

**CITY OF VERO BEACH, FLORIDA
MAY 19, 2015 6:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Reverend Dan Holloway of Unity Spiritual Center of Vero Beach 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

Mayor Winger suggested allowing public comment after each item on the agenda. Council agreed with his suggestion.

Mrs. Tammy Vock, City Clerk, requested that under City Clerk's Matters that selection of a Council member to be appointed to the Indian River Lagoon Coalition be discussed.

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

B. Proclamations

1. National Safe Boating Week – May 16-23, 2015

Mr. Old read and presented the Proclamation.

C. Public Comment

1. Mr. Daniel Thomas to speak on the Power Squadron lease.

Mr. Daniel Thomas, 28 Forest Park Drive, gave a Power Point presentation (attached to the original minutes).

Mr. Jim O'Connor, City Manager, stated at the last Marine Commission meeting they recommended that the lease to the Power Squadron be renewed. The Power Squadron now pays \$25.00 for 10 years to lease the building.

Mayor Winger felt that the lease needed to be negotiated and that the Power Squadron should be paying more.

Mr. Thomas said the Power Squadron was willing to do that. He said that all of the money that they raise falls into two (2) categories. The first is for fixed expenses and the other category is to provide needs to the community. They are willing to help the City any way they can.

Mrs. Turner commented that it would be a shame if the Power Squadron had to cut back on the services that they provide to this community.

Mr. Old agreed. He said the Power Squadron pays rent in a different way by giving back to this community.

Mr. Kramer commented that he was impressed with what the Power Squadron does for this community.

Mayor Winger felt that it was the general consensus of Council to move forward with having the City Manager renegotiate the lease.

Ms. Graves commented on the maintenance that the Power Squadron provides for the building, which is so important to the City.

Mr. O'Connor said that he would work with the Power Squadron in renewing the lease as well as having the lease updated.

Mr. Thomas expressed that the Power Squadron does not want to be a "drain" to the City. They want to remain on the positive end.

Mrs. Turner commented on how wonderful it was to have the Chambers filled with people supporting the Power Squadron. At this time all of the people representing the Power Squadron stood up and were recognized.

2. Mrs. Sue Dinunno to discuss a new mural to go on the north side of the Bethel Creek House.

Mrs. Sue Dinunno, 5125 Tradewinds, stated that the Vero Beach Art Club received a request from the Recreation Department to paint a mural at the Bethel Creek House. She said that local artist, Ms. Lee G. Smith, has volunteered to design the mural. She passed around two (2) renderings of what the mural would look like and asked Council to pick the one they liked best. The renderings were presented to the Recreation Commission at their last meeting. The Recreation Commission loved the idea and picked the rendering of the beach, which they liked the best. Mrs. Dinunno said there will be some prep work that the Recreation Department will need to do. She said the volunteers working on the program plan to work three (3) hours a day (not on weekends) until the project is

complete. The paint for the mural is being donated by Don Smith's paint store. She said there will be no cost to the City other than having the side of the building power washed.

Mrs. Turner asked Mrs. Dinunno what the City will need to do in order to prepare for this project.

Mrs. Dinunno explained the weeds/brush that nestles up to the building will need to be cleared. The side of the building will need to be power washed. The artists will need to borrow a couple of ladders and have access into the Bethel Creek House in order to get water and use the restrooms. She said for the public the mural will be painted on the wall facing the North.

Council endorsed the recommendation of the Recreation Commission to go with the beach scene.

Mr. Rob Slezak, Recreation Director, thanked Mrs. Dinunno and the Vero Beach Art Club for painting this mural, as well as the other things that they do for the City of Vero Beach.

3. Councilmember Randy Old to discuss Florida Municipal Power Agency (FMPA).

Mr. Old recalled that Council has discussed doing a market analysis of the assets of Florida Municipal Power Agency (FMPA) and that was not done and the reason was because Vero Beach does not have any assets at FMPA so doing an analysis of it doesn't make any sense. The only way the City can get out of FMPA is for someone to step into their shoes and assume their liabilities. He said doing a market study would not move this forward so that is why they declined. He said it wasn't like they were trying to hide anything from anybody.

4. Mr. Shef Wright, Attorney, to give an update on the Electric Utilities.

Mr. Shef Wright, Attorney, reported that Indian River Shores (IRS) amended complaint was served and filed yesterday afternoon. The City has 50 days from yesterday to file whatever response of pleadings they are going to file. He said there were four (4) counts in the first complaint and there are four (4) counts in this complaint, but they are different from the first complaint. He said IRS has dropped the claim asking the City to have a Utility Authority and they have also dropped the equal protection due process claim. He said IRS has added two (2) breach of contract claims. The first one asserts that the City has in anticipation reputed and breached the Franchise Agreement by refusing to vacate the areas within the Town that the City serves. This ties into the same first count in the original complaint stating upon expiration of the Franchise Agreement they assert that they can "kick the City out." He said the fourth count is that their rates are unreasonable and that ties directly to what they claim that the City breached the contract by not charging reasonable rates. He is working on setting up a meeting with Mr. Frost, the City's litigation counsel, on May 22nd to talk about what their response proceedings will

include. He hopes to meet with Orlando Utilities Corporation (OUC) on that same day to explore some further clarifications and discuss restructuring their contract with them.

Mr. Wright stated that the Cost of Service Study being done by Public Services Resource Management is on-going. There was a meeting on Monday with Public Services Resource, himself, and staff, to make sure they were getting enough detail from the City to include in their study. At that meeting there was some discussion on long term rate stability and how to try to get the rates down and keep them down. They want to get the rates down rolling in the fact that Stanton I will be rolling off in 2019 and also considering the fact that the City's electric system debt is due to be paid off on December 1, 2021. It became clear at that meeting that the City is going to have to retire all five Units at the Power Plant. He said they can keep it running for some additional time, but the costs will continue to go up. He said this will be factored in while moving forward.

Mr. Wright reported that himself, Mayor Winger, and Mr. O'Connor, met with Florida Power and Light (FPL) this morning and had a very good cordial, frank, and candid discussion with FPL's general counsel, and other representatives from FPL. The purpose of the meeting was to hear what FPL had to say in terms of a possible partial sale by the City to FPL of the IRS system. He said at the end of the meeting they all concluded that the City's Power Purchase Agreements (PPA's) have cost structures that are not conducive of being able to find a common ground for a partial sale. They also discussed whether there was any possible way to move forward in closing the deal with FPL to sell the utilities and nobody had any new ideas.

Mr. Old asked Mr. Wright if he was saying that both the sale and a partial sale to FPL were impractical.

Mr. Wright said yes, but for different reasons. He said the partial sale was impractical because of having to deal with stranded costs. He said the original sale of the entire system is impractical because the City does not have a party to step into their shoes in the FMPA contract so the deal cannot work for the City. He said this fell apart about a year ago when OUC and FMPA determined that they were at impasse and not able to work out conflicts with their responded bond counsels.

Mrs. Turner asked Mr. Wright with the new proposed contract with OUC, she was curious what the deal would look like if they do not give OUC the out for 2020. Mr. Wright explained that provision was in the October 20th proposal, but it is not in the November 25th proposal. He said that he would verify that. Mrs. Turner explained that her concerns with 2020 is that is when EPA regulations go into effect and there could be a real run up in power costs should Vero Beach have to find a new power provider.

Ms. Graves commented that there is a misconception from some of the public that they are considering extending their OUC contract. She asked Mr. Wright if any of the proposals include extending the OUC contract.

Mr. Wright stated there is no such option under consideration. He said the longest possible term would be December 2029 and he did not see that option as being economically feasible. He said their options will be to go with the OUC November 25th option or look at going out to market and taking advantage of that.

Mayor Winger asked Mr. Wright to explain what he means by taking advantage of a market option.

Mr. Wright explained it is possible that they could restructure the OUC contract to keep them whole in their minds and enable the City to terminate purchasing from OUC and buy power in the market. He said at this time market costs are low, as well as capacity costs are low. He said offers for five (5) and 10 year capacity contracts are very favorable from the buyer's perspective. He said the price of energy in the market is driven by the price of natural gas and at this time gas prices are low. He reiterated what he has told Council before that there are risks in whatever they choose to do.

Mayor Winger commented that at some point in time Council is going to need to vote on what they are going to do.

Mr. Wright said that he plans to speak to the Utilities and Finance Commission on June 9th and then he will be back in front of the Council to speak to them at their June 16th meeting.

Mr. Old commented that given the fact they are being told that the Power Plant is not worth rehabbing, they should be planning what they are going to be doing about supplying power to their clients over the next five (5) to 10 years. He asked if that was part of the Study being done by Power Services.

Mr. Wright said yes. He said they are looking at how they are going to serve their customers with whatever option that they choose to go with. He said with whatever the option they go with, there will be a provision to provide reliable service to all of their customers without having the Power Plant operating.

Mayor Winger commented that the meeting they had this morning with FPL was very cordial and friendly. He said no one knows what the future brings, but FPL is an important factor and always will be. He said at this point in time the ball is in the City's court and they have to do what they have to do in order to get their costs down. He said they buy half of their power through the OUC PPA's that went into effect into 2010 and now they have the opportunity to bring those costs down significantly. However, they don't have this same opportunity with the power that they receive from FMPA, which is what is blocking them from concluding the sale to FPL. He stressed the importance of retaining a cordial relationship with FPL.

Mr. Old told Mr. Wright that he has been a big help to the City in going through this process.

5. Miss Annabel Robtson, Indian River Rowing Club/Vero Beach High School to talk about their State Championship.

Miss Robtson was not at tonight's meeting.

Mr. David Hunter, 3702 Eagle Drive, stated that he has been keeping them informed on the progress that the City has been making with regards to controls over short term rentals. He complimented the City on what they are doing in that regard. He attended the last Code Enforcement Board meeting as just an observer to see how things were going. He was pleasantly surprised to see that there was a compliance agreement reached by one of the offenders. There was a \$500.00 citation issued for a second violator with a possibility of this becoming a daily \$500.00 fine. The third case was a request for a continuance until the person could obtain legal counsel to represent him. This sparked his curiosity because at the Code Enforcement Board meeting the City Attorney sits on the dais as counsel to the Code Enforcement Board. He asked the City Attorney if he also represents the Code Enforcement Officer and the Police on the prosecuting side of the case. The City Attorney said no that was not his role because he is representing the Code Enforcement Board. Mr. Hunter felt this creates a dilemma. He questioned who is arguing on behalf of the City. The reality is that the Code Enforcement Officer is representing the City and there is not an attorney representing their defense. He went back to Mr. Coment and asked why is there not a City Attorney representing the City of Vero Beach at these enforcement hearings. Mr. Coment sent him an explanation on what the Ordinance states and that is the City Attorney is the Code Enforcement Board's attorney and that the City Attorney will not prosecute or present cases before the Board. He contacted some local attorneys and asked them about this (Mr. George Christopher and Ms. Lynne Larkin). These attorneys agreed with him that this is a situation that needs remedy and the City should not be in a position where they don't have legal representation defending their interests and presenting rebuttals to the defense attorney. He said the options to correct this would be: 1) the City Attorney might represent the City and the Assistant City Attorney represent the Board, however it has been explained to him that could create a conflict because they both work out of the same office; 2) move to a Special Magistrate instead of having a Board; or 3) the City hire legal counsel independent of the City Attorney's office. He felt that Council needed to address this situation because several cases will be coming to the Code Enforcement Board in the next few months and the alleged violators are likely to have retained attorneys.

Mrs. Turner clarified that what Mr. Hunter was asking for was for the City to hire an attorney for the Code Enforcement Board and then the City Attorney would represent the City.

Mr. Hunter told Mrs. Turner that was correct. He said at the moment Mr. Coment is not their City Attorney when he is representing the Code Enforcement Board.

Mayor Winger felt that Mr. Hunter brings up a good point. He suggested asking Mr. Coment to come back to Council with a solution.

Mr. Wayne Coment, City Attorney, stated that Code Enforcement Officers are specified in the Code as the prosecutors in their cases. However, this does not mean they can't have a prosecuting attorney. He represented the County as their Code Enforcement Board attorney and they do not have a prosecuting attorney. The cases are presented by the Officers. He said that traffic court is handled the same way. The Officers present their cases and there are no prosecuting attorneys. However, people often show up with an attorney to defend themselves when they are issued a ticket. He said perhaps the Officers could use more training when presenting their cases. He has no problem in reversing roles and hiring an attorney like the County hired him to act as the Board's attorney. He asked Council to keep in mind the only time they typically will see someone show up at the meeting with an attorney is when they have contested the citation. He said over the last year there have only been two citations contested. He agreed with Mr. Hunter that there would probably be more cases come before the Code Enforcement Board regarding short term rentals until there is a decision made on the recent lawsuit filed regarding short term rentals. He said the Code does provide for a Special Magistrate if that is the avenue they wish to move in.

Mayor Winger stated that they need a solution. He recalled two (2) years ago, he was in favor of having a Special Magistrate instead of having a Code Enforcement Board. He said the people of this City need to be defended. He said they just need to find a solution to this.

Mr. Coment reminded Council that the Code has been changed so that the Code Enforcement Board does not interpret the Code.

Ms. Graves recalled when this was discussed two (2) years ago and they talked about the Special Magistrate and the cost associated with having one.

Mr. Coment commented at that time he sent out an informal survey on hiring a Special Magistrate and they received little response from attorneys interested in serving as their Special Magistrate.

Mr. Kramer commented that what disturbs him is when they have these contested issues it always becomes a precedent setting and then their Ordinances are challenged.

Mr. Coment said the one case they had that went to court has no precedential value.

Mr. Kramer stated that Mr. Coment mentioned that there were only two (2) contested cases heard over the last couple of years. He asked when it gets to that point could they hire a Special Magistrate to handle the contested cases. Mr. Coment said that could be done. The exception would be with the Building Contractor violations because they fall under a different Statute. In those cases they are automatically scheduled for a hearing and a person could show up to contest the citation at that hearing.

Mr. Old asked Mr. Coment how he would solve this.

Mr. Coment commented the way the courts are obligated to review these cases they only look at limited things, which is the record and if there is anything in the record about the decision made by the Board then they would have to support the Board's findings. He reiterated that he does not see this as a problem.

Mayor Winger disagreed. He felt that they needed legal representation with some of these cases.

Mr. Coment told Council that they could hire an attorney to represent the Code Enforcement Board when a case is being contested.

Ms. Graves asked what kind of training could they offer to their Code Enforcement Officers so they would be better prepared to present their cases.

Mr. O'Connor did not think they could train the Code Enforcement Officer to prepare to defend a case when someone has a good attorney representing them.

Mr. Hunter commented the problem with the Code Enforcement Board's decisions is that after they are made the only way those decisions can be changed or modified is by appellat court. So if a mistake is made with the prosecuting side of the City or the Board makes a mistake because they misunderstand the facts being presented to them then that mistake is uncorrectable. When a case is taken to the appeals court new evidence cannot be introduced, such as the Carroll's case.

Ms. Graves added that they need to watch their costs especially if there are going to be more contested cases. So the question is which would be cheaper. Outside counsel to prosecute the cases or a Special Magistrate to decide the cases.

Mayor Winger did not think they could train a Code Enforcement Officer to be up to the level of a defense attorney.

Mr. Coment reiterated how the County handles this. They hire an outside attorney just to represent the Code Enforcement Board.

Mr. Hunter asked if the City could use the same attorney serving the County Code Enforcement Board. Mr. Coment said they could.

Mayor Winger felt that it was up to Mr. Coment to come back with a solution.

Mr. Coment stated that he did not think there was a problem. He said remember the one (1) case that went to appellat court was decided on a legal interpretation and that has been taken away from the Code Enforcement Board.

Mr. Hunter felt that Mr. Coment would be capable of representing the cases if he was not serving as the attorney to the Code Enforcement Board.

Mayor Winger said that they have two choices here. Mr. Coment can bring something forward or he (Mayor Winger) will put the matter back on their next agenda.

Mr. Coment said he would find out what the costs would be for someone to step in and be the attorney for the Code Enforcement Board when there is a contested case. He will bring this information back to them at their June 16th meeting.

Mrs. Phyllis Frey, 275 Date Palm Road, commented on some safety issues that will be increased if All Aboard Florida comes into this area (she read a prepared statement). She also showed pictures of explosions that have occurred as a result of train accidents, etc.

3. CONSENT AGENDA

- 1. Regular City Council Minutes – May 5, 2015**
- 2. Utility Easement #2014=EG-0153 – 17th Street Subaqueous Utility Crossing**
- 3. Easement Deeds for STEP System – Silver Shores, Unit No. 1, Block 3, Lot 15, PBI 4-45; Bethel Isle Unit 2 Replat, Block 5, Lot 11, PBI 5-33; Bethel Isle Unit 2 Replat, Block 5, Lot 10, PBI 5-33; Bethel Isle Unit 2 Replat, Block 5, PBI 5-33**
- 4. License Agreement #2014-LA-0244 – David & Elisa Chandler – Residential Dock & Boat Lift – 1900 Cobia Drive**
- 5. Revised and Restated Joint Fiber Optics Project Interlocal Agreement**

Mr. Kramer pulled item 3-3) off of the consent agenda.

Mr. Kramer made a motion to approve the consent agenda, except for item 3-3). Ms. Graves seconded the motion and it passed unanimously.

Mr. Kramer asked if item 3-3) was related to item 4B-1) on tonight's Council agenda.

Mr. O'Connor said that it was. He said passage of the Resolution gives him the authority to sign (accept) conveyances of easements on behalf of the City.

Mr. Kramer made a motion to approve the Easement Deeds for the STEP System. Ms. Graves seconded the motion and it passed unanimously.

Council took a break and the meeting reconvened at 7:40 a.m.

4. PUBLIC HEARINGS

A) ORDINANCES

B) RESOLUTIONS

1) A Resolution of the City Council of the City of Vero Beach, Florida, Authorizing the City Manager to accept Conveyances of Easements on behalf of the City; Providing for an Effective Date. – Requested by the City Attorney

Mayor Winger read the Resolution by title only.

Mr. O'Connor reported that the passage of this Resolution will give him the authority to sign and accept conveyances of easements on behalf of the City.

Mayor Winger opened and closed the public hearing at 7:42 p.m., with no one wishing to be heard.

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

2) A Resolution of the City Council of the City of Vero Beach, Florida, Requesting The Treasure Coast Planning Council to work with the Cultural Council of Indian River County by Providing Technical Planning assistance in establishing a Vero Beach Cultural Arts Village District – Requested by the Planning and Development Director

Mayor Winger read the original Resolution by title only. There were some changes made to the Resolution, which Council did receive a copy of the amended Resolution. Mrs. Vock read the title of the new Resolution as outlined in the agenda.

Mayor Winger opened the public hearing at 7:44 p.m.

Mrs. Phyllis Frey stated that those sitting on the Council in 2012 voted 4-1 to withdraw from the Seven 50. She attends the Treasure Coast Regional Planning Council (TCRPC) meetings and they continue to support Seven 50. She said the TCRPC and All Aboard Florida are working together in Palm Beach County on the railroad project (she read a prepared letter). She said if Council allows this to happen, keeping Vero/Vero would not be an option. She urged Council not to approve this Resolution because asking for technical assistance from the TCRPC will come with mandates.

Mrs. Barbara Hoffman, Director of the Cultural Council, pointed out that the Cultural Council and the Cultural Council leadership team will be directing the planning of the Vero Beach Cultural Arts Village District. The lead members of the organization will be the local chapter of the American Institute of Architects. The TCRPC will be called upon for technical assistance only by the leadership team, by the Cultural Council, and by the American Institute of Architects. She said the Cultural Council is a private non-for-profit organization and any costs incurred would be paid by the organizations private funds.

Ms. Graves recalled that Mr. O'Connor and Mr. Old attended the Village District tour in Bradenton, Florida. She asked if they had asked for assistance by the their local Regional Planning Council.

Mr. O'Connor was not sure. He said that Bradenton has a large Planning Department to provide assistance, which the City of Vero Beach does not.

Mr. Old added that the Public Works Department and other City personnel in Bradenton are very much aware of what is going on.

Mr. O'Connor explained what this Resolution will do is get the support of another professional planner and the Cultural Council will be doing the interacting.

Ms. Graves understood that the Cultural Council is looking at what is already there and preserving what they have. They want historical homes to be improved, the character of downtown and this neighborhood preserved and enhanced. She said that the City's Planning Department does not have the staff to provide the services needed for this. She recalled that the City is having a problem getting their Comprehensive Plan completed because of being short staffed. She respects all the comments that have been made and she understands the concerns. But, she did not think that this action was preserving what they have right now is the same as other issues. She said they have the ability at any time to say no and if they reserve that right they will be safe.

Mr. O'Connor reported that the City is looking at signing a contract with a planner who will help Mr. McGarry in getting the Comprehensive Plan updated.

Mr. Kramer explained they were not asking for assistance, but to endorse the Cultural Council to have assistance. He requested some changes be made to the original Resolution. In the original Resolution the word support was used and now the language reads that the TCRPC will work with the Cultural Council. He did not want to see any language in this Resolution saying that the City of Vero Beach would be financing or devoting resources to this project. Additionally, he added any expenses incurred by the TCRPC would be paid by the Cultural Council.

Mrs. Turner serves as the City's liaison on the TCRPC. She shares Mrs. Frey's impression of their agenda and the way they promote different issues. However, in this case where the Cultural Council will take on the leadership role in looking for assistance clarifying that the City's commitment would only be providing a venue, she suggested moving forward in approving the Resolution.

Mr. Kramer made a motion to approve the amended Resolution as provided to Council. 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.

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

A) An Ordinance of the City of Vero Beach, Florida, amending Section 6-4 of the Code of the City of Vero Beach related to the Prohibited Hours of Sale, Service, and Consumption of Alcoholic Beverages; Providing for Conflict and Severability; Providing for Codification; and Providing for an Effective Date. – Requested by the Police Department

Mayor Winger read the Ordinance by title only.

Mr. O'Connor reported that the Police Department has no problem with permanently extending the hours in which alcohol can be served from 1:00 a.m. to 2:00 a.m.

Mayor Winger opened and closed the public hearing at 7:54 p.m., with no one wishing to be heard.

Mr. Coment added that this Ordinance would remove the sunset provision completely. It can be brought back at any time if there are problems.

Mrs. Turner made a motion to schedule the public hearing for this Ordinance for June 2, 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.

B) A Resolution of the City of Vero Beach, Florida, amending the City of Vero Beach General Employee Retirement Plan; Amending Article 1, Definitions; amending Article 2, Eligibility and Participation; amending Article 5, Retirement Benefits; amending Article 7, Termination of Employment; amending Article 8, Total and Permanent Disability; creating a New Article 15, Plan Freeze and Participation in defined Contribution Plan; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by City Council

Mayor Winger read the Resolution by title only.

Mr. O'Connor reported that Mr. Glenn Thomas, Attorney hired to write this Resolution was at tonight's meeting.

Mr. Glenn Thomas, Attorney, stated that this Resolution amends the general employees' retirement plan to facilitate the plan freeze. He said that on June 30, 2015 all benefits of the members in the plan will be frozen and they will be determinable on that date based on their average basic monthly salary, as well as their credited service on that date. He said no one else will accrue benefits under this plan after that date, nor will they make any contributions. However, the City will continue to contribute to the Plan until all of the benefits are fully funded. Following that all the members of this Plan will participate in the Defined Benefits Plan, which will be discussed next (item 5-C) on the agenda. He would be happy to answer any questions that Council has.

Mayor Winger opened and closed the public hearing at 7:57 p.m., with no one wishing to be heard.

Mrs. Turner commented as they are freezing this plan their payroll costs will go from 27% to 31%. She asked if that was correct. She also asked how they would end up paying off this benefit.

Ms. Cindy Lawson, Finance Director, thought that Mrs. Turner was referring to the impact statement and she explained it was important to remember that the payments they make right now to the Defined Benefit Pension Plan have two (2) major components. One is the payoff for the unfunded liability. If you look at the impact statement, that is not scheduled to actually change. The other component of the payment they make towards the Defined Benefit Pension Plan is the normal contribution that they have to make every year, even if they were fully funded to pay for the benefits they have promised. She said the normal payroll contribution for the Defined Benefit Pension Plan is about 4% and the proposed Defined Contribution Pension Plan is 7%.

Mrs. Turner made a motion to hold the public hearing for this Resolution on June 2, 2015. Mr. Old seconded the motion.

Mr. Kramer commented that what bothers him is that he knows some of their senior staff are looking at this Resolution and considering leaving the City. He said they are paying off their liability, their reserves are getting higher and economics are looking better. He expressed their employees have not been given a raise in a number of years. It bothers him that they are starting to take on new projects and then once they start this pension program they will start to lose some of their senior staff. He agreed with stopping the pension program for the new hires, but with some of their existing staff it will put them behind the eight ball and he doesn't know how they will get some of their projects done if some of their employees start leaving. He questioned how they are going to recruit people to replace the employees leaving.

Mayor Winger stated that the discount rate will change to 6%. He said the problem they have always had is the rate they have had of 7 3/4% has not been sustainable and won't be in the future. All that will happen is they will keep kicking the can down the road and get into more trouble and the passage of this Resolution will quit that from happening. He said they must consider wage increases and other benefits for their valuable employees. He believes if they stay where they are that the gap will continue to grow. He told Mr. Kramer that his concerns were valid.

Mr. Old agreed that they have not looked at planning when they lose top employees and who is going to replace them.

Mr. Kramer felt that they stopped kicking the can down the road by stopping the pension program for new employees. He said raising taxes to push away their senior staff does not sit well with him.

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

- C) A Resolution of the City of Vero Beach, Florida, relating to the Adoption of a Defined Contribution Retirement Plan for General Employees; Providing for the Selection of ICMA Retirement Corporation as Plan Administrator; Adopting the ICMA 401 Governmental Money Purchase Plan and Trust; Providing for Membership in the Plan; Providing for Execution of Trust Agreement and all other necessary documents incidental to Administration of the Defined Contribution Plan; Providing for Administration of the Plan; Providing for Severability; and Providing an Effective Date. – Requested by City Council**

Mayor Winger read the Resolution by title only.

Mr. O'Connor reported that by passing this Resolution the City will contribute 7% of the Employee's pay towards the Defined Contribution Plan. The employee will contribute 3% of the employee's pay and employees hired after October 1, 2014 will contribute 5% of the employee's pay toward the Defined Contribution Plan. The City went out to bid looking for proposals for someone to administer the plan and ICMA was chosen.

Mr. Thomas added that this Resolution provides for the adoption of the ICMA plan and also provides for ICMA to provide their administrative services. They have defined the membership, which is essentially the same membership definition as for the Defined Benefit Plan and it allows the City Manager to enter into the agreements necessary for the adoption.

Mayor Winger was bothered by the 7%. He felt that they needed to get from 7% to 9%.

Mayor Winger opened and closed the public hearing at 8:05 p.m., with no one wishing to be heard.

Ms. Graves stated that when looking at the Plans they are putting forth it bothers her that they have asked their employees to give up a lot over the years. They have decreased their multiplier, no raises have been given, health insurance costs have gone up and now this. She does not feel that on their side they did much negotiating. She did not think it was appropriate to treat their longstanding employees, who have done immense work for this City, the same as an incoming employee. Their longstanding employees signed on to work for the City knowing they were going to get a specific pension and now that is ending. She said now anyone that gets hired knows what they will be getting when they retire and she does not think it is fair to treat current employees who have served their City and served the Council without some sort of understanding and reward for that. She said to tell employees all of a sudden their pension is going to be cut does not sit well with her. She felt that this needed to move from 7% to 9%. She asked Ms. Lawson if she would tell them what kind of impact this would have on the budget.

Mr. O'Connor stated that for every one (1) percent there will be a \$68,000 impact on the General Fund.

Mrs. Turner asked Mr. O'Connor to go over the process of how he came up with the 7%.

Mr. O'Connor reported that they looked at other cities that have the Defined Contribution Plans and 7% fell in the middle of the various cities throughout the State.

Mrs. Turner asked if a 3% raise was given to the employees in March.

Mr. O'Connor said yes and that it was the first raise the employees have had in six (6) years.

Ms. Graves made a motion that the City's contribution move to 9% for all current employees, but remain at 5% or 7% for incoming employees. This would allow every current employee to have a 12% Defined Contribution Plan. Mayor Winger seconded the motion.

Mrs. Turner felt that they cannot look at this on an annual basis. It needs to be looked at for the long term program that will be implemented. She said if they take another \$140,000 out for another 20 years there will be a significant increase in costs.

The Clerk polled the Council on the motion and it passed 3-2 with Mr. Old voting yes, Ms. Graves yes, Mrs. Turner no, Mr. Kramer no, and Mayor Winger yes.

Ms. Graves told Council that she will not be at the next Council meeting and asked that the public hearing for this Resolution be held on June 16, 2015. She made that in form of a motion. Mr. Old seconded the motion. This motion was not voted on as a new motion was made.

Mayor Winger made a motion to approve the Resolution with the change from 7% to 9% for existing employees and the public hearing will be heard on June 16, 2015. Mr. Old seconded the motion and the motion passed 3-2 with Mr. Old voting yes, Ms. Graves yes, Mrs. Turner no, Mr. Kramer no, and Mayor Winger yes.

Mr. O'Connor asked Mr. Thomas if there would be any problems with holding the Resolution for the Defined Benefit Plan on June 2nd and then having the Resolution for the Defined Contribution Plan heard on June 16th.

Mr. Thomas suggested holding both hearings on June 16, 2015.

6. CITY CLERK'S MATTERS

A) Commission/Board Appointments and Reappointments

Recreation Commission

There is an alternate position open on the Recreation Commission.

Mr. Kramer made a motion to appoint Mrs. Christina Pierce to the Recreation Commission. Ms. Graves seconded the motion and it passed unanimously.

Architectural Review Commission

Mr. Richard Bialosky, Mr. Duane Weise, Mr. Chris Crawford, and Mrs. Alice Johnson's terms on the Architectural Review Commission expire on June 20, 2015 and all members wish to be reappointed.

Mrs. Turner had some concerns that this Commission has not met in the last two (2) years.

Mrs. Vock informed her that she spoke to Mr. McGarry who said there might be a case coming up soon where he will need to take it to this Commission. Mr. McGarry also said in order to abolish this Commission there would need to be a change made to the Code.

Ms. Graves made a motion to reappoint Mr. Bialosky, Mr. Weise, Mr. Crawford, and Mrs. Johnson to the Architectural Review Commission. Mr. Old seconded the motion and it passed unanimously.

Board of Building Appeals

Mr. Jim Wright's term on the Board of Building Appeals expires on June 20, 2015 and he would like to be reappointed.

Mr. Kramer made a motion to reappoint Mr. Wright to the Board of Building Appeals. Mr. Old seconded the motion and it passed unanimously.

Historic Preservation Commission

Mr. Jeffry Ray's term on the Historic Preservation Commission expires on June 15, 2015 and he would like to be reappointed.

Mr. Kramer made a motion to reappoint Mr. Ray to the Historic Preservation Commission. Mr. Old seconded the motion and it passed unanimously.

Tree and Beautification Commission

Ms. Cynthia Schwarz's term on the Tree and Beautification Commission expires on June 15, 2015 and she would like to be reappointed.

Ms. Graves made a motion to reappoint Ms. Cynthia Schwarz to the Tree and Beautification Commission. Mr. Old seconded the motion and it passed unanimously.

Veterans Memorial Island Sanctuary Committee

Mr. Tony Young, Ms. Alma Lee Loy, Ms. Barbara Fallon, Mr. Curtis Paulison, and Mr. Ken Daige's term expire on June 15, 2015 and all wish to be reappointed.

Mr. Kramer made a motion to reappoint Mr. Tony Young, Ms. Alma Lee Loy, Ms. Barbara Fallon, Mr. Curtis Paulison, and Mr. Ken Daige to the Veterans Memorial Island Sanctuary Committee.

Indian River Lagoon Coalition

Ms. Graves nominated Mayor Richard Winger to serve on the Indian River Lagoon Coalition. Mayor Winger accepted the position to serve on the Indian River Lagoon Coalition on behalf of the Council.

7. CITY MANAGER'S MATTERS

A) Airport Master Plan Status Update

Mr. Eric Menger, Airport Director, introduced Mr. Pete Ricondo, Mr. Remy Lucette, and Mr. Mike Gordon, who were the consultants, present to give the status of the Airport Master Plan.

Mr. Pete Ricondo gave a Power Point presentation (attached to the original minutes).

Mr. Menger closed up the discussion by saying they are looking at getting an airline service into Vero Beach. He also went over the commercial airline service that Vero Beach once had.

B) Work Order 1587-2 with Kimley-Horn and Associates, Inc., to Redevelop Commercial Park (FDOT #429707-1-94-01)

Mr. Menger reported in 2013 the City Council accepted a grant with the Florida Department of Transportation (FDOT) to redevelop the Airport's Core Commercial Park. This work order is for Kimley-Horn to design and do the engineering to bring the Airport's Building 78 up to the current building code and to complete some major remodeling so the building can be more marketable for leasing. He recommended approval of the work order to Kimley-Horn in the amount of \$120,600.00.

Mrs. Turner asked what would be the impact on the existing tenants while this remodeling is taking place.

Mr. Menger explained they will work around them as much as possible. He did not think that they would have to close the entire building in order to complete these renovations.

Mrs. Turner asked what is the timing of the project.

Mr. Menger felt that the design work would take between 90 and 120 days to complete, then construction could take between 3 to 4 months, so they will be looking at a good year before the project is completed.

Mr. Kramer made a motion to approve the work order for Kimley-Horn in the amount of \$120,600.00. Ms. Graves seconded the motion and it passed unanimously.

C) Interlocal Agreement between Indian River County and City of Vero Beach for Fertilizer Regulation Enforcement

Mr. O'Connor provided Council with an agreement proposed by Indian River County to enhance enforcement of the City's Fertilizer Ordinance. The agreement is for a 12-month period, but may be terminated by either party with a 30-day notice. The Enforcement Officer will spend a minimum average of four (4) hours per week, or 16 hours per month, and the City would reimburse the County for actual hours using the current salary plan benefits and overhead of the Officers (\$27.00 an hour).

Mayor Winger opened this up for discussion from the public at 8:43 p.m.

Mr. Dan Lamson, Executive Director of the Indian River Neighborhood Association (IRNA), encouraged Council to go forward with this Interlocal Agreement. He said that IRNA is in full support of it.

Mrs. Turner had some questions on how the City would engage the Enforcement Officer's service and who will this employee be supervised by.

Mr. Lamson explained that people who live in the City already call the Enforcement Officer. He feels education is needed for the public on what they can or cannot do regarding fertilizer and its danger to the Lagoon. He said that the Enforcement Officer does a great job for the County.

Mr. O'Connor explained they would handle this in the same way that they handle the City Building Department. He pointed out that the City has been enforcing the Fertilizer Ordinance and this will just enhance what they already have been doing.

Ms. Graves asked how they would cite a violator.

Mr. O'Connor explained they would need to catch someone in the act.

Mr. Kramer made a motion to approve the Interlocal Agreement with Indian River County for Fertilizer Regulation Enforcement. Ms. Graves seconded the motion and it passed unanimously.

D) Second Quarter FY 14-15 Electric Utility Rate Sufficiency

Mr. O'Connor reported that both the Utilities Commission and the Finance Commission reviewed the analysis and agree with staff in recommending no adjustment to the rates be made at this time.

Mrs. Turner commented that they are still looking at a deficit and wondered in the summer with the additional electric usage would this balance out.

Ms. Lawson explained that there is a \$900,000 surplus. She briefly explained the chart Council received outlining the summary of expenses, revenue, and revenue surplus (on file in the Clerk's office).

Mrs. Turner thanked Ms. Lawson for clearing this up.

Mr. Kramer was amazed when looking at Ms. Lawson's graphs that she continues to be "spot on." He told Ms. Lawson that the public is being served very well.

Mayor Winger commented that last month the running costs of three (3) of their four (4) contracts looked better than it has in the past. He said the unfavorable contract is St. Lucie II, which did not run much.

8. CITY ATTORNEY'S MATTERS

Mr. Coment referred back to the conversation that they had earlier concerning the Code Enforcement Board and said that the City Manager has the authority to hire a prosecutor.

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 reminded the public about the Memorial Day Service which begins at 9:00 a.m. on Memorial Day. He also attended the Relay for Life event on the beachside as he is a cancer survivor.

B. Vice Mayor Jay Kramer's Matters

- 1. Correspondence**

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

Mr. Kramer also attended the Relay for Life event and an educational seminar held at the Florida Institute of Technology.

- C. **Councilmember Pilar Turner's Matters**
 1. **Correspondence**
 2. **Committee Reports**
 3. **Comments**

Mrs. Turner announced the grant that the City received from the Florida Department of Environmental Protection for \$250,000 to help cleanup inlets, etc.

Mrs. Turner reminded the public that next Friday is Downtown Friday, the United Way Charity event at Dodgertown Historic Village where there will be a baseball game between local lawyers and doctors, and the annual Youth Guidance Luau that will be held on June 13th.

- D. **Councilmember Amelia Graves' Matters**
 1. **Correspondence**
 2. **Committee Reports**
 3. **Comments**

Ms. Graves referred to the minutes of the last Tree and Beautification Commission meeting. She said they are starting to look at new projects. She encouraged them to do this.

Ms. Graves reported on the Beach and Shores Advisory Commission meeting. She said that Sector 5 is in line for the next project to take place and this is very critical because the beach is eroding. She referred to a feasibility study that was brought up at that meeting, which the members agreed was too costly and would take at least three (3) years to complete. The Committee recommended not accepting the offer from the Corp of Engineers. She feels they can come up with more of a dune project to get some sand on their beach and protect their infrastructure. In time they will see some return on their investments (referring to the bed taxes). She expressed that according to the State, Sector 5 is the next Sector that must be focused on.

- E. **Councilmember Randolph Old's Matters**
 1. **Correspondence**
 2. **Committee Reports**
 3. **Comments**

Mr. Old reported on the private/public partnership conference that he attended that was held in Orlando, Florida. He also went on the tour to Bradenton to observe their Arts District.

11. ADJOURNMENT

Tonight's meeting adjourned at 9:01 p.m.

/tv