

CITY OF VERO BEACH, FLORIDA
APRIL 21, 2015 6:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

The invocation was given by Mr. Philip Katrovitz, Humanist of the Treasure Coast, 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 Randy 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

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

B. Proclamations

1. John C. Girard Community Poolside Pavilion at Leisure Square

Mr. Kramer read and presented the Proclamation.

2. Jordan Sprinkler Systems, Inc. and North South Supply

Mayor Winger presented Jordan Sprinkler Systems and North South Supply with Proclamations thanking them for the work that they provided at Jacoby Park.

3. Parkinson Awareness Month

Mrs. Turner read and presented the Proclamation.

4. Child Abuse & Neglect Awareness & Prevention Month

Mr. Old read and presented the Proclamation.

C. Public Comment

1. Mr. Jason Nunemaker, Fellsmere City Manager, to discuss Indian River County cities working on different projects together.

Mayor Winger expressed the importance of working closely with their city sisters. He said all the cities will be stronger if they work together. He then noted that Mr. Jason Nunemaker, City Manager for the City of Fellsmere, was at tonight's meeting to speak to them and that Fellsmere is an older City than the City of Vero Beach.

Mr. Jason Nunemaker, City Manager for the City of Fellsmere, told the Council that it was good to be able to work with their sister cities. He said by in large they all work together and have a good track record. He mentioned that Fellsmere has done really well with their shrimp farm and construction has started for a second farm. There are new retail outlet shops going in near Marsh Landing. Also, there will be the ribbon cutting in Sebastian for the new Natural Gas Plant, which does have an effect on Fellsmere. He does not have any annexation plans in the process at this time. But, annexation has been a positive impact for the City of Fellsmere. All sister cities are concerned about the Lagoon and Fellsmere is in favor of the Lagoon Interlocal Agreement. He thanked Mr. Coment for his work in producing the document. Mr. Nunemaker mentioned that the Indian River County City Managers do periodically meet to discuss issues affecting all of them in the County. He brought up economic development and was excited to hear some of the opportunities that might be happening at the Airport. He was in favor of having air transportation. He expressed how important it was for someone visiting to be able to get in and out of this community and an airline service would help. He said if salt water intrusion becomes an issue there are opportunities in Fellsmere where they can assist. He knows how important the quality of life in this community is to everyone. He expressed there may be some legislative issues coming up that they will need to work together on and hopefully they can include the County as well.

Mrs. Turner thanked Mr. Nunemaker for attending their meeting tonight.

2. Mr. Erik Toomsoo, Vero Beach Lifeguard, to review suggestions for the Comprehensive Plan.

Mr. Erik Toomsoo, President of the Vero Beach Lifeguards, stated that his organization was established in 2011 and most of the members are lifeguards in the City of Vero Beach and in Indian River County and are also business people. Their main job is to try to educate the public and maintain awareness of public safety on their beaches. He presented a few of their ideas going forward (please see attached).

Mr. Scott Caviness, Member of the Vero Beach Lifeguards, went over numbers five (5) and six (6) in their Vision Plan (see attached).

Mr. Dave Farrell, Member of the Vero Beach Lifeguards, covered items seven (7) and eight (8) in their Vision Plan (see attached).

3. Mr. Paul Dritenbas, Florida Inland Navigation District, to give an update on the Master Plan for the waterfront.

Mr. Paul Dritenbas, Florida Inland Navigation District, passed out a copy of the Visioning Vero Beach Riverfront (please see attached). He recommended a visioning exercise be conducted by City staff or by way of hiring a professional land planner utilizing the RFQ and CCNA selection process and commencing this process in the fall of 2015. Then in 2018 they could start looking at phasing the project based on peak interest of parts of the overall design and funding availability. In 2019, utilizing the FIND WAP 66B-2 grant process, Phase 1 design, engineering and permitting can commence and they will qualify for up to 50% reimbursement as long as the project is under contract to construct within three (3) years of their Phase 1 design agreement. Phase II FIND WAP grant is for the construction of the project and upon completion, the City can be reimbursed up to 50% of the total construction cost. Similar grants are available for waterfront projects. He said there is an absolute gem with the Youth Sailing Foundation on the south site at this time and he applauded everything they have accomplished to date. However, he urged Council to be cautious of leases that may ultimately have an effect on the total flexibility of the site master planning and ultimate utilization of the two (2) properties. He said a five (5) year plan is a good fit for this site. It allows ample time for comprehensive public input, and FIND simply loves this type of project when it comes to WAP grants. This site, owned by the City of Vero Beach, has tremendous potential for community benefit and enjoyment and can become the “Face of Vero Beach” as viewed from the Interlocal Waterway.

Council agreed to further discuss this matter at their Special Call meeting scheduled for May 21, 2015.

4. Mr. Brian Lapointe, Harbor Branch, to discuss the Indian River Lagoon.

Mr. Lapointe was not present for tonight’s meeting.

5. Mrs. Barbara Hoffman, Cultural Council, to give an update on the Cultural Arts Village

Mrs. Barbara Hoffman, Executive Director of the Cultural Council, briefly talked about the Cultural Arts Village. She said that the local community has great ideas, energy, and commitment in working together on a plan to revitalize the Downtown Vero Beach Arts District by creating a Cultural Arts Village. The Cultural Arts Village would be located between 14th and 20th Avenues, which is located in the Edgewood neighborhood, together with the businesses in the Arts District between State Road 60 east and west. It will offer complementary creative environments; one for living, working, and selling and the other for cafes, restaurants, and small businesses. The village arts concept integrates a variety of activities for walking, biking, meeting, gathering, working, and living. The abundant green space will host gatherings such as book festivals, food festivals, music festivals, art and craft festivals, etc.. The Cultural Arts Village concept will pull more activities back to the downtown district, contributing to a comfortable, appealing, walkable environment

where people can spend time meeting, shopping, eating, and working. The Cultural Arts Village is a true community project whose planning efforts will embrace local groups and neighborhood residents. Through neighborhood meetings, including a design charrette facilitated by local architects and planners, participation by local residents and arts and cultural organizations will be encouraged. City staff, neighborhood residents, and cultural groups will determine what is needed to make this idea practicable and attractive to residents, owner-artists and business development. It may include tax or building incentives to promote reasonable rent for studios and businesses, more gathering places, incentives for home building, restoration and renovation. The impact on the Cultural Arts Village creates an environment attractive to residents, visitors and creative professionals of all types, including visual, performing, culinary, building, recording, graphics, artists and artisans. It will also discourage chain stores and chain restaurants and preserve the traditional neighborhoods.

Mr. Jim O'Connor, City Manager, told Council that the community is in favor of this Cultural Arts Village, and staff would be helping in this great opportunity to develop this area.

Mrs. Hoffman thanked Council and staff for their encouragement. She asked for their support as they move forward with the charrette.

At this time, Council took a short break and the meeting reconvened at 7:20 p.m.

6. Attorney Schef Wright to give an update on the Electric Utilities.

Mr. Schef Wright, Attorney, gave an update on the activities regarding the reworking of the power supply to reduce costs and rates. He said overall, he and Mr. William Herrington, Consultant with WHH Enterprises, have been talking to OUC and have an update to give. He passed out a memo titled "Update on Bulk Power Supply Activities" (please see attached). He said with the additional improvements in the OUC November 25th Proposed Terms: 1) OUC agreed to allow City to reduce Peak Demand for purposes of computing billing demand from 175 MW to 165 MW. Reduces billing demand from 95 MW to 84 MW in 2016 and 2017; approximate cost reduction of \$1.1 million dollars in 2016 and 2017 vs. provision November 25th terms; 2) Excess demand charge provision: If City exceeds total demand supplied by OUC (138 MW, comprised of 84 MW of Base Capacity and 54 MW of Peaking Capacity), including capacity of City's Stanton, Stanton II, and St. Lucie entitlements, demand charges assess for month of excess demand only based on demand rates and under existing 2008 PPA; and 3) Additional reduction of \$500,000 per year in 2016, 2017, and 2018.

Mr. Wright went over the Vero Beach Bulk Power Supply analysis summary 2016-2029, which includes a Base Case, Alt Case 1, Alt Case 2, and Alt Case 3 (attached). The Base Case is to continue with the OUC contract under the existing terms, continue operation of Vero Beach Plant. With Alt Case 1 it is to cancel the OUC contract and pay a \$50 million termination fee, retire the Vero Beach Plant and contract BPS to market. In Alt Case 2 they would accept OUC November 25th terms, reduce the term to 2023, eliminate

St. Lucie option, retire the Vero Beach Plant and market purchases 2024 through 2029 and Alt Case 3 would be to accept OUC's October 25th terms where there would be no reduction in terms, provide OUC a St. Lucie option, retire the Vero Beach Plant, and peaking purchases from OUC through 2029.

Mayor Winger asked if they go with the OUC November 25th proposal, at that point OUC will still take the gas and that is not an issue. Mr. Wright said that is correct. Mayor Winger said if they chose not to go with OUC then the gas would come back to them and the City would be faced with the burden of releasing the gas and covering their costs.

Mayor Winger continued by saying that the Council will need to determine if they want to stay with OUC or not. He was not asking that a vote be taken tonight. He would like to have their Finance and Utilities Commission look at this and bring their recommendations to Council and then discuss this matter again at their May 5th meeting.

Mr. Old commented that if they cancel their contract with OUC they would be at the whim of the market, but if they agreed to the terms that OUC has given them then they know what they will be paying for the next eight (8) years.

Mrs. Turner asked what is the average cost of the megawatt that they will be buying from OUC under this agreement (the wholesale cost). She felt that this information was vital if they were going to be voting on this tonight.

Mr. Wright told Mrs. Turner that he would provide her with that information. He said that he was not asking Council to vote on this tonight.

Ms. Graves understood that when Mr. Harrington did the analysis that the November 25th option would be the safest option for the City. Mr. Wright told her that was correct.

Mr. Old asked how solid is the \$50 million dollar number is. Mr. Wright explained that the number itself is a cap and there is a \$50 million dollar penalty either way that says if the City of Vero Beach can show that OUC breached the agreement for purposes of getting a better deal in the market their damages are capped at \$50 million dollars on what the City could recover from OUC and if OUC could demonstrate that the City breached the contract for purposes of getting a better economic deal then their ability to capture damages from the City is capped at \$50 million dollars. He said in the go to market scenario, Mr. Harrington modeled what the City would be paying in the market in terms of demand and energy costs.

Mr. Old commented that they are dealing with a major supplier of power. He questioned if they walk from their contract will it hurt their reputation in the market.

Mr. Wright stated that in his opinion it would hurt the City's credibility and the terms and conditions attached to any future contract would be more rigorous than what they have now.

Mayor Winger clarified that what they were talking about here is the demand and transmission charge. He asked Mr. Wright what will OUC charge them for the energy costs. Mr. Wright said they would charge the City their systems average cost for the fuel that they burn to generate electricity. He said presently they are running 30% gas and 70% coal.

Mayor Winger said so the billing at any time regardless of the demand or transmission charge can go up or down depending on what the fuel costs are. Mr. Wright told him is correct. Mayor Winger asked if OUC was willing to hedge fuel. Mr. Wright said that they are. They have not gone down that path with OUC, but they have discussed it with them and have been told that they will hedge fuel for the City.

Ms. Graves asked if they were to sign a new contract under the November 25th terms, would there be a new termination fee established. Mr. Wright explained that it is not a termination fee, but a cap on damages. He said that he has not discussed this with OUC.

Mr. Wright referred to page 3 and page 4 of the memo, which outlines the projected bulk power supply annual costs – low gas scenario.

Mayor Winger commented that the one problem that the Council has struggled with is the rates. He said if they stay with OUC one major issue of whether they are happy with an escalator or do they want to level. He said personally he would like to see them level for the first year and have the same demand charge for the next five (5) years.

Mr. Wright expressed that there has been a lot of public comment in support of them doing what they can to lower rates in a way that is sustainable.

Ms. Graves asked would it be appropriate to do an analysis on the worse case scenario.

Mr. Wright said they can do that and make sure that their Commissions are provided with the information.

Mr. Kramer heard Mr. Wright say earlier that it is a buyers' market right now. He said if the economy comes back and the capacity starts getting absorbed going to the market might not prove to be such a great idea. Mr. Kramer asked what is the likelihood that it is going to be a buyers' market well into the future.

Mr. Herrington commented that there are so many variables. He said if the economy turns around they could easily see growth, which could absorb the excess capacity. He said it is a tough call.

Mr. Old commented that he has been hearing that new capacity would not be prudent until 2022.

Mr. Wright went over some new Plants that are being built in Florida.

Mayor Winger stated that in 2019 these lines will probably level out. He asked Mr. Wright to explain why.

Mr. Wright explained the main downturn will be because the Stanton I debt rolling off, which would save them because they are the largest owner of Stanton I.

Mr. Kramer asked if they go to market, are they thinking about using the strategy of short term contracts with power and then staggering them.

Mr. Wright explained the concept is to have a time staggered portfolio and have a supply differentiated portfolio.

Mr. Wright expressed that there have been exchanges between the City and Florida Power and Light (FPL) regarding FPL's consent to contemplate amendments to the OUC PPA amendments. Such consent is necessitated by the fact that the OUC amendments contemplate that the City will retire the Vero Beach Power Plant, which the City is required to keep operational per the FPL-City of Vero Beach Asset Purchase and Sales Agreement.

Mr. Wright gave an update on the status of the transmission service request to FPL. He said implementation of the amended OUC PPA will require transmission service from FPL for the peaking capacity component. On April 10, 2015, Mr. Tom Richards, Utilities Director, received communication from FPL indicating that a Transmission System Impact Study would be required based on FPL's Transmission's initial evaluation of the pending transmission service requests to accommodate delivery of the contemplated peaking purchase from OUC and the retirement of all five units of the Vero Beach Power Plant. Accordingly, on April 14th, Mr. O'Connor executed the System Impact Study Agreement with FPL and forwarded the executed agreement and the City's payment of \$5,000 to FPL. He said that FPL now has 60 days to complete the System Impact Study.

Mr. Mark Mucher, 617 Indian Lilac Road, hoped that Council understood these options before they voted on them. He expressed that he did not have access to the charts and graphs they have been looking at because there was no backup on the City's website. He noted when they first started talking about renegotiating the OUC contract it was his understanding that they really were not saving any money on what they buy from OUC today, but the savings would come when they have to shut down the Power Plant.

Mr. Wright stated that the ultimate goal is to get to a point where they can talk about the direct implications and addressing Mrs. Turner's question, which is what is the rate impact going to be. They have a situation where they don't want to just throw numbers out and create false expectations without having it fully vetted by their rate consultants.

Mrs. Turner commented that until they could get to a bottom line number, basic megawatt costs, base rate, demand, etc., and have these things shown in the table no one will be able to make a reasonable determination. She objected to receiving this information

right before the meeting, especially if they were asking that action be taken. She said the information needs to be submitted earlier and made available to the public.

Mayor Winger added that none of the Council has any other documents then what they have been presented with tonight and he agrees that there is not enough data and they were not in a position to vote on this tonight.

Mr. Wright brought up the next steps. He said that he will speak to the Utilities Commission at their meeting next week and at that time they should have the total numbers and total estimated purchases. Then he will come back before Council at their May 5th meeting.

Mrs. Turner asked Mr. Wright if he has had any discussions at all with the bond trustees.

Mr. Wright answered yes, but he has not had any new conversations with them recently.

Mayor Winger realized that they were going to have to make a decision sooner rather than later as to whether or not they stay with OUC.

Mrs. Turner felt if they close off that option and the City is going to stay with OUC and not go on the market without having clear terms defined then they are negotiating being hand cuffed.

Mayor Winger added that if they are going to go out to market then they need to decide that is what they want to do.

Mr. O'Connor said staff would proceed with moving forward. He said that Mr. Wright would talk to the Utilities Commission at their meeting on Tuesday and continue to work on the numbers.

Mr. Old agreed that they need to have a clear vision of what their choices are.

Mr. O'Connor reiterated what has been stated before and that is that there is risk with any one of these decisions.

Mr. Herb Whittall asked Mr. O'Connor if he has finished negotiations with utilizing the County employee part time to help enforce the fertilizer Ordinance. Mr. O'Connor said they are waiting for a response from the County and now the same discussions are taking place with Indian River Shores.

Mr. Whittall recalled that he appeared before the City Council a couple of months ago because of the home located across the street from him that has no landscaping. He would appreciate if the Council would instruct the City Manager to bring to them an Ordinance that requires single family houses to have a landscaping plan before a certificate of occupancy is issued.

Mrs. Turner questioned if Mr. Whittall was moving towards having the City of Vero Beach as a gated community.

Mr. Whittall invited the Council to drive by this house that looks like it is not occupied because there is no landscaping around it and there is not an Ordinance in place requiring this landscaping.

Mayor Winger asked Mr. Coment if other cities have similar Ordinances requiring landscaping. Mr. Coment did not know because he has not researched it.

Mr. O'Connor expressed what a major challenge it would be to tell single family homeowners how many bushes they have to plant.

Mayor Winger asked Mr. Coment to do some research and then come back and let Council know what he found.

Ms. Graves had some concerns about the costs this would involve in asking a new homeowner to provide this landscaping.

Mr. Coment expressed what they have in the Code now is if someone takes down a tree in most cases the tree has to be replaced. Also, grass or seed is required on someone's building lot.

Mr. Kramer also wanted to look at what other cities do. He said the City of Vero Beach does have a nuisance Ordinance when yards get out of control. Mr. Coment agreed that code enforcement kicks in when the grass is over 12" in height.

Mr. Old recalled that when he built his house he was not required to provide landscaping. He was not sure that he wanted someone to dictate to him what he has to plant on his property.

Mr. Whittall again invited the Council to drive down his street.

Mr. Charles Wilson commented that he loves the City of Vero Beach like everyone else does and through the Vero Beach Chamber of Commerce he is trying to promote the City of Vero Beach. He said that he has been saying since 2009 if they can't be competitive in the electric business then they shouldn't be in the electric business. It seems they are not following what their goals and directions were and that was to sell the utilities. He said the policy was to sell the electric and that has not been rescinded and it has not been mentioned. He has not given up on the electric issue. He believes that eventually they will be able to rid themselves of FMPA. However, he has given up on the Vero Beach City Council being able to do that. The venue has changed. He said the only thing that the City Council can do right now is make it worse. When Mr. Wright stands before them and tells them what they should do, like so many other lawyers have done, it has not gotten them anywhere. He told Council that they do not have the ability to make this billion dollar electric decision. He said that Mrs. Turner has an item on the agenda

tonight and that is regarding the Florida Auditor General's Audit Findings of FMPA and the plans of the State Audit Committee in response to the report. His guess is that this Council will not pass her proposed Resolution. He asked what is it that they don't want to find out. He urged the Council to find out this information. He also felt that Council needed to have a complete clear goal and policy. He told Council that he has purchased a home outside of the City limits. He is now working on a Statewide initiative that puts on the ballot a constitutional amendment against unregulated monopolies. He said it will take 615,000 signatures and two-million dollars. He will be able to put on the ballot the breaking up of the FMPA long before the City solves the problem here. He urged them to support Mrs. Turner's Resolution and said the electric issue will be decided by a different court and not this one.

Ms. Janie Hoover, MainStreet Representative, thanked Council and the different departments for all their help in making the Hibiscus Festival so successful this year. She mentioned the different events that took place throughout the whole weekend and then presented Council with a commemorative poster designed by a local artist.

3. CONSENT AGENDA

- 1. Regular City Council Minutes – April 7, 2015**
- 2. Special Call City Council Minutes – March 25, 2015**
- 3. Assignment of Discretionary Investment Advisory Services Agreement to The Bank of New York Mellon**
- 4. Amendment of Temporary License Agreement for Use of Vero Beach Municipal Airport Property (Go Line Bus Hub)**

Mrs. Turner pulled item 3-3) off of the consent agenda.

Mrs. Turner made a motion to approve items 3-1), 3-2), and 3-4). Mr. Kramer seconded the motion and it passed unanimously.

Mrs. Turner referred to item 3-3), which is the assignment of discretionary investment advisory services agreement to The Bank of New York Mellon. She noticed that the City has been using this advisory service since 2009 and she wondered if they have gone out to bid and how much are they paying for fees.

Mr. O'Connor explained that the City has used this advisory service for a number of years and has always received good services. He said the primary reason it is on the agenda tonight is because Cutwater Asset Management has been taken over by The Bank of New York Mellon.

Ms. Cindy Lawson, Finance Director, explained the fees are spelled out as a percentage of the invested assets in the agreement. She said right now they are averaging about \$48,000 a year in fees.

Mrs. Turner noted again that they have used this firm since 2009. She asked have they gone out to bid and reviewed their services and looked to see if their fees were comparable with other firms.

Ms. Lawson stated that the fees seem reasonable to her and she has been happy with their support and quality of investments they have made for the City. They have volunteered to help the City restructure their investment policy statement to be compliant with Florida Statutes and hopefully do a little bit better from an earnings standpoint. She explained this was not for the City's pension investments. It is for the City's idle cash in which they are constrained by Florida Statutes as to what they can invest in.

Mrs. Turner asked what the term of the contract is going forward. Ms. Lawson explained it is indefinite, but can be cancelled with a thirty-day notice.

Mrs. Turner just hated to see the City entering into agreements for a long period of time without going out to the market and being assured that the fees they are paying are reasonable.

Mr. Kramer suggested approving this item and then having the Finance Commission review it.

Ms. Lawson asked if they were going to look at getting an RFP done that they could hold off until the next quarter of the next fiscal year.

Mrs. Turner did not have any problems delaying it, but wanted to set policy that these contracts are not just rolled over without being reviewed. She made a motion to approve the Advisory Services Agreement with a caveat that it be reviewed in January. She had no problem researching and making sure that the fees being charged are comparable rather than doing a full-blown RFP. Mayor Winger seconded the motion and it passed unanimously.

4. PUBLIC HEARINGS

A) ORDINANCES

- 1) A Resolution of the City Council of the City of Vero Beach, Florida, Adopting an Economic Development Plan and Tax Increment for the "Historic Downtown Vero Beach Economic Development Zone;" Designating the Base Year Assessment Roll; setting the percentage for calculation of tax increment; specifying the number of years in determining the annual tax increment; setting the initial tax increment year; providing direction to the Economic Development Zone's Advisory Committee; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Planning and Development Director**

Mayor Winger read the Resolution by title only.

Ms. Jessica Hawkins, Economic Development Zone Advisory Committee member, thanked Council for all of their assistance they have provided to the Committee. She invited them to attend any of their future meetings. She asked the Council to adopt this Ordinance giving them a year to submit a more detailed plan. She said all items implemented into the plan will have to be approved by Council. The Committee did agree to make a change to their five year plus projects regarding the bandshell. She said their new wording reads: *Our Committee is committed to work to promote the building of a bandshell within the Historic Downtown Zone. COST: Project to be privately funded.*

Mayor Winger opened the public hearing at 8:36 p.m.

Ms. Suzy Fenney, Executive Director of the Heritage Center, thanked everyone for clarifying the bandshell and its proposed location.

Mrs. Deborah Daige, Board member of the Vero Heritage Center, appreciated that they were moving forward in a positive direction for the City.

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

Mrs. Turner stated that she will be voting no on this Resolution. She said the reason is because the City of Vero Beach is only nine (9) square miles. They have a \$4 million dollar tax base and now they are going to look at pigeon holing certain funds for just one area. They have done projects throughout the City and these projects should always be evaluated within the whole City and not in a special area.

Mr. Kramer explained the reason they did that was because some areas of the City historically have gotten more money than other areas. The downtown area has been neglected for years.

Mr. Barry Shapiro, Economic Development Zone Advisory Committee member, explained that they are not taking money from anyone outside of the area. He said the businesses are already paying to renew this area (zone).

Mayor Winger closed the public hearing at 8:50 p.m., with no one else wishing to be heard.

The Clerk polled the Council on 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.

Council took a short break and the meeting reconvened at 8:50 p.m.

B) RESOLUTIONS

- 1) A Resolution of the City Council of the City of Vero Beach, Florida, Abandoning all City of Vero Beach interest in the North 5 feet of the South**

10 feet of Lot 12, Block 6, River Oaks Estates, Unit Three, being a portion of the Utility and Drainage Easements dedicated to the Public on the Plat of River Oaks Estates Subdivision, Unit Three, recorded in Plat Book 7, at Page 30, of the Public Records of Indian River County, Florida; Providing for an Effective Date. – Requested by the Public Work’s Director

Mayor Winger read the Resolution by title only.

Mr. O’Connor reported that the City received a Release of Easement application. A 5’ easement along the south line of Lot 12 will be retained for existing utilities. The City does not object to releasing the north 5’ of the south 10 feet of Lot 12.

Mrs. Turner noted in the backup material that ATT had objections to the release of easement.

Mr. Monte Falls, Public Work’s Director, thought that ATT objected to the other 5’, but said that he would verify that.

Mayor Winger opened and closed the public hearing at 8:52 p.m., with no one wishing to be heard.

Mrs. Turner made a motion to adopt the Resolution. Mr. Kramer 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, Regarding the Florida Auditors General’s Audit Findings of The Florida Municipal Power Agency (FMPA) and the Plans of the State Audit Committee in response to that Audit Report – Requested by Councilmember Pilar Turner

Mayor Winger read the Resolution by title only.

Mrs. Turner commented that she brought this to Council in a written form so Council could review it. She said that the City of Vero Beach under the interim mediation agreement has agreed to continue to work with FMPA bond trustees and others to effectuate the sale of the City’s electric utility. This City Council is the Board of Directors of a one-hundred million dollar utility and they have a fiduciary responsibility to know what their assets and liabilities are in order to set policy. She said prior to her service on the FMPA, who knew about Taylor Swaps? She said on July 14th there were 31 other Swaps that FMPA held which are all under water. Just last week at the FMPA meeting someone questioned that she did not know about a Swap liability that occurred on the St. Lucie Project and what would the fees be for all FMPA participants. Mrs. Turner wondered how many more of these liabilities are there with their FMPA projects. They have paid millions of dollars to FMPA over thirty years and what do they have to show for their money. Requesting an appraisal to FMPA should pose no threat if there is

nothing to hide. She said disclosure will provide to the ratepayers a picture of how well FMPA has managed their funds with the benefit of tax protection. She asked Council to stand up for their ratepayers, demand transparency and accountability from FMPA, and approve this Resolution. She said for the record this Resolution was prepared based on the similar Resolutions from Indian River Shores and Indian River County. She hand wrote the Resolution and her husband typed it for her.

Mayor Winger referred to page 2 of 3, Section 2, where it reads *The City requests the Florida Auditor General and Joint Legislative Auditing Committee; A. Initiate an appraisal of FMPA to determine the Fair Market Value (Sale between a willing buyer and a willing seller) of the generation assets of each of the FMPA projects.* He said the problem with this is what they are really talking about is the asset value less the liabilities, which to his knowledge are negative.

Mrs. Turner commented were determining a fair market value, as well as what the liabilities are.

Mayor Winger said that is not how the Resolution reads. His second point: *B. Allocate the Fair Market Value to each participating member of each FMPA project for inclusion in the participating members' financial statements.* He said he is against doing this because of the huge negative numbers in the financial statements.

Mrs. Turner explained these are the liabilities that this City is carrying and our ratepayers will be asked to pay. She felt they needed to have some transparency in this operation.

Mr. Old commented that another objection would be standard accounting terms, that this would not be put on their balance sheet.

Mrs. Turner expressed that Council needed to know what the liabilities are.

Mr. Old said it is annual flow through FMPA to the City and they know what the operating expenses are because of the budget.

Mrs. Turner told Mr. Old they might know what it is for this year, but do they know what it is going to be five years from now. She said what happens when EPA closes down all of the Coal Plants. She asked Mr. Old if he knew what their liabilities are going to be then.

Mr. Old said that he has heard discussions about decommissioning both of the Coal Plants and has been told that the decommissioning expenses were very small.

Mrs. Turner felt that even if the expenses are small the ratepayers still need a number. She does not see how it will hurt by having these numbers. She agreed to make the modification that it not be allocated to the financial statements. She said by seeing the fair market value, everyone will be shown how well FMPA has run this company. She asked Ms. Graves why she would not approve this Resolution.

Ms. Graves referred to page 2 of 3, Section 2, C. *Determine fair and equitable exit costs allocated to each participating member of each FMPA project as proposed by Florida Tax Watch report, “an analysis of FMPA audit members should be able to exit with reasonable and predictable exit costs to best serve their customers.”* She reviewed the Florida Tax Watch report and tried to find some information about the Florida Tax Watch, but she was unable to. She has an issue with attaching this City with a group they don’t know anything about. Her other question was if this is approved and this happens, how will it further the sale to FPL.

Mrs. Turner said because this gives full disclosure of FMPA’s operations.

Ms. Graves did not understand how that would further them getting out of their contract liabilities.

Mrs. Turner explained because they would have a value.

Mr. Old agreed with Ms. Graves that he did not see by passage of this Resolution that it would be moving them forward with the sale. He understands that it will not create any damage, but he does not understand why they are doing it.

Mayor Winger opened the public hearing at 9:02 p.m.

Mr. Charlie Wilson questioned when is it not good to have more information. He said when does having more information not help. He told Ms. Graves that Florida Tax Watch is a long standing good organization. He said that the Legislature did not even look at FMPA until the County had an audit done. He said if they can get the valuation done the people at the Legislature level can find more information and it could be clearer to them and they may get some more allies where they have not had them before. He could not understand why they would not want to know this information.

Mrs. Turner commented that it was very disappointing to have heard this Council say publically that they were moving forward in trying to get out of the FMPA, but are not willing to make any effort whatsoever.

There were no motions made on the Resolution.

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

- A) An Ordinance of the City of Vero Beach, Florida, Abandoning the East one half of Lot 24, Block 22, Royal Park, Plat No. 4, 584 Royal Palm Place, as recorded in Plat Book 5, at Page 30, of the Public Records of St. Lucie County, said lands now lying and being in Indian River County, Florida; Retaining a Utility Easement; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Public Work’s Director**

Mayor Winger read the Ordinance by title only.

Mr. O'Connor reported that this Ordinance would allow for an abandonment of the 25 foot wide right-of-way lying within the east half of Lot 24, Block 22, Royal Park Plat No. 4. The City will retain an easement for the entire abandoned area.

Mayor Winger opened and closed the public hearing at 9:05 p.m., with no one wishing to be heard.

Mrs. Turner made a motion to approve the public hearing for this Ordinance to be heard on May 5, 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.

B) An Ordinance of the City of Vero Beach, Florida, requested by IGA Development LLC, amending the Official Zoning Map by changing the Zoning District Designation of POI, Professional Office and Institutional District, to C-1, Highway Oriented Commercial District, for property located at 833 20th Street, Lot 22, less the West 18.5 feet, and Parcel 121, less the Northerly 20 feet, Gifford Estate Subdivision, containing .88 acre, more or less; 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, stated that this Ordinance will require a quasi-judicial hearing and he recommended having it heard on May 5, 2015.

Mayor Winger opened and closed the public hearing at 9:07 p.m., with no one wishing to be heard.

Mrs. Turner made a motion to approve the public hearing for this Ordinance to be heard on May 5, 2015. 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.

6. CITY CLERK'S MATTERS

Mrs. Tammy Vock, City Clerk, reminded the Council that the Ethics Training Class will be held next Wednesday, April 29th at the Vero Beach Community Center from 11:00 a.m. to 3:00 p.m.

7. CITY MANAGER'S MATTERS

Mayor Winger brought up the short term rentals. He thought what City Council agreed to was 90 days (one time) from the date that they enacted it and not rolling 90-days forward.

Mr. Coment stated the way he interpreted it from their last meeting when this was discussed, was because they were discussing compliance agreements and for compliance agreements the time for correction is established in the agreement. He thought that the guidance from Council was to go up to three (3) months. He said if this interpretation is wrong then he needs to know. He told Council that these are things that are already in the Code. He said a violator has the opportunity to waive a hearing and enter into one of these agreements. There is criteria in the Code that tells the Code Enforcement Officer how much time to give to the violator in order to bring the property into compliance. He said if Council wants to enact a set amnesty period then he would suggest bringing back an Ordinance to do that.

Mayor Winger commented that he was not in favor of the 90-days at all, but the consensus of Council was it made sense in that people had entered into contracts. What he is concerned with now is that a year from now someone wants the 90-days to start and that is ridiculous.

Mr. O'Connor asked if what he is hearing is that they do not want any more compliance agreements as it deals with vacation rentals.

Ms. Graves said the concern is once someone gets caught then they are under the impression that they have 90-days in order to comply.

Mr. Coment explained that code enforcement for short term rentals is now being handled by the Police Department. He knows Mr. McGarry's interpretation would have been if there is someone that comes to the attention of Code Enforcement and they get cited or issued a warning they would have an opportunity to enter into an agreement, but they would have to show what their bookings are. He said if they have a months' worth of bookings then they would be cut off in a month. Then if they have six (6) months of bookings they were going to be given up to the three (3) months and then after that they would be cut off.

Mr. Old explained that they were giving people 90-days in order to wrap up their situation and then from now on there are no more 90-day allowances.

Mr. Coment commented that there probably are still people running these short term rentals who don't understand that it is illegal and they don't know until they get caught and are cited. He asked if they wanted to treat those people differently than the people they are treating today. He was told by Council yes.

Mr. O'Connor asked if he was hearing a consensus from Council that there will be no more agreements written for people caught having a vacation rental.

Mr. Old explained they are giving people 90-days who are in this situation right now and not "future" people.

Mr. O'Connor said so if they site someone tomorrow to one of these "future" people there will be no agreements signed.

Ms. Graves explained her understanding was when this was first discussed (April 7, 2015) they realized that some people had already entered into agreements to rent their homes out so they gave these people 90-days to comply. If there were contracts prior to April 7, 2015 then these people fell within the compliance agreement.

Mr. O'Connor reiterated so tomorrow if someone is cited for a vacation rental they do not enter into an agreement.

Mayor Winger told Mr. O'Connor that was correct as long as the contract was dated before April 7, 2015.

Mr. Coment explained that the Code gives someone the opportunity to enter into a compliance agreement. In doing so they would waive their hearing and admit the violation and have the right to enter into one of these agreements and agree to a compliance date. If someone does not meet the compliance date then the case is taken before the Code Enforcement Board and they will typically issue an order, ordering compliance or correction of violation and assess a fine. The fine starts on the first day as noted in the compliance agreement. He said if Council wants to say there is no compliance agreements available for these types of violations then the Code needs to be changed.

Mr. O'Connor suggested bringing back an Ordinance for Council's consideration that would take the compliance agreement out of the vacation rental issue.

Mr. Coment explained these are Code Enforcement procedures and not in the vacation rental Ordinance.

Mr. Old told Mr. Coment that he understands what they are asking for. He asked how this will be accomplished.

Mrs. Turner felt if someone could show a contract signed before April 7th then they have been given some leeway.

Mr. Coment suggested setting an amnesty period and advertise to the public to stop the violation as of this date and then a fine will not be imposed. This still will not take away the opportunity to enter into a compliance agreement.

Mr. Kramer pointed out that this was a policy decision and Council can change the time, but felt that 90-days was a reasonable window.

Mayor Winger still did not hear a solution.

Mrs. Turner stated they need to leave this up to the Code Enforcement Board.

Mr. Coment said if Council wants to set a specific period it needs to be in the Ordinance. He said that they need to treat everyone the same.

Mrs. Turner commented that while they are discussing short term rentals, she understands that there has been a lawsuit filed and they need to respond by May 8th.

Mr. Coment reported that the City has asked Attorney John Frost to handle this case. He reviewed a draft for a motion to dismiss that will probably be filed this week. He said personally he feels there are good grounds for the Courts to dissolve this.

Mr. O'Connor stated that he would talk to the Police Chief and bring back some ideas to Council on how to handle the short term rentals.

Mrs. Turner mentioned that the mediation session has been scheduled for next Friday with Indian River Shores. She asked what the City's strategy is.

Mr. O'Connor reported that their strategy is what Mr. Wright reported to Council tonight. He said they have options that they are pursuing to reduce their rate costs, understanding that they cannot meet FPL rates. He said there is no way to do that. The suggestion that the City sell that portion of their system of Indian River Shores is not practicable in the fact that there are two (2) entities they are in litigation with. So they could not segregate Indian River Shores from the County and solve any issues. The only thing to say is that they are doing their best. He said the City is still willing to pursue the Utility Authority.

Mayor Winger brought up that he attended the mediation session last time because the City Council instructed him to. He asked who is expected to attend this time.

Mr. O'Connor said it would be the Mayor.

Mr. Coment briefly read to the Council the criteria concerning code enforcement.

Ms. Graves agreed that they needed to enforce short term rentals, but everyone needs to be treated fairly.

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

None

B. New Business

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Richard Winger's Matters

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

Mayor Winger reported on an article that appeared in the New York Times complimenting Mr. Craig Calhan and Mr. Peter O'Malley on the wonderful things they have done with Historic Dodgertown (article on file in the Clerk's office).

B. Vice Mayor Jay Kramer's Matters

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

Mr. Kramer reported on the Economic Development Council meeting that he attended. He said the Committee is looking at ways to keep the Enterprise Zone at the Airport.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner reported on the recent Metropolitan Planning Organization (MPO) meeting that she attended. She said that the Florida Department of Transportation (FDOT) will be having a senior car fit. What this allows is seniors to bring their cars to a certain location where people will make sure that their seat is properly positioned along with their mirrors. Mrs. Turner attended the Navy Seal Museum to see their two-million dollar renovation. She reminded the public that on Friday they will be celebrating Arbor Day at Riverside Park at 1:30 p.m. On Saturday morning at 9:30 a.m. they will be cutting the ribbon for the new Pavilion located at Leisure Square and on Saturday from 5:00 p.m. to 8:00 p.m. at St. Francis Manor there will be an event involving blue grass music.

D. Councilmember Amelia Graves' Matters

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

Ms. Graves reminded everyone that the Arbor Day tree planting is this Friday. She thanked the nursery that donated the tree to the City.

E. Councilmember Randolph Old's Matters

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

3. Comments

Mr. Old reported that he met with FMPA last week and they talked about the Swap issues. He said FMPA seems to be concerned and wants to remain conservative.

11. ADJOURNMENT

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

/tv