CITY OF VERO BEACH, FLORIDA
FEBURARY 16, 2016 6:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

The invocation was given by Pastor Billy McCloud of the Central Assembly of God 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. Tammy Vock, City Clerk, requested that item 3-10) be added on to the agenda – "Design Homes of Florida Company, Second Amendment to Lease Agreement and Updated Attachment B (Effective February 16, 2016)."

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

B. Proclamations

1. Vero Beach Yacht Club Day

Mayor Kramer read and presented the Proclamation.

2. Through With Chew Week – February 14-20, 2016

Mr. Winger read and presented the Proclamation.

C. Public Comment

1. Recommendations from the Recreation and Marine Commission for future use of the City of Vero Beach Power Plant, Waste Water Treatment Plant and Post Office Annex land.

Mr. Dick Yemm, Chairman of the Recreation Commission and Mr. Tom Juliano, Chairman of the Marine Commission, attended tonight's meeting and went through the

recommendations of the Recreation and Marine Commission for the future use of the City of Vero Beach Power Plant, Waste Water Treatment Plant, and Post Office Annex land (please see attached recommendations).

Mrs. Turner asked if there were other sources considered other than just the Treasure Coast Regional Planning Council (TCRPC) to do the design work. Also, she did not see that a cost for their services was provided.

Mr. Jim O'Connor, City Manager, commented that he was present for the meeting when a representative (Mr. Dana Little) from the TCRPC came to the joint Recreation/Marine Commission meeting and made a presentation. He said there has not been any dollar amount given for what their services would cost. At the presentation, Mr. Little mentioned that they recently did a project in Palm Beach County and the cost was $250,000. However, this was a much bigger project then what the City is looking at. The project in Palm Beach County was for the whole City of North Palm Beach, which consisted of five (5) miles. Also, the TCRPC has done the design work for the proposed Cultural Arts Village and he believed the cost to do that project was much lower. He explained that if they went out for bid then they could not consider the TCRPC because they are a public entity. He noted that the City is a member of the TCRPC.

Mrs. Turner commented that they have not yet seen the report for the Cultural Arts Village. She expressed that the property they are discussing tonight is the last riverfront property that this community has and they should look at all the resources available to come up with the best plan for this property. She would entertain presentations from other sources.

Mr. Yemm commented that the TCRPC is very familiar with this area and has worked closely with the Florida Department of Transportation, which is a plus. The other advantage is their knowledge of getting grants in this area.

Mrs. Turner had some concerns about recommending the TCRPC when they don't know what other alternatives are available. She said that there is a chance that the TCRPC will be the consultants chosen to do the work, but they need to look at credentials from other qualified consultants.

Mr. O'Connor explained if they put an RFP out then TCRPC will not be back.

Mrs. Turner asked what they are afraid of.

Mr. O'Connor explained that they are a public entity.

Mr. Winger commented that tomorrow night the TCRPC will be presenting their report on the Cultural Arts Village. He personally feels using them would be the best approach and agrees with the recommendations made by the Marine Commission and the Recreation Commission. He suggested that the TCRPC come before this Council and make a presentation. He expressed that the TCRPC knows how to deal with traffic. He

said instead of going out for an RFP that they have the TCRPC come and talk to them first.

Mrs. Turner commented that there are different consulting firms who have expertise in this area and they also need to be looked at. She said they need to find out what is available before they make a decision. She mentioned that the Cultural Arts Village is very different then the project of looking at the future land use for these three different parcels.

Mr. Old commented that he is the City representative on the TCRPC and he has a lot of confidence in them. However, he doesn't know them well enough to say this project is right up their alley. He said this is a once in a lifetime opportunity for this City and they need to be careful.

Mr. Howle noted that Mr. Yemm had said that about 300 people showed up for the different meetings that were held to make suggestions on what to do with this property. He asked if anyone suggested selling the Postal Annex property and taking the money and using it to pay off the debt for the Dodgertown golf course.

Mayor Kramer commented that was one of the things that he was looking at when this first came up. The Task Force was set up with the help of the Chamber of Commerce to look at this property and everyone involved felt that all three properties should be looked at together in the visioning process.

Mr. Howle agreed with approaching this cautiously. He commented by selling that piece of property (Postal Annex) they could pay down their debt on the Dodgertown property.

Mr. Yemm recalled there was discussion of moving the substation to that piece of property. He said they might want to consider leasing the land versus selling it.

Mr. Winger felt they needed a plan in place in dealing with the property.

Mayor Kramer commented that they started this process on May 12, 2015. He said it has now been almost a year. He felt the best thing to do now is have the TCRPC come forward and give them a presentation and then they could explore costs and other options.

Mr. Winger agreed with having the TCRPC come and make a presentation with the knowledge that the City Council is under no pressure to make a decision.

Mrs. Turner requested that the City Manager come up with a list of other consultants capable of doing this project and provide that list to the City Council.

Mr. Winger brought up the property where the Dodgertown golf course is located and said that whole corridor needs to be looked at and some long term consideration given.

Mr. O'Connor said they would be interviewing realestate agents and making proposals to Council to select one to handle selling the Dodgertown property.

Mr. Winger expressed he would like to see the highest and best use and not necessarily the most amount of money be considered for that piece of property.

Mr. O'Connor expressed by putting restrictions on the property the value goes down.

Mayor Kramer asked that the TCRPC come to a future Council meeting and give them a presentation that involves the alternatives and costs of projects that they have worked on.

2. Mr. David Walker to discuss the 2016 Vero Beach Air Show.

Mr. David Walker commented that they are 129 days away from the Vero Beach Air Show and having the Blue Angels back. He is on the Board for the Air Show and they have been working over a year for the event. He said in order for the Blue Angels to come back to Vero Beach they made one stipulation and that was to get more involved in the community. A Task Force was created to discuss that and have come up with having an event on Saturday, June 25th at Riverside Park, in conjunction with the Buggy Bunch, to introduce the Blue Angels. He asked Council for permission to sell beer and wine at this event, as well as at the Vero Beach Air Show.

Mrs. Turner made a motion to approve the request to be able to sell alcohol at the event at Riverside Park on June 25, 2016, as well as at the Air Show. Mr. Old seconded the motion and it passed unanimously.

3. Mr. Dwayne DeFreese to give an update on the Indian River County Lagoon Coalition.

Dr. Dwayne DeFreese thanked Council for inviting him to tonight's meeting. He gave a Power Point presentation (please see attached).

Mr. Old asked Dr. DeFreese if he was competing with anyone (referring back to his Power Point presentation).

Dr. DeFreese said that he has made it a goal not to compete with other research organizations. He said they want these organizations to work together. He encourages discussion and finding solutions to problems that all the different organizations have.

Mr. Old commented that this is a very energetic and generous community and the lagoon is foremost in a lot of people minds here.

Dr. DeFreese commented that he could use all the help that he can get. Anyone who wants to volunteer their time he would love to talk to them and get them to the right organizations that could use their help.

Mrs. Turner commented that the deadline to submit projects for the grant money has passed. She asked if Vero Beach submitted any projects.

Mr. O'Connor stated that the City of Vero Beach submitted two (2) projects and one (1) was rejected because they didn't provide a cover letter.

Dr. DeFreese hoped to be able to get the word out to the community when grants are available.

Mrs. Turner referred to the budget for the Indian River County Lagoon Coalition and noted that 36% of the money was being spent on administrative costs.

Dr. DeFreese explained that budget was prepared a year ago when there was no money. He said it was created in advance of dollars that became available this October. He said it was a holding budget. He said right now the Coalition has two (2) employees. A new budget will be discussed at the March 18th Coalition meeting. He was waiting to see where they were with revenues and expenditures before coming up with a new budget. His plan is to hire one (1) more person and then hold the line as long as they can.

Mrs. Turner commented that the budget shows their current revenue is around $2.2 million dollars. She asked how they will be able to handle paying for the enormous project requests where funding is requested.

Dr. DeFreese explained that he doesn't see this budget changing until they move into a different structure. He said the budget allows funding for small projects. He said having a Comprehensive Management Plan in place is the key.

Mrs. Laura Moss, Utility Commission member, answered a question brought up by Mr. Old earlier in the meeting concerning an item discussed at the Utilities Commission meeting. She said it had to do with a project named Grove Land Reservoir & Stormwater Treatment Area. She provided information to the Clerk for distribution. Mrs. Moss suggested that the Utilities Commission and the Finance Commission become involved in the vetting process for the future land at the Power Plant and Water Treatment Plant. They are all aware that this is a once in a lifetime opportunity and it would not hurt to have these Commissions involved. She noted that the consultants who did the Vision Plan were Gould & Evans. She recently visited their website to make sure that they were still in business and she read what appeared on the first page of their website. Her other concern had to do with Public Comment. She would hate to see it moved to the end of the agenda. She suggested leaving it where it is and enforcing the three (3) minute time limit rule.

Mr. O'Connor said that he would handle scheduling the Finance and Utilities Commission to discuss these parcels (Power Plant and Water Treatment Plant land).

Mayor Kramer suggested waiting until after they have had the presentation given by the TCRPC.

Mrs. Sue Dinneno commented that she did not feel that clear instructions were given if the cautionary boil water notice had been mandatory. She said restaurants were not given good guidelines on what to do. She was told that the Health Department is the regulating authority who would advise the restaurants on what they were allowed and not allowed to do.

Mrs. Dinneno said she went on line and looked at what some other cities do under these situations and they provide detail information.

Mr. O'Connor explained that the City conforms to State law as to what information they are allowed to put out.

Mr. Rusty Cappelen requested permission from Council to serve alcohol at the charity event being sponsored by the Future Leaders Professional Advocacy Council Community Foundation on February 19, 2016. He said they have already requested permission for the closure of Flamevine. They will be providing craft beer and will be located in front of Orchid Island Brewery.

Mr. O'Connor stated that staff has no problem with this request.

Mr. Winger made a motion to allow this organization to sell alcohol at the February 19, 2016 event. Mr. Old seconded the motion and it passed unanimously.

Mrs. Phyllis Frey read a prepared statement concerning the waterfront project and encouraged Council to keep Public Comment at the beginning of their meeting.

Ms. Rosemarie Wilson supported Mrs. Turner's suggestions in looking into what other consultants were available to assist with the waterfront project instead of going with the TCRPC. She also agreed and supported the comments just made by Mrs. Frey.

Mr. Eric Toomso, Project Coordinator for the Vero Beach Skate Park, commented that he is working closely with the City of Vero Beach and the Recreation Director in asking permission to build a skate park at Leisure Square. They will continue to do their due diligence in making this happen. They recently had an open house at Leisure Square to answer any questions that the public might have concerning the skate park. He has put two (2) business plans together that show by having the skate park they will at least break even.

Mr. Erik Toomso brought up that the beaches were packed today and there was almost a tragedy at the area near Vero Beach Hotel & Spa. There was a 911 call about two (2) distressed swimmers in the water. This area is about a mile between the two lifeguard towers. Fortunately the lifeguards made it in time to pull these swimmers out of the water. He asked Council to keep this in mind at budget time.

Mr. Joseph Guffanti was under the impression that Dr. Brian LaPointe was going to be at tonight's meeting. He said he met with him in the past. He then brought up some questions concerning the residual oil at the Power Plant. He said he has some questions that he would like answers to and would be providing them to the City in writing. He then asked if there was an obligation to dismantle the Power Plant.

Mr. O'Connor stated that the City has no obligation to dismantle the Power Plant.

Mr. Guffanti recalled the conversation he heard earlier about selling property to pay off their bond debt on the golf course property. He said what he heard was that they purchased the property for $10 million dollars and it is appraised at $3 million dollars. He said sarcastically this was another great investment that the City made for the public. As far as the discussion about the waterfront project he did not attend any of those meetings because he did not know about them. He reiterated that he had hoped Dr. LaPointe would be at tonight's meeting because he had some questions to ask him concerning his research.

Mr. Old told Mr. Guffanti that he took offense when Mr. Guffanti refers to corruption in Vero Beach. He said that this Council goes out of their way to observe the Sunshine Law and protect the City. He said being called corrupt is insulting and far from the truth.

Mr. Guffanti explained that he does not single anyone out. He felt that the money that the City paid to own the golf course property and what it is appraised at now is corruption. He told Mr. Old that he didn't point him out specifically.

Mr. Old commented that Council goes out of their way in being transparent to the public and not talking to each other because of the Sunshine Law.

Mr. Guffanti recalled some years back a City employee came up to him and addressed him by his name. He asked the employee how he knew what his name was and he said because he sees him at the Council meetings. This person indicated that things at the City were worse then what he thinks they are. He then brought up the "drunk" that ran the Power Plant for many years and asked where the respect for the public is.

Mr. Brian Heady told Council that they have the privilege of serving the public and they cannot serve them if they don't listen to them. He mentioned taxpayer's money that is continually spent on all kinds of projects. He doesn't know of anyone who wants to see the lagoon polluted, but government is the biggest polluter. He visited Lake Okeechobee a couple of weeks ago and talked about the polluted water going into the estuary. He thanked Mrs. Turner for being a conscious public servant. At the beginning of the meeting people came up to the podium and talked about what to do with the Power Plant property, Water Treatment Plant property, and the Postal Annex property. He said they need to consider what the cost is to remove the Power Plant and remove the Water Treatment Plant. They don't know what additional costs there will be at the Power Plant until they start digging. He served on the High Speed Rail Commission and recalled when the TCRPC sent a representative to talk to them and in the beginning the TCRPC

was in favor of the railroad. He said since then they may have changed their stance when it comes to the railroad. He told Council that they work for the public. He noted that Mayor Kramer was running for a County Commission seat and wants to move public comment to the end of the meeting. Mr. Heady said if Mayor Kramer cannot control public comments at the City what's going to happen if he is a County Commissioner. He said that public input is pretty easy to control. He recalled when he was on Council and people came up to the podium to speak and had questions he would answer those questions. That is not done anymore. He didn't think that public comments needed to be heard at the end of the meeting. H said maybe the problem is that Mayor Kramer is running for County Commission.

Mr. Winger called for a point of order. He said that it was not appropriate for someone to talk about politics. He said this is a non-political board.

Mayor Kramer explained to Mr. Heady that according to State law the public is allowed to make comments on any action that the Council takes.

Mr. Heady recalled that moving public comment on the agenda has been brought up before. He was amazed that there would be a City Council who would want to have public comments heard at the end of the meeting.

Mayor Kramer called for a short break and the meeting reconvened at 7:52 p.m.

3. CONSENT AGENDA

1. **Regular City Council Minutes – February 2, 2016**
2. **Special Call City Council Minutes – January 26, 2016**
3. **Young Park Seawall Cap Repairs – Final Pay and Acceptance – COVB Public Works Project #2003-20 – Bid No. 120-15/JO**
4. **Corporate Air, Inc. – Second Addendum to Lease Agreement and Updated Attachment B for Lot 21 (Effective: February 16, 2016**
5. **Corporate Air, Inc. – Fourth Addendum to Lease Agreement and Updated Attachment B for Lots 5; 7&8; 16-20 (Effective: February 16, 2016)**
6. **Continental Jet Aviation, Inc. – Addendum to Lease Agreement and Updated Attachment B for Lots 2-4 (Effective: February 16, 2016)**
7. **Commercial Lease Agreement between the City of Vero Beach and Thomas Holden – 2750 Airport North Drive, Parcel N6B**
8. **License for Use of City Property #2016-LA-0264/Dock and Boat Lift/Tarpon Island Club Dock Owners Association, Inc.**
9. **Annual Commission/Board Reports**
10. **Add on item – Design Homes of Florida Company, Second Addendum to Lease Agreement and Updated Attachment B (Effective February 16, 2016)**

Mrs. Turner pulled item 3-9) Annual Commission/Board Reports off of the consent agenda.

Mr. Winger made a motion to adopt the consent agenda with the exception of item 3-9). Mr. Old seconded the motion and it passed unanimously.

Mrs. Turner commented on the yearly reports that they receive from the Chairs of their 12 different Commission and Boards. She did not think that the consent agenda was the proper place for these reports to be when asking the Council to approve them.

Mayor Kramer agreed that he would like to see the Chairpersons of these different Commission/Boards come in and talk about their Annual Report.

Mrs. Turner suggested having the Chairs come in and give their reports at a couple of different meetings (three or four Chairs at each meeting).

Mrs. Vock said that she would arrange that.

4. PUBLIC HEARINGS

A) An Ordinance of the City of Vero Beach, Florida, amending Section 2-51 of the Code of the City of Vero Beach relating to the Order of Business for City Council meetings; providing for Conflict and Severability; Providing for Codification; and Providing for an Effective Date. – Requested by Mayor Jay Kramer

The City Clerk read the Ordinance by title only.

Mayor Kramer reported that this Ordinance removes from the Code the Order of Business for City Council meetings. A companion Resolution (5-A) will be discussed later on in the meeting.

Mayor Kramer opened and closed the public hearing at 7:56 p.m., with no one wishing to be heard.

Mr. Winger made a motion to adopt the Ordinance. 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.

B) An Ordinance of the City of Vero Beach, Florida, Amending Sections 2-102 and 2-105 in Article III, "Commissions and Boards," of Chapter 2, "Administration," of the Code of the City of Vero Beach, relating to City Commissions and Boards; Providing for Transition; Providing for Codification; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by Councilmember Pilar Turner

The City Clerk read the Ordinance by title only.

Mrs. Turner went over the changes that she would like to see included concerning the Utilities Commission. She proposed to further preserve the utility customer representative nature of the Commission, the Utilities Commission shall be made up of three (3) members that are residents of the City of Vero Beach and three (3) members that are residents of unincorporated Indian River County. All regular voting and alternate members shall reside within the City utilities service area or be a principal owner/partner/member of an active business, registered with the Florida Division of Corporations, located within the City utilities service area. For the purposes of the section in the code, "business" shall mean any sole proprietorship, joint venture, partnership, corporation, limited liability company, or other entity formed for profit or nonprofit purposes.

Mrs. Turner explained the reason that she proposes this is because she thinks that the focus of the Utilities Commission is that these be utility customers of Vero utilities (whether commercial or residential). She said customers being "key" as far as membership on this Commission. She also wanted to see it be more representative of the customer base that they serve.

Mr. Howle commented that anytime you have a Board or Commission that has to do with the Enterprise Fund they need to be represented by the people who are subject to that fund.

Mr. Winger asked the Mayor if this would terminate the ability for the individual Council member to appoint someone to the Utilities Commission. Mayor Kramer said that it would. Mr. Winger continued by saying that he was opposed to this Ordinance. He said on April 5, and 6, 2011, something was done that was very undemocratic. What happened was the Utility Commission was disbanded and the majority of the City Council (three (3) Councilmembers) had the power to appoint all the representatives on the Utilities Commission. He said by the Council being able to appoint their own person it prevents what happened in 2011 from happening again. It prevents a majority of three (3) Councilmembers from stacking the Utilities Commission and letting the entire Commission go. When the Commission was let go, some negative consequences happened with some new members. His second objection was why try to fix something that is not broken. What they are suggesting is the people who own this utility would now only get three (3) votes out of seven. He pointed out that there were 52,600 utility (all utilities) accounts. He said if you discount Indian River Shores who has their own representation of those 34,900 customers are City residents. He said this is clearly an attempt for a future majority to stack Commissions. He made the point that he thinks it is valuable to have people with different points of view and what happened in April 2011 people were appointed to the Commission who all had the same point of view. He said what is being attempted here is a gross misrepresentation and gross violation of democracy and they should stay with what they have.

Mr. Old wanted the Utility Commission to remain the way it is. He likes being able to appoint his own representative to serve on this Commission and why fix something that is not broken.

Mrs. Turner commented that the Utilities Commission addresses the Enterprise Funds. She did not share Mr. Winger's opinion that the electric utility is owned by the City. She said the electric utility is owned by the utility customers. They are the ones who pay the bonds and keep the business going. They provide the revenue to support the system. She said earlier when they had discussions about Utility Authorities; Mr. Winger said that they were ready to provide adequate representation to all of their customers. In essence that was all she was asking them for.

Mr. Winger stated if you have 35,000 customers out of 52,000 customers that proportionally there should be five (5) representatives from Vero Beach. Also, to ask a minority to give up their representation and let the majority appoint all the seats is a gross miscarriage of justice. He agreed that their customers were important and having outside representation was important, but legally it belongs to the City voters. He said the City customers are on the hook for any contingent liabilities and it is not the outside customers. He has to protect the people of this City.

Mr. Howle agreed that the City residents would be on the hook, but they can't forget the people who have businesses in the City that help generate money for this City. He said they should be represented.

Mrs. Turner requested to make an amendment to this Ordinance. She proposed that it just include the changes that allow for a business owner of City utility service to be on the Utilities Commission.

Mr. Winger said that is fine if they live within the City service area. He said Mrs. Turner is doing this to make an exception for one person to be allowed to serve on this Commission and that is not the way democracy is suppose to work. He said that is special interest.

Mayor Kramer opened the public hearing at 8:07 p.m.

Mrs. Laura Moss commented that there are seven (7) members and two (2) alternates on the Utilities Commission and she serves as a member at large. She said each Councilmember appoints one (1) person to the Commission, she is appointed by the entire Council and then there is the Indian River Shores representative. She said if this is changed what would the mechanism be for the Utilities Commission.

Mrs. Turner explained that it would be like the majority of the other Commissions that they have in the City and that is the members are all voted by the City Council.

Mayor Kramer added that this Utilities Commission would be dismissed and then the majority of the Council would vote on the new Commission. He said it does not make

any sense why a minority member wants to change to have the majority pick all the members.

Mr. Winger commented that the three (3) core Commissions (Planning and Zoning Board, Finance Commission, and the Utilities Commission) are voted on current way to be sure that if you're a minority or the majority both sides are represented.

Mrs. Moss agreed that the Finance Commission and the Planning and Zoning Board were critical.

Mr. Old asked if they adopted this Ordinance, what would happen to the people that they now have on the Utilities Commission.

Mr. Wayne Coment, City Attorney, explained the Ordinance calls for three (3) City residents and three (3) unincorporated County residents. He said they may just have to readjust the membership of the Commission to meet these membership requirements.

Mrs. Turner asked if they could have a representative on the Utility Commission and still have appointments.

Mr. Coment explained they would have to decide who would pick which members as far as residency, in or out of the City.

Mr. Winger made a motion to reject this.

Mr. Ken Daige stated that the way they have their makeup now on their Utilities Commission, Finance Commission, and the Planning and Zoning Board, allows the Council to have their pick on who serves on these Boards. It is working fine this way and by changing it they may be asking for trouble. He said it is confusing. There was some talk tonight about having a Utility Authority. He said the utility is a business. The City taxpayers have a vested interest in that. He said it is important for Council to pick someone to serve on their Boards that they feel are the most qualified and has their same philosophies. He thought they should leave this alone for now.

Mr. Winger made a motion to reject item 4-B. Mayor Kramer seconded the motion and it passed 3-2 with Mr. Howle voting no, Mr. Winger yes, Mrs. Turner no, Mr. Old yes, and Mayor Kramer yes.

5. RESOLUTIONS

A) A Resolution of the City Council of the City of Vero Beach, Florida, adopting the Order of Business for City Council meetings and related supplemental rules; providing for Conflict and Severability; and Providing an Effective Date. – Requested by Mayor Jay Kramer

The City Clerk read the Resolution by title only.

Mr. Coment presented the Resolution adopting the Order of Business for their meetings. He said it is up to Council on how they structure their meetings.

Mayor Kramer opened the public hearing at 8:17 p.m.

Mr. Ken Daige commented when someone files a form to speak at the meeting and is on the agenda that sometimes Council votes on that an item. He asked how they would have public input if someone wants to come and address Council before they vote on the item.

Mayor Kramer explained that typically when a vote is to be taken, public comment should be allowed before a vote is taken.

Mrs. Laura Moss reiterated what she said earlier that they should leave public comment where it is on the agenda and enforce the three (3) minute rule. She said this would solve their problem.

Mayor Kramer commented that there are those who want the three (3) minute rule interaction.

Mrs. Moss felt that three (3) minutes was enough time for someone to speak. If someone needs more time then they can reserve that time in advance. She just didn't want to see someone having to wait three (3) hours to be heard.

Mr. Howle was not against what was being proposed by the Mayor, but in the interest of efficiency for the Council and the people that want to speak he wonders if holding people to a five (5) minute rule would be better. If they need to talk longer than five (5) minutes then they can sit down and wait until the end of the meeting to finish their comments.

Mayor Kramer explained the problem is enforcement. He said there are those who want the confrontation and they want to take it to the point where a Police Officer has to escort them out of the meeting.

Mrs. Turner said so for the failure of the Mayor to take charge of the meeting they are going to punish all of their citizens by taking away the privilege of public comment at the beginning of the meeting.

Mayor Kramer brought up the attorney who has to sit through a long meeting because of public comments before his item is being heard. He said someone is paying for that attorney to be at their meeting. He said they will be taking care of City business first and then there will be open mic time to talk. He said during public business anyone has the option to weigh in on any of the issues.

Mr. Old suggested trying this to see how it is going to work. He said if there is an outcry then they can move it back to the way it was.

Mrs. Turner commented that she asked Mrs. Vock to do some research for her in looking at public comment and determining how long they have had it on the agenda. There is a long history of having public comment at the beginning of the meeting. She said since 1982 public comments first appeared on their agendas at the beginning of their meetings. She said in September, 2007, there was another movement to move public comment to the end of the agenda. She said the offenders at that time were Frank Zorc, Brian Heady and Joseph Guffanti. She didn't think anyone here on the dais could say by moving public comment to the end of the meeting they are not going to curtail public comment. She asked if anyone could say that public comment cannot be curtailed by moving it to the end of the meeting.

Mayor Kramer stated they were not trying to curtail public comment.

Mrs. Turner said that it will be by this action and she could not support it. She suggested if they are intending on moving public comment that it be heard after public hearings. She was offering a compromise to this solution.

Mr. Old suggested having public comment at the end of the agenda as originally suggested by Mayor Kramer.

Mayor Kramer commented that this is one of the things that will be at the discretion of the Mayor as that position changes through the years.

Mayor Kramer made a motion to approve the Resolution as it is. Mr. Old seconded the motion.

Mr. Ken Daige asked when they have attorneys come to speak, isn't it their option to put them on the beginning of the agenda. Mayor Kramer answered yes if they are aware of it.

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

B) A Resolution of the City Council of the City of Vero Beach, Florida, repealing Resolution #2011-25; Authorizing the City Manager and Director of Finance to issue warrants, checks, and vouchers of the City of Vero Beach for the payment of funds from any of the depositories utilized by the City; and Providing for an Effective Date. – Requested by the Finance Director

The City Clerk read the Resolution by title only.

Mr. O'Connor reported that the City's Assistant Finance Director, Javier Gonzalez, has resigned effective February 12, 2016. This Resolution removes his name from the City's list of authorized signers to formalize his removal from access to their banking and financial services accounts.

Mr. Winger asked what is the plan to replace him is.

Mr. O'Connor explained that are looking at doing some reorganization, which would not create any more new jobs.

Mayor Kramer opened and closed the public hearing at 8:28 p.m., with no one wishing to be heard.

Mrs. Turner made a motion to approve the Resolution. 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.

C) A Resolution of the City Council of the City of Vero Beach, Florida, Providing for City Manager authority to Grant Licenses for use of certain City-Owned Real Property and to accept conveyances of Utility Improvements; Providing for Conflict and Severability; and Providing for an Effective Date – Requested by the City Manager

The City Clerk read the Resolution by title only.

Mr. O'Connor reported that this Resolution would allow him to sign all applications and grant licenses for the temporary use of City real property limited to a term of not more than one (1) year. He will approve applications and grant licenses to upland real property owners for the use of City submerged lands adjacent to such upland real property for docks and other marine related facilities and approve all bills of sale for goods and chattels comprising utility improvements proposed for conveyance to the City. The City Council still retains approval authority for the granting of all other interests and permission for the use of City real property and the acceptance of all other conveyances to the City of interests in real property or improvements not otherwise delegated by this Resolution.

Mr. Coment explained by doing this it will speed up the process for the applicant.

Mayor Kramer opened and closed the public hearing at 8:30 p.m., with no one wishing to be heard.

Mr. Winger made a motion to approve 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.

6. PUBLIC NOTICE ITEMS

<u>Public Hearing to be held on March 1, 2016</u>

A) A Resolution of the City Council of the City of Vero Beach, Florida, adopting Permit Application Fees for Solicitors and Vehicle for Hire Drivers;

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. A public hearing on the Resolution will be heard on March 1, 2016.

7. CITY CLERK'S MATTERS

None

8. CITY MANAGER'S MATTERS

A) Discussion Regarding Potential Elimination of Electric Utility Impact Fees

Mr. O'Connor reported that on January 12, 2016, the Utilities Commission voted unanimously to support the elimination of impact fees and on February 8, 2016 the Finance Commission also voted unanimously in support of this recommendation. The impact fees generated $158,000 to be used only on capital projects.

Mr. Coment explained if this passes it will go before the Public Service Commission (PSC) for approval.

Mrs. Turner asked how long they have had these impact fees.

Ms. Cindy Lawson, Finance Director, said since 1991.

Mrs. Turner commented that the memo on this matter referenced the rate study. She asked when Council would be reviewing the rate study.

Ms. Lawson said probably around the end of May.

Mrs. Turner said she is being asked by the public where is their $750,000 a month reduction in their electric rates that they were supposed to be seeing.

Ms. Lawson explained that there was a rate change on December 1, 2015.

Mrs. Turner commented at the same time they are seeing their purchase power costs go up. They have already busted the budget on Stanton II in the first quarter.

Mr. Winger commented that their average power cost taking into account the new OUC contract has been trending down for the last few months. In general, the trend is because gas is less expensive and basically the purchase power cost has been going down.

Mr. Tim Zorc stated that he remembers when this fee was put into place 29 years ago (Resolution 89-29). He believes that Vero Beach is the only remaining City that has an

impact fee. He spoke in favor of sun-setting the 1989 Resolution that put this into effect. He said the time has come to let this fee go by the wayside.

Mr. Winger made a motion to eliminate and stop collecting the impact fee. Mayor Kramer seconded the motion and it passed unanimously.

Mr. O'Connor reported that on April 12th the Utilities Commission will be reviewing the Optimization Study.

B) Approval of Award to BB&T – Series 2016 Capital Improvement Revenue Bond

Mr. O'Connor reported that on January 22, 2016, the City's Financial Advisor, Mr. Craig Dunlap of Dunlap & Associates, issued a Request for Proposal (RFP) for this bank loan for a not to exceed amount of $1,400,000 and a term of 15 years. The RFP was distributed to 21 banking institutions. On February 4, 2016, in response to the RFP, the City of Vero Beach received one (1) proposal and that was from BB&T. After review of this proposal, Dunlap & Associates is recommending that the City accept the proposal from BB&T, which has provided a fixed interest rate of 2.47% that is valid until March 20, 2016. The Finance Commission voted unanimously to support this recommendation. If approved by Council, the City's Bond Counsel will prepare the authorizing legal documents for consideration by Council at their March 15, 2016 meeting.

Mr. Old asked why is this happening now.

Ms. Lawson explained that this project is in the 2015-2016 budget.

Mrs. Turner asked where is a copy of the bid and why was there only one bid.

Ms. Lawson told Mrs. Turner that she would provide her with a copy of the bid. She said that they put this RFP out twice and both times BB&T was the only bidder. She said it is a pretty small loan and she guessed the larger banks were not interested in doing this.

Mrs. Turner thought that maybe it would be worth reaching out to some of the banking institutions.

Ms. Lawson commented that they sent the RFP out twice.

Mrs. Turner suggested picking up the telephone and giving them a call.

Ms. Lawson said she could do that after the fact. She was curious as well as to why there were no more bidders.

Mayor Kramer asked what happens if the public doesn't vote for the one-cent sales tax option.

Ms. Lawson said they could be in trouble because it is their funding source for capital projects.

Mayor Kramer opened and closed public comments at 8:45 p.m., with no one wishing to be speak.

Mr. Winger made a motion to approve the Award of Bid to BB&T. Mr. Howle seconded the motion and it passed unanimously.

Mr. O'Connor reported that on Monday (February 22, 2016) morning at 5:30 a.m. there will be a planned outage in the Royal Palm area. He said flyers have been put on everyone's front doors in that neighborhood to let them know about the outage.

9. CITY ATTORNEY'S MATTERS

Mrs. Turner commented that she was reviewing the memo from Mayor Brian Barefoot of Indian River Shores, where he was talking about their lawsuit. She was confused as to what the City's stance is on what legislative body they think has the authority to rule on this franchise agreement. She said being someone that believes in home rule, she feels this City and any city should be able to determine who gets their right-of-ways and what she believes is stated in the franchise agreement. However, apparently when the City has been in litigation with Indian River Shores they have said that the PSC will determine who has the rights and then you hear that it is the Supreme Court who will determine it. She asked who they believe has the authority under these franchise agreements.

Mr. Coment explained that franchise agreements and territorial agreements and PSC authority are two (2) different things. He said Indian River Shores is making an argument that the Florida Constitution gives them this right to decide who serves. He said there is the caveat that says general law comes into play and general law says the PSC has the authority to decide who serves where. He said that is the City's position. When it comes to the franchise agreements the authority they have is they can charge a fee for the use of the rights-of-way, which they haven't done to date. He said a large portion of Indian River Shores is private neighborhoods anyway. The City's legal counsel has made a public records request to Indian River Shores to show what authority they have over and what they are actually maintaining. He said there are still a lot of unanswered questions. He said the constitutional issue was not clearly raised with Judge Cox. Now the PSC is being asked to make a determination as to whether or not they can determine that because they would like the PSC to say no, we don't make that decision and then they could go back to Judge Cox and say that she was suppose to decide on that. He said in reading Judge Cox's opinion he was not sure if she has not already addressed the question where she said the PSC has authority.

10. CITY COUNCIL MATTERS

A. Old Business

None

B. New Business

None

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

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

Mayor Kramer reported that he attended the Camp Haven Gala, the Art Gallery Stroll on Friday night, and the Rowing Club event. He also encouraged Council when they receive invitations to talk to students that they do so if they are available.

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

Mr. Old commented that he enjoys going and talking with the students. He noted that he will be reviewing the evaluation forms for the Charter Officers and bringing that forward.

Mr. Old brought up his February 16, 2016 memo that he sent to the City Manager (please see attached). He asked the City Manager to do a survey of how municipality owned utilities are managed. He thinks that the City should be developing a method of insuring that their power business is managed well, that they are utilizing all the newest service methods, that their system is up to date and maintained well, that their incentives to save power are up to modern standards, and that they have some regular method of assessing their performance, systems, and service so that they keep current with modern practices, and give exemplary service to their clients. This would include adequate redundancy to avoid outages like they recently experienced.

Mrs. Turner brought up that they are currently doing an Optimization Study.

Mr. O'Connor added that the Optimization Study was being prepared by Power Services. He said once it is completed Council will have a chance to ask questions and give direction.

Mr. Old felt that they needed something better. He said in the past a lot of mistakes have been made and it has cost the taxpayers a lot of money.

Mrs. Turner commented that looking back in history the utility distribution has always run well. She said that the purchase power cost has resulted from purchase power

contracts that were entered into. She said certainly there were things that they could do to improve on the management of their system.

Mr. Old suggested looking at offering incentives, solar panel options, etc.

Mr. Winger felt this would be a good conversation to have when they are reviewing the Optimization Study.

Mr. Old felt strongly that the City needed to take steps to insure they are doing not only their best, but the best that the industry has to offer, and the only way he thinks they can do that is to bring in constant oversight by recognized experts. While this effort will result in additional expenses, its effect will undoubtedly insure against costly mistakes, and he feels it is worth undertaking.

Mr. Howle felt that rebate incentives was a great idea. However, he was not in favor of having a person oversee how they are doing as far as providing electricity.

Mr. Old was suggesting having someone come in on a consulting basis to help them out. He agreed with reviewing the Optimization Study first.

C. Councilmember Pilar Turner's Matters

1. Correspondence

2. Committee Reports

3. Comments

Mrs. Turner reported that she attended the Metropolitan Planning Organization (MPO) meeting and they announced the new walking trail at Martin Luther King Park. She said discussion of All Aboard Florida came up at the meeting and the 90% plans still have not been received. She said Mr. Chris Mora has said that he suspects with these 90% plans that All Aboard Florida will be building a sealed corridor. She briefly reported on the I-95 project and they have been told they are still looking at a December, 2016, completion date on that job.

Mrs. Turner referred to a report on water farming costs. She knows that looking at the lagoon that is one of the options. She said using public land to store water (one million gallons of water) it will cost about $25.00 a gallon per year. When you start looking at private water farming the average cost is $316.00 a gallon per year.

Mrs. Turner stated that Ocean Search Conservation has come out with a report that there are studies that have been done on the C-24 Canal showing that algae originates up in these canals, dies out as it progresses through the canal, gets in the lagoon and starts depositing its nitrogen again, which increases their nitrogen load in the lagoon.

Mrs. Turner reported that tomorrow at 5:30 p.m. at the Heritage Center, the Cultural Arts Village will be presenting their report to the community. On February 24, 2016 at 8:30 a,m. there will be the Castle's Memorial Field. She said over 100 children in the State of

Florida have died from abuse and neglect this year and the flags placed on the field represent each one of these children. She hoped to see everyone at the Rotary Wing Fest on Saturday.

D. Councilmember Richard Winger's Matters

1. Correspondence

2. Committee Reports

3. Comments

Mr. Winger reminded the public that on February 17, 2016 at 5:30 p.m. at the Heritage Center the TCRPC will be presenting their report in reference to the Vero Beach Cultural Arts Village.

E. Councilmember Harry Howle's Matters

1. Correspondence

2. Committee Reports

3. Comments

Mr. Howle encouraged the Council to email Senator Wilton Simpson regarding Senate Bill 840 having to do with Municipal Power Regulation.

11. ADJOURNMENT

Tonight's meeting adjourned at 9:07 p.m.

/tv