

CITY OF VERO BEACH, FLORIDA
JUNE 21, 2016 6:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

The invocation was given by Pastor Randy Bryant of Ryanwood Fellowship Church followed by the Pledge of Allegiance to the flag.

1. CALL TO ORDER

A. Roll Call

Mayor Jay Kramer, present; Vice Mayor Randy Old, present; Councilmember Pilar Turner, present; Councilmember Richard Winger, present and Councilmember Harry Howle, present **Also Present:** James O'Connor, City Manager; Wayne Coment, City Attorney and Tammy Vock, City Clerk

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

Mrs. Tammy Vock, City Clerk, requested that item 9-B) be added to the agenda under City Attorney's Matters. The item is to discuss the joint dismissal in the Indian River Shores versus City of Vero Beach lawsuit.

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

B. Proclamations and recognitions by Council.

1) City of Vero Beach to present a plaque to Elite Airlines

Mr. Eric Menger, Airport Director, presented Mr. David Dow, Executive Vice President for Elite Airways, with a plaque from the City of Vero Beach.

Mr. Dow commented that this is a unique situation. He said that the Vero Beach Airport was right for what they knew would work for Elite Airways. He said the support that they receive from the Vero Beach Airport is exceptional. He thanked Mr. Menger and his team. He said they will be expanding what they are presently doing in Vero Beach and there will be more to come. On behalf of Elite Airways, he thanked the Council and the community for the plaque.

Mr. Dow added that Vero Beach is the best route that Elite Airways has and they will be taking this to the next market. Their fleet is growing and they will be adding some larger jets in the fall. Their corporate office is based in Melbourne and they are going to grow this market to wherever it takes them. He said they will be operating year around and the

ridership will probably pick up in November and they may see some expansions at that time.

Mrs. Turner told Mr. Dow that she wished them continued success and was delighted to have them here.

Mr. Menger reminded everyone about the Air Show that will be taking place this weekend. He said unfortunately the Blue Angels will not be able to attend this year's Air Show. On Saturday night the performers will be at Riverside Park and everyone is invited to come out and meet them.

C. Staff/Consultant special reports and information items.

None

D. Presentation items by the public.

None

3. CONSENT AGENDA

- 1. Regular City Council Minutes – June 7, 2016**
- 2. Downtown New Years Eve Celebration**

Mrs. Turner referred to the June 7, 2016 minutes and recalled that she had asked that the FMEA Electric Rate Sheets be attached to the minutes and she did not see them.

Mrs. Vock told Mrs. Turner that the rate sheets were attached to the original minutes.

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

4. PUBLIC HEARINGS

- A) A Resolution of the City Council of the City of Vero Beach, Florida, repealing Resolution 2015-31; Establishing Prices and Fees for Crestlawn Cemetery; Establishing hours of operation; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Public Work's Director**

The City Clerk read the Resolution by title only.

Mr. Jim O'Connor, City Manager, reported that what this Resolution will do is open up Section K at Crestlawn Cemetery and also reestablish lower prices for their columbarium. He said they want to put themselves in the market again.

Mrs. Turner commented that when looking at the backup material it states that the construction cost of the columbarium will be covered by the sales from one (1) of the eight (8) structures. She asked what the total cost was.

Mr. Monte Falls, Public Works Director, said that the total cost was around \$260,000.

Mrs. Turner then asked if what is being said is that \$260,000 will be covered by the sale of one (1) of the eight (8) structures. Mr. Falls answered yes. He said there is enough revenue that can be generated from the sales of one (1) columbarium to pay for the construction of all eight (8) of them.

Mrs. Turner asked for the number that they have sold to date.

Mr. Falls did not have that information with him. He said the sales have lagged somewhat and what they are trying to do is find where the market is. He said this new price will be lower than what the City of Sebastian sells their columbarium niches for. He said even by lowering the price there will still be enough revenue generated with the sales from one (1) of the eight (8) units to cover the construction costs.

Mrs. Turner felt that they should have a clear financial picture of where they are to date. She said they have expended \$260,000 for the columbarium and should know how many niches have been sold so far and how many more they need to sell in order to breakeven. She said these are basic numbers that should be presented.

Mr. O'Connor mentioned that one of the things they did not anticipate was that there are churches that provide columbariums, as well as people taking their remains home with them. He said this has driven down the market, which is why they are trying to put together a plan, but of course it is all speculation.

Mrs. Turner agreed with Mr. O'Connor's comments, but said that the Council still should have been given a clear financial picture of where they stand today.

Mr. O'Connor said that he would provide that information to Council. Mr. Falls added they can provide that information to Council at their next meeting or at budget time. He said whenever they would like to have it.

Mr. Winger stated that providing the information at budget time was fine with him. He said they need to move on.

Mrs. Turner asked Mr. Winger if he was willing to approve anything without knowing what the numbers are and what the financial impact is.

Mr. Winger said that he was willing to trust the City Manager and his staff to make a good decision. He does not believe in micro-managing.

Mrs. Turner stated that she was sorry if Mr. Winger felt asking for transparency and financial numbers is not doing their job because she said that is precisely what they are here to do. She said if everything that staff did was perfect they would not need a City Council. She said they (City Council) are here to make sure that taxpayer's funds are being judicially spent.

Mr. Winger stated after public comments he would be willing to make a motion to approve the Resolution as is.

Mrs. Turner asked what are the rates that the City of Sebastian charges. She wondered if the City of Vero Beach had competitive market rates.

Mr. Falls explained that the rates the City set previously, except for the two lower rows on the columbarium, matched Sebastian's rates. He said that he has this information and will get it to the City Manager.

Mrs. Turner commented that it would have been nice to have that information as backup material to this Resolution.

Mr. O'Connor had no problem with deferring this Resolution until this additional information is made available.

Mrs. Turner stated that it was her recommendation that the information was not complete for the record.

Mr. Howle referred to the new rates and asked Mr. Falls if the columbarium niches are sold at this rate would it take care of the construction costs.

Mr. Falls explained the sales from one (1) of the eight (8) columbarium walls has always been enough revenue once sold to cover the construction costs. He apologized for not providing the total sales to date.

Mrs. Turner commented that the columbarium was built in 2009 and they still have not covered their construction costs.

Mr. Winger brought up marketing and said one thing about marketing is setting a price to the people that they are willing to pay. He said it is filling a product need, which is acceptable to the market. He said often the only way you find a price acceptable to market is to let the market tell you. He thought they were making too much out of this.

Mrs. Turner brought up the hours of operation at the cemetery. It says the hours are 7:30 a.m. to 7:30 p.m. daily including weekends and holidays. She thought they would be better served if they say 7:30 a.m. to dusk. She said in the winter months by 5:30 p.m. it is dark and the cemetery does not need to be kept open to 7:30 p.m. when it is already dark.

Mr. Falls said they can change the time the cemetery closes. He said right now the Police Department closes the cemetery.

Mrs. Turner suggested saying dusk or having 7:30 p.m. be the closing time in the summer.

Mr. O'Connor said he would ask the Police Department to close the cemetery at dusk.

Mayor Kramer opened and closed the public hearing at 6:21 p.m., with no one wishing to be heard.

Mayor Kramer felt they could move forward on this tonight, but felt that it was important that they are provided with the financial information. He said this is just a pricing adjustment, which can be undone. He had no problem as long as their expenses were covered.

Mr. Falls said they are asking enough for the columbarium niches for one (1) unit to cover the costs.

Mr. O'Connor said if they see a lot of sales then they will come back and increase the price.

Mr. Howle was in favor of recovering their costs for construction of the columbarium, but at the same time it probably would not be bad to see the figures on what has been sold so far.

Mrs. Turner expressed this columbarium has been in place for seven (7) years and someone needs to take a look at it, which obviously has not been done.

Mr. Falls told Mr. O'Connor that he would have the requested information to him by Friday.

Mr. Winger made a motion to approve the Resolution as is. Mr. Old seconded the motion and it passed 3-2 with Mr. Howle voting no, Mr. Winger yes, Mrs. Turner no, Mr. Old yes, and Mayor Kramer yes.

B) An Ordinance of the City of Vero Beach, Florida, amending Chapter 26, "Cemetery," of The Code of the City of Vero Beach, Florida; Providing for Conflict and Severability; Providing for Codification; Providing for an Effective Date. – Requested by the Public Work's Director

The City Clerk read the Ordinance by title only.

Mr. O'Connor reported that this Ordinance deals with Section K and allows for markers to be at ground level.

Mayor Kramer opened and closed the public hearing at 6:24 p.m., with no one wishing to be heard.

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

5. RESOLUTIONS

A) A Resolution of the City Council of the City of Vero Beach, Florida, adopting a General Fund Fund Balance Policy; and Providing for an Effective Date. – Requested by the Finance Director

The City Clerk read the Resolution by title only.

Ms. Cindy Lawson, Finance Director, brought forward the General Fund Fund Balance Policy. She said the Finance Commission undertook extensive discussion of the proposed policy at their meetings on November 4, 2015 and February 8, 2016. At their May 26, 2016 meeting, the Finance Commission voted unanimously to adopt the General Fund Fund Balance policy included as Exhibit A to the attached Resolution. She asked Council to keep in mind the Fund Balance policy is for the General Fund only. The other funds, in particular the Enterprise Funds have their own targets or fund balance. She said because fund balance is not a reoccurring revenue source this policy restricts the use of access fund balance as defined in the policy to one time expenditures and not to be used for reoccurring expenditures year after year. She said instead of a single number this is a fund balance policy that in accordance with some of the best practices has three (3) separate components to it. She said the first one is for emergency reserves, which is a flat out amount of \$2,000,000, a component for budget stabilization and a component for working capital. The policy also includes specific time frames for restoring those elements of fund balance.

Mr. O'Connor noted that this is being done by a Resolution so Council can adjust it if they need to.

Ms. Lawson commented that the Finance Commission did discuss adopting this by Ordinance, but agreed it might need to be tweaked so that can be done easily if adopted by a Resolution.

Mr. Old complimented Ms. Lawson on doing a good job in developing this policy.

Mayor Kramer opened the meeting for public comments at 6:28 p.m.

Mr. Peter Gorry, Chairman of the Finance Commission, commented that the Finance Commission worked extensively on this to come up with a policy, which they totally endorse. He pointed out that the biggest portion of this policy is cash flow, which is 25% of the proposed top line. He looked at the fourth quarter for cash flow for the last two

years to be sure 90/95% of the taxes come in the last three (3) months. However, what he looked at was the total revenues for the quarter, the expenses were for the quarter and subtracted taxes from it (assuming there would be no taxes collected for those three (3) months). In 2014/2015 the net of that taking all of the revenues and subtracting the expenses and then again the taxes for October and November collects to \$1,500,000, for December it is \$170,000 and for the total three (3) months it is \$1,700,000. In 2015 it is deteriorating. In October and November it is \$2.16 million (shortfalls), in December it is \$710,000 and for the three (3) months it is -\$2,800,000. He felt that the first three levels of the tier are right on as far as protection against emergencies.

Mayor Kramer was happy that this came about.

Ms. Lawson explained there are certain things that they don't need to budget for, such as the dunes. They don't need to budget for the dunes because money is not needed for them every year. On the cash flow issue, she did some cash flow analysis in conjunction with some of the investment work and for the last couple of years they are upside down in the first quarter of the year by about \$3,000,000.

Mr. Howle commented in case of a storm there is FEMA money. Ms. Lawson said sometimes FEMA will reimburse 100%. She said their history with FEMA hasn't been too great. She recalled FEMA has asked them to reimburse some of the money they contributed to for the hurricanes in 2004/2005. She said the important thing is to have money for contractors on hand before FEMA reimburses them.

Mrs. Turner thanked Ms. Lawson and the Finance Commission for developing this policy. She thought that it was a vital part of having good fiscal management for their City. She appreciated the layered approach in preparing the policy and breaking it out into three (3) different categories.

Mrs. Turner made a motion to approve the Resolution.

Mr. Winger seconded the motion with an amendment to the motion. He amended the motion on the floor adopting a General Fund Cash Balance Policy; so that the third component, or Working Capital Balance proposal of 25% be amended to 22.5% (twenty-two five percent), which is 15 days in excess of GFOA best practice and that any excess cash be applied only as outlined in the policy on the floor, but with first call on the excess to be the initial one year funding of the Other Employee Benefits (OEB) fund to begin to mitigate this unfunded liability.

Mr. O'Connor made it clear that they cannot use this Fund Balance for OEB funds.

Mr. Winger felt they needed to get that started. However, he will strike out OEB fund from his motion, but it will not change the intent that he believes that they are keeping more cash than they should from the public.

Mrs. Turner said that she has not seen any further analysis to defend this 22.5% versus the 25% that the Finance Commission unanimously recommended. Her motion on the floor is to approve the Resolution as it stands.

Mayor Kramer explained the problem he has with the 25% and the 22.5% is that it is taken off the total General Fund operating expenditures and transfers and not actually taken off the ad valorem tax. The reason he brings this up is that the ad valorem tax is what they bring in as far as taxes go. He said if you take one (1) year and don't collect any taxes then they still are okay. He said maybe the best thing to do would be to equal it to the ad valorem tax.

Mr. Winger said that he would be willing to amend his motion to say that the working capital balance be equal to the expected ad valorem tax.

Mr. Winger also brought up that he did not think they needed 90 days in the reserves. He said GFOA only requires 60 days. He did not understand the need in keeping any more than they have to in the reserves.

Mrs. Turner stated that 60 days is the recommended minimum.

Mr. Winger said he had no problem with going with the suggestion made by the Mayor.

Mayor Kramer cautioned them to be careful in setting their tax base on what they should keep as their working capital and setting their working capital on what they want to do in taxes. He suggested trying 25% this time around.

Mr. Howle agreed that the 25% has been brought up by the Finance Commission and they have analyzed it. He said he will go along with the 25%.

Mayor Kramer said the only problem he has with the 25% is that it is 25% of the General Fund operating expenditures and transfers.

Ms. Lawson clarified that it is not the transfers coming in, it is the transfers going out.

Mr. Old commented they have a strong recommendation from the Finance Commission and he agrees with the way that they have brought this forward. He said if they wanted to go back and look at it again and spend some time doing that he would be willing to consider that, but at this time he did not want to amend what the Finance Commission is recommending.

Mr. Winger stated that his amendment to the motion dies for lack of a second. He asked that the matter be brought back before the Finance Commission and Ms. Lawson for further work. Council had no problem with this request.

Mayor Kramer opened and closed the public hearing at 6:44 p.m., with no one wishing to be heard.

The Clerk polled the Council on the motion to approve the Resolution and it passed 5-0 with Mr. Howle voting yes, Mr. Winger yes, Mrs. Turner yes, Mr. Old yes, and Mayor Kramer yes.

6. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

Public Hearing to be heard on July 12, 2016

- A) **An Ordinance of the City of Vero Beach, Florida, abandoning the south one-half of the 25 foot east-west alley lying directly north of Lot 1, Block 13, Edgewood Addition to Vero Beach, Florida, and west of the west right-of-way of Old Dixie Highway; retaining a portion thereof as a Utility Easement; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Public Works Director**

Mrs. Vock read the Ordinance by title only and said that it would be heard as a public hearing on July 12, 2016.

7. CITY CLERK'S MATTERS

- A) **Update on Live Streaming**

Mrs. Vock announced that the live streaming with Swagit is up and running and this week is the trial period to make sure there are no glitches. The televising of the City's meetings on AT&T should be up and running by the August Council meeting.

8. CITY MANAGER'S MATTERS

Mrs. Turner stated that at the last meeting she asked about the balance on the Power Plant demolition. She said that Mr. O'Connor provided them with a summary and in looking at year 2015/2016 it looks like they are already looking at a budget over-run of \$231,000 for demolition of the Power Plant. On the bottom of the page, there is a note that says it will be funded from the T&D Department budget. She asked where are they going to find \$231,000 extra dollars in the T&D budget to pay for this.

Mr. O'Connor said they have not identified what line items that the money will come out of, but the Department Director has assured him that he will find the money. If he cannot find the money then in order to keep this process moving forward there is a fund balance where they can take the money from because this would be a one-time expenditure.

Mrs. Turner stated for the public they are showing a total of \$831,331 for FY 15-16 and \$733,000 for FY 16-17.

Mr. O'Connor said they will continue to move forward on the clearing and demolition of the building, which has been the policy of the Council. He said staff feels that they do have the funding in order for that to happen.

Mrs. Turner asked Mr. O'Connor for the status of the meeting that is being set up to meet with FMPA representatives.

Mr. O'Connor stated that as of today it looks like the meeting will be held in August. He said that it has been a major challenge in finding a date where everyone is able to attend. He said it may be easier in coming up with a date now because it looks like Indian River Shores and Orlando Utilities Commission are not interested in attending the meeting.

Mrs. Turner asked if the gate has been locked at the Dog Park. Mr. O'Connor told her that it is now locked.

Mr. O'Connor gave an update on the old Diesel Plant. He said they should be closing on the property within the next 10 days. They still have a lawsuit pending on this property and trial for that case begins on Friday.

9. CITY ATTORNEY'S MATTERS

A) Acceptance of Conveyance – Humiston Park Parking Lot

Mr. Coment reported that they have a conveyance by deed from Indian River County to the City for the west overflow parking lot for Humiston Park on Ocean Drive. The property was dedicated in 1944 and transferred to the City for Park purposes by the County Commission at the City's request. However, a deed was not executed at that time transferring fee simple title to the City, leaving the property merely held in trust by the City with the County potentially still being considered the actual fee owner. The City has continued to use and maintain the property since the original dedication. Acceptance of the conveyance and recording of the County Deed will extinguish any remaining interest of the County in the property, rectifying the potential cloud on the City's title to this property, as well as clarifying that the County is not responsible for the property or any uses or activities on the property.

Mayor Kramer opened and closed public comments at 6:51 p.m., with no one wishing to be heard.

Mr. Winger made a motion to accept this conveyance, have the Mayor sign it, and have the deed recorded. Mr. Old seconded the motion and it passed unanimously.

B) Add on item – Proposed joint dismissal in the Indian River Shores versus City of Vero Beach lawsuit

Mr. Coment provided Council with a copy of the Joint Stipulation of Dismissal Order (attached to the original minutes) that he received this morning. It states that the Town of Indian River Shores and the City of Vero Beach jointly stipulate to dismiss all claims and counterclaims in the lawsuit with each side to bear its own fees and costs. He said there

could not be another lawsuit filed on the transactions that occurred in this case. He asked for Council's concurrence with this and he will let the attorneys' know who will file the stipulation of dismissal for both sides of the case.

Mayor Kramer opened public comments at 6:53 p.m.

Mrs. Laura Moss, Chairwoman for the Utilities Commission, was very happy to see this has occurred and the lawsuit is being dropped. She said this has gone on for a long period of time and huge expenditures and ill will have occurred. They are moving in the right direction and she encouraged Council to adopt this.

Mr. O'Connor made it clear that the hearing before the Public Service Commission (PSC) will still be heard.

Mr. Winger made a motion to accept the Joint Stipulation of Dismissal Order for the Indian River Shores versus City of Vero Beach lawsuit. Mr. Old seconded the motion and it passed unanimously.

10. PUBLIC COMMENT

None

11. CITY COUNCIL MATTERS

A. Old Business

B. New Business

1) Consideration of Partial Sale of Indian River Shores – Requested by Mayor Jay Kramer

Mayor Kramer reported that this is an item that he has been working on with the Mayor of Indian River Shores (IRS) as to the possibility of bringing a partial sale of IRS utilities for further conversations. He said Mayor Barefoot would like to build the framework for a possible settlement. This would be going forward with identifying all of the elements that need to be solved, identifying the time frame of those elements, and the possible cost associated with those. He was asking to continue talking in nailing down all of the costs for the issue of a partial sale with IRS. He said the reason he needed to bring this to Council was because this will possibility incur some costs by having to have some of the attorneys and consultants involved in helping to identify the framework.

Mr. Winger stated that he has no objection to Mayor Kramer talking to Mayor Barefoot. He said it is important that the City Council always listen. One thing he is adamantly against is a tax increase on remaining customers. He said the remaining customers must be kept whole. This \$42.5 million that five (5) experts put together is real and any number other than that is not open to negotiations. Among other reasons the City is

underwater on FMPA contracts. In April, they entered into a new contract with OUC and the new rates were \$62.83 and FMPA was \$104.39 and this brought their costs to \$75.80. He said to keep the remaining customers whole, which would include smaller households and merchants, if they were to take the numbers as indicated by IRS it would result in a rate increase for their remaining customers approximately 3%. He said the rates have come down five (5) times since February 2014. He will provide the charts on this. There will be more rate declines as the City closes down the Power Plant and gets out of those expenses. The City has gone from a rate of \$130.93 to \$117.58 and are going to go down even more. He is going to offer two (2) simple solutions, but he was sure there were more and they should be listening to those. He gave some history of how all this came about. In 1968, IRS asked the City of Vero Beach to supply power to them that was otherwise not available. Not having enough power to supply the rapid expansion of the barrier island, including IRS, the City signed on to St. Lucie in 1981 and Stanton in 1984 and now IRS wants renig. In 1987 Florida Power and Light (FPL) is now on the island and IRS annexes territory to the City. Then there were two (2) mediations that occurred. At the first mediation IRS and FPL presented \$3 million to \$10 million. Mr. Winger said at that time they would need to add another zero to those numbers. Then he conveyed the same message at the next mediation hearing. He said that IRS has known that the City is underwater about \$50 million for a long time on what they want to buy. On June 1, 2016, IRS, FPL, and the City met with no specific objection other than IRS does not want to pay the \$42.5 million. He said the City would need to raise worker and merchant bills, or otherwise raise taxes in order to benefit IRS citizens, which is a community of great wealth. He was happy that IRS has such wealth, which benefits many areas in the City of Vero Beach, such as restaurants, the Museum, the Theater, hospital, etc. He said IRS has millionaires and billionaires living within their community. He said the first solution he would offer would be that IRS pays the fair price. There are many ways to do that and is not a big reach for IRS. The second solution would be to take the proportional share of FMPA power and contingent liabilities, buy the assets and have whomever IRS wants supply the large balance of the power and manage the system. He could not support any negotiation that does not leave the remaining customers whole. He said that adds a tax. He would hope that no other Councilmember would either. The ball is, and has been, in IRS court since September 24, 2014.

Mr. Winger said that he would make a motion for Mayor Kramer to continue to talk to Mayor Barefoot, but he does not like the word “negotiation” used.

Mayor Kramer apologized for using the word “negotiation.” He said the whole purpose of continuing these talks is to identify some of the things that have not been addressed. He thinks it is a good policy to keep the dialogue going and the possibility of entertaining offers should they come down the road.

Mr. Howle brought up the original price to sell their customers to FPL established by their attorney/consultants being \$64 million and then it was reduced to \$42 million.

Mrs. Turner added that it took her over a month to get the backup material that explained how they came up with this reduction.

Mr. Howle said they are moving in the right direction, but who is to say that the \$42 million is a move in the right direction.

Mr. Winger submitted that he felt that the number should be higher. They have five (5) experts in the State of Florida who came up with these numbers and no one has rebutted.

Mrs. Turner commented on the discussions with IRS and bringing up some of the issues with the analysis that was not correct. She said they determined the time periods were not correct, along with the discount rates, actual carry cost, overhead costs, etc. At the June 1st meeting there were obviously questions and analysis that the City's hired attorney and FPL and IRS did not agree with it (minutes of that meeting on file in the City Clerk's office). She would question that any price below \$42 million would be a tax on their ratepayers. She did not believe that statement. She had some concerns if they agreed to continue discussions with IRS. She said Mr. Wright needs to be given some clear direction on where they want him to go with this.

Mayor Kramer explained that IRS needs to have all of the items identified if they are going to make an offer. He said this would include what the expected price is, expected time tables, contingent liabilities, etc.

Mrs. Turner asked Mayor Kramer if the price to sell was \$42 million.

Mayor Kramer explained that the City is the seller and it is not their responsibility to keep bringing the price down.

Mrs. Turner stated that it was their responsibility to make a sound decision and negotiate a good deal for their constituents.

Mayor Kramer stated that he has never met someone selling something this big to profusely keep lowering the price.

Mrs. Turner stated that she was not arguing to lower the price. She is arguing to get to a reasonable, justifiable price. She questioned the numbers that they have already put out there, are they really in good faith coming to the table to try to come up with a sound decision or are they continuing to spin their wheels as they did in mediation sessions with IRS for the past two (2) years.

Mr. Winger commented that it was clearly in the City's interest to sell the entire system if there was any way to do it and if there is not then keep the system whole due to economics of scale. However, as Elected Officials it is their job to listen to proposals, but personally he would rather keep the system intact because it is more efficient.

Mayor Kramer apologized to Mrs. Turner if they have prevented her in doing any research and coming up with a number. He told her she had the freedom to do that.

Mrs. Turner told Mayor Kramer that “ya’ll have dug in your heels on any number.” She said she is asking is if they are going to send Mr. Wright and Mr. O’Connor in to talk to IRS that they tell them to meet and negotiate the best deal possible for both sides and bring it back to the respective Councils’ and the public to decide. They need to say negotiate in best faith with all the resources that they have.

Mayor Kramer explained that they were not at a point for negotiations because they don’t have everything identified yet. He said that would be the next step.

Mrs. Turner questioned what was left to be identified.

Mayor Kramer said the FMPA contingent liabilities. He said they need to know who absorbs those risks.

Mr. Old commented that he also felt they had a fiduciary duty to defend their citizens. He doesn’t think that they could sell for a price that would hurt them even more than what they are paying now.

Mr. Howle said no one is asking that they do that.

Mrs. Turner commented that she was not asking that they settle. She wants to give their attorney and City Manager the power to come up with a deal for both parties and let them bring it back to IRS, the City of Vero Beach City Councils, and the public for their review.

Mr. Winger brought up the first mediation session where at that time IRS knew what the price was to buy their electric utilities and it was somewhere around \$50 million. It has now been 13 months, and they hear a selling price from FPL for around \$13 million. He said IRS has never come forward with anything credible. At the June 1st, meeting it was known that the different parties didn’t agree on some things, but nothing specific has been brought forward. He felt that the sale price of \$42.5 million was a good number and it would be hard to move him off of it.

Mr. Bob Auwaerter, IRS Representative on the City of Vero Beach Utilities Commission as well as its Vice Chairman, and the Chairman of the Finance Committee of IRS addressed the Council regarding the actions that IRS took at its meeting on June 16th (please see attached prepared speech).

Mr. Winger commented that he did not see any problems with having another meeting. His concerns are that the City and County ratepayers have to be kept whole in their power rates for the future and the contingent liabilities.

Mr. Auwaerter felt after having served on the Utilities Commission for some time now that there can be some open discussions regarding the assumptions. He said reasonable people can differ and he felt they could have a dialogue about those assumptions.

Mr. Howle brought up that they received a letter from Mayor Barefoot saying that IRS has dropped their lawsuit and has asked legal staff to have discussions with FPL and IRS and from his point of view it sounds like what Mr. Winger is basically saying is that they can talk, but to talk about the number. He said it was almost disrespectful. However, he does want to respect Mr. Winger's opinion, but again from his point of view that is what it sounds like.

Mayor Kramer thanked IRS for dropping the lawsuit. He said they have been paying an awful lot of money out to lawyers recently and that needs to come to a stop.

Mr. Peter Gorry, Chairman of the Finance Commission, brought up the issue on the effect of rates. He said there are about 6,600 business customers in the system and 160 of those customers are in IRS. Their business customers would not be impacted by the loss of revenue from IRS. However, for the 10% of customers who are in the residential class they use 175% more electricity. What that means is the kWh hours used by the residents in this City and County are well below 1,000 kWh's per month. The problem with this is that there is a breakpoint in their rate structure at 1,000. When you calculate the loss of that revenue it is disproportionate to what is going to have to be absorbed by the rest of their customers to make the City's economics whole.

Mrs. Laura Moss, Chairwoman of the Utilities Commission, urged the City Council to have this frank and open discussion and to approach it in the best possible manner. She said that Vice Chairman Auwaeter is very knowledgeable and very informed in this area and she has every confidence in him. She cautioned Council not to frame this as class warfare because that will never generate good will and it does not establish the proper context for this going forward. She thought some of the comments made were disrespectful and she asked to refrain from them in the future.

Mrs. Amy Brunjes, External Affairs Director for FPL, thanked Mayor Kramer for attempting to keep the dialogue going. She was at tonight's meeting to give FPL's point of view in making an offer to the City of Vero Beach. They did have a meeting on June 1st with representatives of the City and IRS. She said what happened at that meeting is not the open framework setting discussion that has been indicated. She said they met in an effort to gain understanding of the assumptions. They wanted to understand how the five (5) experts came to the number of \$42 million and the assumptions used to set the valuation for the attempted sale of IRS customers to FPL. She said that Mr. Wright and Mr. Herrington answered all of their questions in detail and they appreciated that. Also at that meeting and it needs to be known that FPL and IRS told Mr. Wright and Mr. Herrington that they did not agree with the assumptions used by the City and told them that they do think there is a path forward to a partial sale for a lower number that would not negatively impact the City of Vero Beach and would keep the customers whole. She said how they get there is what needs to be discussed. She said by changing some of the assumptions in the City's calculations, such as the discount rate and the escalation rate or durations of the contributions to the City from IRS after IRS leaves the system should be looked at. She explained when these numbers are changed the bottom line changes dramatically. She said one of the examples that Mr. Wright factored into the price was

that IRS would contribute to this expense line after 30 years. She said there was no assumption in there for managing expenses at the City's end, but rather just factoring in the cost of serving IRS for 30 years when the City is no longer serving them. She also noted the increase in utilities that was factored in. She has been told by her experts at FPL that the City's rates will increase every year whether IRS leaves or not. These things need to be discussed in adjusting them to more realistic scenarios would change the bottom line number again by potentially millions of dollars. In that meeting they also discussed other financial positives that could be brought to bear that the City's experts were not aware of when they were calculating their numbers. Mayor Barefoot shared in that meeting that IRS would be willing to contribute financially for a sale and FPL is prepared to offer other considerations in addition to cash that could benefit the City financially. Mr. Wright indicated at that meeting that he would only enter into those discussions with the goal of reaching a settlement if his client (the City Council) directed him to do so. The point for FPL is that is the key to moving forward. She said to Mr. Winger that he has said that he is open to proposals, but he also said that the price is the price and it is not open to negotiations. She said FPL needs to know if they are open to proposals, which she has not heard from Mr. Winger. She heard discussions of getting offers from IRS, but it would be FPL who would be making the offers to purchase the customers from IRS and they are not of the mind to expend the resources necessary to layout that framework unless there is a sincere desire on the part of the City to sell its assets of the electric system that serves IRS. She asked for clarity in whatever motion is made tonight. She said that if FPL does make an offer it will be a win/win for the City, FPL, and IRS. She said the specific direction that Council needs to give their staff if they were to meet with FPL is to work towards the goal of reaching a settlement and the understanding that FPL does not agree with the \$42.5 million assumptions, and will not pay \$42.5 million. She said there is movement to be had in several different areas, but there has to be willingness with a goal to settle. She said FPL will not be at the table unless that is the goal.

Mr. Winger recalled that he started in his comments earlier that Council is always willing to listen and he is only one (1) voting member on this Council. He said that he has been involved with the utility issues for seven (7) years now. He pointed out on May 1, 2015, IRS was talking about an offer from FPL for about \$3 or \$10 million, which were figures given to them by Mr. Bruce May and Mr. Terry Deason, then they heard of an offer for \$13.6 million. The only figure he has heard from FPL was for around \$14 million and they have never received an offer anywhere close to avoid taxing City people. He believes their five (5) experts and the numbers they came up with. He recalled when they ran into the road block where they needed \$52 million. He said \$26 million was going to be paid by FPL, but put in the rates over time. He asked Mrs. Brunjes if they were that flexible and would FPL be willing to help IRS with long term financing.

Mrs. Brunjes commented that with the \$3 to \$10 million offer they first heard when FPL came forward with the offer of \$13.6 million was based on the value of the customer. Then they were informed of all the considerations that their experts put a number on and got a perspective from the City on what it would take for their remaining customers not to be impacted. She said there are a lot of numbers that can be worked with based on

assumptions and they are willing to do that, but she reiterated that it was not \$13 million, but it also was not \$42 million.

Mayor Kramer explained that what he was asking from Council is to allow staff to continue the dialogue with FPL and IRS. The framework was to get a better understanding of all the elements involved.

Mrs. Turner stated that it needs to be staff time with a goal to reach a settlement with IRS or enter into negotiations to reach a settlement.

Mr. Winger stated that he was not willing to enter into negotiations to reach a settlement. He was willing to spend the time to listen to see if a settlement can be reached.

Mrs. Brunjes explained that if staff is not directed a certain way in getting to an agreement then she does not see FPL spending all that time in running scenarios and spending time on this unless there is a true desire to reach a settlement and sell the customers of IRS to FPL while keeping Vero whole.

Mayor Kramer agreed that everyone is tired of this, but he thinks that IRS deserves their day. He would like to have the Council authorize some legal time to have a few more meetings to see where this thing goes.

Mr. Winger made a motion to authorize more legal time for their outside attorney, the Mayor and the City Manager to talk to IRS and FPL.

Mrs. Turner stated that there has to be clear direction given from the Council.

Mr. Winger made a new motion that the City Manager be authorized to use the resources available, legal as well as technical, to meet with the two (2) groups to determine the lowest possible number that keeps the customers in Vero Beach whole.

Mayor Kramer commented that they have done that. He said there are still some liabilities that need to be discussed. Mrs. Brunjes agreed those are all points to be negotiated.

Mr. Old expressed there is a need to enter into negotiations and many ways to structure something and make them whole in different ways. It is best for them to listen to that. He said if they can agree on something that allows their ratepayers to stay whole and something that FPL and IRS can afford then they have an obligation to go ahead and look at it. He could only agree to something that would keep their ratepayers whole.

Mayor Kramer said to keep in mind that he was not asking for any authority on any type of negotiations. He said in talking with the Mayor of IRS he specifically used the language of framework towards a settlement. The reason being that some of these elements given over time do change. He said if there are risks with some of these assumptions then Vero Beach should not be the one that has to take that risk. This is a

huge transaction and there are a lot of things they can do to possibly make it fit. He said when they are dealing with 30 years of time, maybe not today, but maybe in five (5) years – yes. The point is these variables have to be on the table and talked about or they won't get to a point where a bonafide offer can be made.

Mrs. Brunjes said what she is hearing is that this is something that they want to do. She said they would be looking at the assumptions while keeping two (2) goals of reaching a settlement while keeping the customers whole and being open minded in looking at other assumptions and not digging their feet in the ground saying the number is the number.

Mr. Winger made a new motion to authorize staff to work with Mayor Kramer and talk to IRS in continuing the dialogue.

Mrs. Turner modified the motion and made a motion to direct staff to enter into negotiations with IRS to explore and reach a settlement, which will protect Vero Beach electric ratepayers.

Mayor Kramer and Mr. Winger were not happy with the word negotiations. Mr. Howle suggested replacing the word with the framework and understanding that FPL is not going to pay \$42.5 million and the goal is to come to an agreeable consensus.

Mr. Winger withdrew his motion.

Mr. Comment stated that they don't want to empower someone that will be making decisions for them in rejecting this or accepting that because they are creating a potential Sunshine Law issue if they are authorizing someone to do that. He suggested just authorizing staff and outside counsel to speak with all the parties and come up with different options and bring them back to Council.

Mayor Kramer made it clear that all the motions on the floor died for lack of a second.

Mr. Winger made a new motion to authorize staff and outside counsel to speak with all the parties and come up with different options and bring them back to Council. The motion was seconded and passed unanimously.

Mr. O'Connor clarified that what Council was asking them to do was bring back various proposals with their analysis on how that would fit into the City's spectrum. He was told by Council that was what they were looking for.

12. INDIVIDUAL COUNCILMEMBERS' MATTERS

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

Mayor Kramer attended the Vero Golf Carts Ground Opening and helped with their ribbon cutting. He thanked Council for all attending the dedication ceremony held in front of City Hall. He attended the Piper celebration announcing their new plane and attended the vigil organized for the Orlando victims that were recently killed. He thanked everyone that helped organize the event.

Mayor Kramer commented that in the future he would be bringing up the idea of having the Building Department come back to the City.

B. Vice Mayor Randy Old's Matters

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

Mr. Old reported that the evaluation forms and job descriptions for the Charter Officers have been completed. He asked each Councilmember to fill out the forms and give a copy to the City Clerk. They are welcome to go over the evaluation forms one on one with the individual Charter Officers if they wish to do so.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner reported that she attended an MPO meeting and will give the Clerk a copy of their 5-year plans for Council's review. She invited everyone to have Coffee with a Cop tomorrow at the McDonalds on US1. It is a great way to spend time with law enforcement and have a cup of coffee. She reminded everyone of all the events happening at the Air Show this weekend and that this Friday night is Downtown Friday.

D. Councilmember Richard Winger's Matters

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

Mr. Winger attended the City Hall dedication ceremony and thanked Mrs. Anna Brady for all of her hard work in putting it together. He said that she does so much for the City. He also attended the vigil held at Riverside Park. He went to the Wine and Film Festival and hoped that this was the first of many more. He attended the Piper event where the new plane was announced and said the employees at Piper have such apparent great morale.

Mr. Winger requested that Council change their July 12th City Council meeting time and hold it at 6:00 p.m. instead of 9:30 a.m. Council agreed to holding the July 12th City Council meeting at 9:00 a.m. instead of starting at 9:30 a.m.

E. Councilmember Harry Howle's Matters

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

Mr. Howle reminded everyone about the Air Show this weekend and that United Against Poverty would be holding their first Burgers and Brews event on July 2nd. He said that he and the Police Chief have volunteered to be a part of the dunking booth at the event.

Mrs. Turner reminded everyone to attend the City's annual July 4th event held on July 4th from 4:00 p.m. to 9:00 p.m. at Riverside Park.

Mr. Winger commented that Council received a copy of the Cultural Council's mural guidelines. He asked that copies go to the Recreation Commission and have them take a look at it.

13. ADJOURNMENT

Tonight's meeting adjourned at 7:54 p.m.

/tv