida, Amending Chapter 60, General Provisions, and Appendix, Definitions, of Part III, Land Development Regulations, in the Code of the City of Vero Beach, in order to provide Clarification and Updating of certain Text and Definitions; Providing for Conflict and Severability; Providing for Codification; Providing for an Effective Date. – Requested by the Planning and Development Director

Mayor Winger read the Ordinance by title only.

Mr. McGarry reported that the Ordinance that Council has before them is a revised version from the Ordinance they discussed at their December 2nd meeting. The final revised version of the Ordinance represents input from the Planning and Zoning Board at its December 18th public hearing and outside counsel and revisions by the City Attorney and himself. He explained it has been staff's consensus, as well as their outside attorney, that the District Court of Appeals ruling was based on the presumed authority of the Code

Enforcement Board to interpret the City Code. The Court's decision was not based on the merits of the City's position, nor did it invalidate the City's historical prohibition on vacation rentals in residential zoning districts. Council directed the City Attorney to prepare this Ordinance amending the Land Development Regulations to address the recent dispute regarding interpretation of the City's prohibition of vacation rentals in residential zoning districts. The text amendments related to vacation rentals clarify, but does not in any way modify the City's historical interpretation and application of its regulations prohibiting short-term rentals in its residential zoning districts. Therefore, this clarification does not materially change the City's existing regulations related to vacation rentals that were in full effect prior to June 1, 2011. He said the most significant amendments included were in Section 60.05, the list of zoning districts has been corrected and updated to reflect the current list of zoning districts, in Section 60.06(a) specific language has been inserted that explicitly states that if a use is not listed as a permitted, conditional or special permit use in a zoning district, it is prohibited and in Chapter 60 the definitions were made more clear and some new definitions were added. Mr. McGarry passed out a memo outlining a revision to the definition of the term "Guest House and Transient Quarters." He said that staff recommends the following revised definition of the above term presented on page 6 of the Ordinance: Guest hours and transient quarters. Any structure, including converted dwellings in which less than ten bedrooms, with or without meals, is rented or otherwise provided for compensation to transients for their temporary care and lodging. The Planning and Zoning Board approved five substantive amendments to the Ordinance, which involved revisions to the definitions of "floor area," "guest house and transient quarters," and "Transient occupancy." The Planning and Zoning Board unanimously recommended approval of the Ordinance as amended at the public hearing for submittal to the City Council. Mr. McGarry commented that once this Ordinance is adopted that his staff will become more proactive in enforcing it.

Mayor Winger opened the public hearing at 10:47 a.m.

Mr. Mark Mucher commented that if you read the title of the Ordinance it doesn't give anyone a clue that they were discussing short-term rentals. He suggested in the future that the public be given some idea as to what is being talked about.

Mrs. Turner understood that they have been dealing with these short-term rental issues for quite some time now and realizes that there was some push to move this forward as quickly as possible. However, she was concerned about Council setting precedence in hearing Ordinances prior to them going before their Advisory Boards for review. She hoped in the future that they would take matters coming to Council to their appropriate Boards for their input, before they are brought to the City Council.

Mr. McGarry agreed that Mrs. Turner's suggestion was very valid and it was brought up at the last Planning and Zoning Board meeting.

Mrs. Turner did not want any of their Boards to feel disrespected and they need to know that Council does value their input.

Mr. Old asked Mr. McGarry in terms of the internet and advertising short-term rentals, what can they do about that.

Mr. McGarry said his staff would be using some of the things found on the internet to identify where these short-term rentals are located and take appropriate action.

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

B) RESOLUTIONS

1. A Resolution of the City Council of the City of Vero Beach, Florida, Amending and Adopting the City of Vero Beach Personnel Rules, Appendix "B," "Drug-Free Workplace Policy;" Providing for an Effective Date. – Requested by the Human Resource's Director

Mayor Winger read the Resolution by title only.

Mr. O'Connor reported the City's Drug Free Workplace Resolution is being revised to incorporate a few changes that have occurred in the Florida Drug Free Workplace Statute, as well as some issues that have occurred in Risk Management with their post accident testing. The changes include incorporating the DOT safety sensitive CDL driver testing provisions mandated by the Federal Regulations, as well as the Mandatory Testing positions and changes to the Resolution would bring the City into conformance with the Florida Workers' Compensation Drug Free Workplace Program.

Mayor Winger opened and closed the public hearing at 10:52 a.m., with no one wishing to be heard.

Mrs. Turner commented that she spoke to the Human Resources Director about this Resolution and was told that these were just updates that they needed to make in accordance with state law.

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

2. A Resolution of the City Council of the City of Vero Beach, Florida, Requesting Governor Rick Scott to Task the Department of Economic Opportunity with providing funding to The Florida Department of Transportation ("FDOT"), or to otherwise facilitate appropriation of funding for the FDOT, to assist Local Governments on Florida's Treasure Coast with matching funds to retrofit FDOT Stormwater Outfalls with modern pollution reducing technology to help alleviate pollution from

**entering the Indian River Lagoon; Providing Direction to the City Clerk;
Providing for an Effective Date. – Requested by Mayor Richard Winger**

Mayor Winger read the Resolution by title only.

Mr. Coment reported that the Mayor requested this Resolution come before Council. The Resolution initially came from the Treasure Coast League of Cities and he made some minor changes to the Resolution.

Mrs. Turner was surprised to see the Department of Economic Opportunity involved in this process, but agreed that if funding was available that they should pursue passing the Resolution in order to receive it.

Mayor Winger opened and closed the public hearing at 10:55 a.m., with no one wishing to be heard.

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

3. A Resolution of the City of Vero Beach, Florida, Authorizing the Purchase of City Fleet Vehicles; Authorizing the Execution and Delivery of Additions to the Municipal Lease-Purchase Agreement with Baystone Financial Group (Kansas State Bank of Manhattan, N.K.A. KS State Bank) for the purchase of fleet vehicles in the amount of \$961,643; Authorizing the City manager to take all steps necessary to finalize and implement the Terms and Conditions of the Lease-Purchase Financing Agreement; And Providing and Effective Date. – Requested by the Finance Director

Mayor Winger read the Resolution by title only.

Mr. O'Connor reported that in recent years the City has been hesitant to update their fleet. By passage of this Resolution it will allow them to take steps in purchasing new fleet vehicles and it fits within their five-year capital plan.

Mayor Winger expressed that it has an additional cost of interest over a period of years and asked what the number is.

Mr. O'Connor said it would be around \$49,000 worth of interest, which is the cost of doing business. The interest rate is low at 2.6%. He made it clear that the City was not increasing the size of their fleet. The cars that will be replaced will be sold at auction.

Mayor Winger opened and closed the public hearing at 10:57a.m., with no one wishing to be heard.

Mr. Kramer questioned if the City was moving away from purchasing vehicles and now going to lease them.

Mr. O'Connor explained it would be a lease/purchase and then at the end of the term of the lease the City would own the vehicles.

Mrs. Turner noted that they were replacing 16 Police Department vehicles. She asked how many other vehicles they have. Mr. O'Connor was not sure of the answer.

Ms. Cindy Lawson, Finance Director, stated that the City had budgeted to replace 16 police vehicles over the next four (4) years with an outright purchase. However, what they determined was that to replace all 16 of the vehicles, it would be cheaper to do it this way then what was budgeted for over the next four (4) years.

Mrs. Turner was trying to find out if they were replacing the whole fleet of vehicles at one time and would cause them to have a big expense down the road.

Ms. Lawson explained that the Police Department was one of the few departments where they had actually continued to replace vehicles over the last five years. She thought this was the tail end of what the department needed for the next four or five years because they have been consistently replacing their vehicles.

Mrs. Turner referred to the memo from Mr. Monte Falls dated December 22, 2014 and did not understand the statement made, "The vehicles in this first group average 15 years old, and in the final replacement year that group of vehicles will be 10-11 years old."

Mr. Monte Falls, Public Works Director, explained it meant that they would be replacing the oldest vehicles first.

Mrs. Turner had a question about the brands of vehicles. She found it interesting that they were buying a Chevy ½ ton truck and a Ford ½ ton truck. They were buying a Chevy cargo van and a Ford cargo van. They were buying Nissan mini-vans and Ford mini-vans. She wondered if this was strictly preference to the departments that are using these vehicles as to what brands they are purchasing. She would think for consistency maintenance they would want to stay with the same brand of vehicle.

Mr. Falls explained that the vendors approved came from the State and Sherriff's contract.

Mrs. Turner did not understand if the Ford ½ ton truck was a good price then why they were buying a Chevy ½ ton truck also. She asked wouldn't they just buy two (2) Ford ½ ton trucks. She said that rationale doesn't make sense.

Ms. Lawson added that under the State and Sherriff's Association contracts that each vehicle that won a bid was for very specific vehicle specifications. She would break the

information down and show the differences on the various vehicles that they are going to purchase and provide the information to Council.

Mayor Winger opened the public hearing at 11:04 a.m.

Mr. Mark Mucher commented that not only pricing the dollar from a fleet management standpoint, the standardization of parts would be a good cost factor rather than having to have parts on hand for two (2) different brands of vehicles.

Mr. Falls expressed that what drove them to this process was they were looking at ways to get their fleet vehicles to an age where they didn't have to have major repairs and had some value at the end of the lease period. This would give them vehicles for the first five years that will be under warranty so the maintenance on those vehicles for the first five years would be very minimal.

Mrs. Turner asked if the plan at the end of the lease would be to auction off these vehicles.

Mr. Falls explained the whole goal was to try to find ways to get their fleet cost down and in order to do that the maintenance cost has to be cut.

Mayor Winger closed the public hearing at 11:07 a.m., with no one else wishing to be heard.

Mr. Kramer also wondered about the decision process of picking one vehicle over another. He asked if the buying process is such that they just go with what the State contract recommends.

Ms. Lawson reiterated that it is specification based and the State determines the vehicles based on the needs that were identified to them. She explained that the State handles the bidding process, which allows the local governments to purchase the vehicles at those same prices without having to go through the bidding process themselves. It is a cheaper process for purchasing these vehicles then for the City to do it themselves.

Mrs. Turner had no problem with the State contract. She said what she was concerned about was the City's preference in selecting the vehicle brands. She just wanted to make sure that they were doing things properly. She asked to see the specifications for the three vehicles where they bought two (2) different brands. That would be the mini-vans, the cargo vans, and the ½ ton trucks.

Ms. Graves made a motion to approve the Resolution. Mr. Old seconded the motion.

Mr. Kramer asked if there was a huge problem if they did not move forward with passing this Resolution right now.

Ms. Lawson explained that the bid would expire on this pricing at the end of the week.

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

At this time, Council took a short break and the meeting reconvened at 11:25 a.m.

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

- A) An Ordinance of the City of Vero Beach, Florida, Amending the Section 30-3 of the Code of the City of Vero Beach, relating to Eligibility and Qualifying for Election to The Office of Councilmember; Providing for Conflict and Severability; Providing for Codification; and Providing for an Effective Date. – Requested by City Attorney (Public Hearing January 20, 2015)**

Mayor Winger read the Ordinance by title only.

Mr. Coment reported that this Ordinance amends Section 30-3 of their current Ordinance dealing with City elections. The Ordinance would eliminate the filing of the “Loyalty Oath” previously required by Section 876.05, Florida Statutes, which requirement was deleted by the Legislature. The “Oath of Candidate” is still required pursuant to Section 99.021, Florida Statutes. The Ordinance also modifies the “Notice of Candidacy and Affidavit of Candidate” so that it clarifies and comports with practice; and adds a new subsection (c) to provide that the City Clerk may accept candidate papers early, which is similar to procedures authorized by Statute for the Supervisor of Election. The new subsection (c) also clarifies that the City Clerk has authority to accept campaign financing and reporting papers for filing pursuant to Chapter 106, Florida Statutes.

Mayor Winger opened and closed the public hearing at 11:26 a.m., with no one wishing to be heard.

Mr. Kramer made a motion to set the public hearing for this Ordinance on January 20, 2015. Ms. Graves seconded the motion and it passed 5-0 with Mr. Old voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

6. CITY CLERK’S MATTERS

- A) Commission/Board Appointments**

Mrs. Vock commented that she has received requests to have alternates serve on the different Council Committees in case one of them is unable to attend one of their meetings.

Mrs. Turner expressed the many Committees that most of them already serve on and she was not willing to commit to having to serve on any additional Committees.

Mr. Kramer recalled that he had mentioned this to the Clerk. He sometimes has a problem with attending the County Economic Development Council because they meet is on the same day as Council meetings. He was not necessarily asking that a Councilmember be the alternate.

Mayor Winger said that he could be an alternate for Ms. Graves on the Beach and Shores Committee and Ms. Graves could be his alternate on the Treasure Coast Council of Local Governments.

Mrs. Turner felt that it should be the discretion of the Councilmember if they want to ask someone to sit in on a meeting as a non-voting member when they are unable to attend.

Mrs. Vock continued by saying that there are some openings on some of their Boards and Commissions.

Finance Commission

There is an alternate position open on the Finance Commission. Council has received an application from Mr. Victor DeMattia to serve on that Commission.

Mr. Kramer made a motion to appoint Mr. Victor DeMattia to the Finance Commission as an alternate member. Mr. Old seconded the motion and it passed unanimously.

Code Enforcement Board

There are two full positions and two alternate positions open of the Code Enforcement Board. Applications on file are from Mr. A. Craig Fletcher, Captain Jeffrey M. McGann, and Mr. Dennis Webb.

Mayor Winger made a motion to appoint Mr. A. Craig Fletcher and Captain Jeffrey M. McGann as full members and Mr. Dennis Webb as an alternate member. The motion was seconded and passed unanimously.

Planning and Zoning Board

There is one alternate position open on the Planning and Zoning Board. Mr. Richard Cahoy currently serves on the Board as Alternate #2 and would like to be moved up to Alternate #1.

Mayor Winger made a motion to move Mr. Richard Cahoy up to Alternate #1 on the Planning and Zoning Board. Mr. Kramer seconded the motion and it passed unanimously.

7. CITY MANAGER'S MATTERS

A) Update on the Selection of a Trial Attorney

This item was briefly discussed under Public Comment.

Mr. O'Connor reported that the Evaluation Committee recommended Mr. John Frost be hired as their trial attorney. He would like the Council to acknowledge that and allow him to bring forth a letter of intent.

Mrs. Turner asked what criteria was used to select Mr. Frost.

Mr. O'Connor expressed that several things were looked at. One of the things was experience in trial and litigation. Also, each Committee member had their own separate areas they looked at. One of the discussions they had was whether or not to hire a large or small firm. He said the larger firm that submitted a proposal was higher priced than the smaller firms and the Committee decided unanimously to go with a smaller firm. He said Mr. Wright contacted all of the respondents and there was only one firm that had a lot of experience in utilities and the Committee felt that with Mr. Wright still involved the experience in utilities was not as important as having experience as a trial attorney.

Mr. Comert briefly went over Mr. Frost's background and said there would be no doubt that he would be aggressive.

Mayor Winger felt that the Committee made a wise choice. He is looking forward to Council being able to talk to Mr. Frost at their January 20th meeting.

Mr. O'Connor told the Council to feel free to contact Mr. Frost if they wished to.

B) Wastewater Treatment Plant Solids Handling Modifications – BCR Environmental Corporation – CleanB Residuals Treatment

Mr. O'Connor reported that staff has reviewed the pricing as documented in their backup material and would recommend that the City enter into a contract with BCR to install the CleanB and Centrysis Centrifuge at the Wastewater Treatment Plant. Himself, and the Water and Sewer Director, went to Ft. Pierce to tour the operation where the system is being operated. He recommended approval for the City to sign the contract with BCR in the amount of \$1,579,000.00 and later approve a change order to accomplish the direct purchase of the Centrysis centrifuge.

Mrs. Turner asked what this companies experience is with design build.

Mr. Rob Bolton, Water and Sewer Director, stated that most of this companies work that they have done has been design built type work projects.

Mrs. Turner asked Mr. Bolton once he expanded the scope of work what was the increase in cost.

Mr. Bolton said that the company will end up doing an additional \$200,000 worth of more work than what they originally anticipated and that cost has been added in to this contract.

Mayor Winger commented that he is going to go to Ft. Pierce to see how this operation works. He would rather see the City haul off the solid material coming out of the Sewage Plant, rather than taking it to the landfill. Also, making mulch from this solid material will be more environmental friendly.

Mr. Kramer made a motion to approve the contract with BCR Environmental Corporation. Ms. Graves seconded the motion and it passed unanimously.

Mr. Aaron Zahn, President of BCR, thanked the Council for their partnership.

C) Septic Tank Effluent Pump (STEP) System Components

Mr. O'Connor reported that the City implemented the STEP Program at their November 4, 2014 City Council meeting and since that meeting staff put out a formal bid for the annual purchase of equipment to start this project. The first public meeting to explain the STEP system will be held on January 8th at 6:00 p.m. at the Bethel Creek House.

Mr. Bolton added that the City received three vendors submitting bids. One (1) vendor (Orenco Systems, Inc.) submitted a bid for the equipment and pump basins and two (2) vendors submitted bids for the plastic tanks. Of the two (2) bids for the plastic tanks, only one manufacturer, Roth Global Plastics, can meet all of the specifications and all of the required installation scenarios. He said they are looking at about 350 installations at this time.

Ms. Graves questioned if the company they chose was to go out of business, how standard is the equipment in order for the City to be able to get parts for it.

Mr. Bolton explained that parts are available they just may not be the same quality. He expressed that the City wants to make sure that they are buying good quality equipment so there is not a lot of maintenance. He reiterated that the first public meeting will be on January 8th at Bethel Creek House. He has received numerous calls from the public regarding this program and has assured them that it is not a mandatory program unless they have a septic tank failure.

Mrs. Turner commented that if someone opts to go with the STEP system then their bill will include a charge for wastewater, which averages about \$30.00 to \$40.00 a month, along with their normal monthly water bill. She said they also will still have to have some type of septic system in case of power failure. She asked who would maintain that septic field.

Mr. Bolton explained the City would be responsible for pumping out the septic tank and from a maintenance standpoint the City would take over the ongoing costs of the septic

system. He said there are two (2) options that the resident can look at. The first one being if they have a fairly new septic tank installed then they can choose to put the pump chamber in and not replace the tank or they could go ahead and replace the tank now and the City takes over the cost of the maintenance so the resident never has any costs down the road. He is finding out that there is not much difference in cost between replacing the whole septic tank, versus installing the pump chamber.

Mayor Winger opened up the matter for comments at 11:52 a.m., and no one wished to be heard.

Mr. Old made a motion to Award the Contracts. Ms. Graves seconded the motion and it passed unanimously.

D) Fourth Quarter Fiscal Year 13-14 Electric Utility Rate Sufficiency

Mr. O'Connor presented the Fourth Quarter Fiscal Year 13-14 Electric Utility Rate Sufficiency and said that it was pretty much what they expected. He gave due credit to Ms. Lawson for this.

Mrs. Turner also congratulated staff on doing a terrific job of forecasting.

E) Fiscal Year 14-15 Electric Utility Rate Sufficiency

Mr. O'Connor presented the Fiscal Year 14-15 Electric Utility Rate Sufficiency and said they are right on track and he would not recommend making any rate adjustments at this time.

F) RFQ 190-14/JO – Electric Utility System Study

Mr. O'Connor noted that this item was discussed earlier in the meeting. He is recommending Power Services as the consultant selected to do the study. He said the City would enter into negotiations in accordance with the Consultants Competitive Negotiation Act. He explained they would sit down and negotiate a contract with their first choice and if that cannot be done then they would move on to their second choice.

Mrs. Turner asked the City's estimate for this work.

Mr. O'Connor said they did not have an estimated number.

Mrs. Turner suggested before entering into this contract that they have some overall cost estimate.

Mr. O'Connor said that whatever the negotiated price is, it will come back to Council for final approval.

Mayor Winger made a motion that Council move forward to allow staff to negotiate with the three top bidders (if needed), with Power Services being number one. Ms. Graves seconded the motion and it passed unanimously.

Mr. Kramer asked why Black and Veatch was removed from the top selected firms. He was told that they withdrew their proposal.

Mr. O'Connor reported that the Police Department has a total of 68 vehicles (discussion that took place earlier in the meeting).

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

B. New Business

1) To prohibit use of electronic cigarettes where conventional cigarettes are already prohibited – Requested by Councilmember Amelia Graves

Ms. Graves reported that there is a rise in popularity of electronic cigarettes, which has led to them being used widespread indoors. She said without some regulation or significant study on the impacts of the “vapor” on people who inhale the aerosol vapor secondhand it cannot be deemed safe for indoor use. It impacts air quality and presents a potential hazard for children, pregnant women, people with cardiovascular issues, asthma, allergies, etc. She said there are over 200 cities and counties that have already passed ordinances regarding the indoor use of electronic cigarettes. She felt this was something that the City needed to get a hold of.

Mayor Winger asked for any comments from the public at 11:58 a.m., and there were none.

The City Attorney was instructed to amend the Ordinance that they already have concerning the sale of electronic cigarettes and bring back a revised Ordinance for first reading at their January 20th meeting.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Richard Winger's Matters

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

Mayor Winger attended the annual Recreation Christmas Drama and said it was wonderful.

B. Vice Mayor Jay Kramer's Matters

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

Mr. Kramer also attended the Recreation Christmas production and complimented the Recreation Department on what a fabulous job they did.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner gave an update on this year's Legislative priorities for the Treasure Coast Local Planning Council. She also mentioned the different events taking place at Historic Dodgertown.

Mrs. Turner thanked Mr. Old for providing Council with a copy of the FMPA audit. She noted that Mr. Old stated there were some managerial problems and asked Mr. Old if he has received anything further on that. Mr. Old said that he has not received the final operational audit document yet.

D. Councilmember Amelia Graves' Matters

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

Ms. Graves encouraged the public to attend the open meeting on the discussion of the STEP program to be held on January 8th at 6:00 p.m. at the Bethel Creek House.

E. Councilmember Randolph Old's Matters

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

Mr. Old commented on what a good job the community did in submitting their comments on the DEIS concerning All Aboard Florida. He wondered if they have the right legal representation in place. He suggested that maybe a group of counties could work together in forming something that would be more powerful. He expressed how important it was that they fight this matter correctly. He suggested looking at this to make sure they have good representation.

Mr. Old brought up that the City used to be a member of the Florida Municipal Electric Association (FMEA) and wondered if they should be part of their organization again. He said the representatives of this organization have been very helpful to him.

Ms. Graves recalled seeing that Mr. Barry Moline from FMEA would be giving a presentation at Indian River State College on January 8th.

11. ADJOURNMENT

Today's meeting adjourned at 12:05 p.m.

/tv