CITY OF VERO BEACH, FLORIDA
JUNE 16, 2015 6:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

The invocation was given by Pastor Steve Ponce of the Central Assembly of God 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; 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

Mrs. Tammy Vock, City Clerk, requested that item 4B-1) be added on to the agenda, which is a Resolution accepting grant money from the Federal Aviation Administration (FAA) and item 7-B) be added to the agenda, which is a license agreement for use of City property on 1 Royal Palm Pointe.

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

B. Proclamations

1) National Dump the Pump Day – June 18, 2015

Mayor Winger read and presented the Proclamation.

C. Public Comment

1. Ms. Annabel Robotson, Vero Beach High School Rowing Team, to thank Council for all of their support in winning the State Championship this year.

Ms. Annabel Robotson, Vero Beach High School Rowing Team, was at tonight's meeting to thank Council for their help in allowing the Rowing Team to use the area near the Sewer Plant for them to row. Because of this the Rowing Team is growing and this year they won State Championship.

Miss Ruby Hollinger, Captain of the Girls Team, was also at tonight's meeting to say thank you to Council for all of their support and help this past year. She reiterated the

Rowing Team is growing and she anticipates they will continue to grow. She said that rowing has changed a lot of lives for students. She also expressed that they won the State Championship.

2. Vero's Beachside Retailers to discuss parking on the beachside.

Mr. Caesar Mistretta, co-owner of J M Stringer Gallery of Fine Art, was at tonight's meeting representing a new Association formed by a group of Vero's Beachside Retailers. They have been in existence for about a month and they already have 21 members. The reason the Association established was because of serious parking problems on Ocean Drive. He was happy that GoLine will be offering a shuttle service for employees to park at Riverside Park and have transportation back and forth. So this has solved some of the problems. He said the major hotels that do not have adequate parking available allow their employees to park on the street, which uses parking spaces for their customers, which means their customers have to park at other places. Again, he was very thankful for the GoLine bus service, the help from the Oceanside Business Association (OBA), and Vero Beach Hotel & Spa, for contributing money this year for the shuttle. The big problem is enforcing employees to park their cars at Riverside Park and use the shuttle. He feels there should be some enforcement to make the employees use the shuttle service. He was looking for suggestions from Council. He thanked the City Manager and OBA for all of their help with the parking issue. He also mentioned that he does not see much police enforcement with the three hour parking limit.

Ms. Melinda Cooper, Cooper & Co., stated that last season was the worst customer complaint season she has ever had for people complaining about parking. She proposed that some type of Ordinance be put in place enforcing the employees of the hotels and restaurants in this area to park at Riverside Park and use the shuttle.

Mrs. Nancy Cook, Twig Shop, appreciated the help from Vero Beach Hotel & Spa and GoLine to provide shuttle service for the employees. However, she said there is a serious problem when people come to the area to go to the beach and park their cars in front of the shops all day. She was not in opposition to OBA at all in representing their interest as retailers.

Mr. Jim O'Connor, City Manager, stated that the City has been addressing the parking issue for some time now with OBA taking the lead on it. There have been some changes to the signage in this area and more enforcement is taking place. He will continue to work with the different organizations on this.

Mayor Winger commented that more people want to be in Vero Beach and visit Ocean Drive. The Chamber of Commerce has been successful in making this a point of designation.

Mr. David Curry, Vero Beach Police Chief, reported that since they first started enforcing the parking requirements on Saturdays and changing the parking requirement time from

two (2) hours to three (3) hours there have been 275 citations issued. This included the time span from the end of January to the beginning of June.

3. Mr. Paul Reid, President of the Vero Beach Dog Park, wants permission from Council to sell alcohol at their fundraising event on November 15, 2015.

Mr. Paul Reid, President of the Vero Beach Dog Park, gave a recap of what their first year of operating the Dog Park was like. He said they have been very successful. They have fenced the entire Dog Park and planted 90 new trees. They have put in some sun shades, which were needed for this time of year. He never thought the Park would be so popular. They estimated 7,000 visits per month. They have a new website and are on facebook, which gets an average of 500 views for every post they put on it. They have started an ambassador program to train people to handle any situation that might come up and have someone at the Dog Park every day. They have a very strong Board in place and each Board member invests at least 15 to 20 hours a week doing something for the Dog Park. They have been told by various realtors that people coming to this area want to live within walking distance of the Dog Park. He was here tonight because they are planning their one year celebration of the Dog Park, which will be a fundraiser. At this fundraiser they are asking permission to be able to sell beer. The event will be called Bowwow Brew Fest. There will be music provided, lots of vendors and a beer tasting event.

Mayor Winger asked if there was anyone from the public that wished to speak on this, which there was not.

Mrs. Turner asked what was the time frame that the event will be taking place. She wanted to make sure that there would not be any noise disturbances.

Mr. Reid stated the event would begin at 1:00 p.m. and end at 6:00 p.m.

Mrs. Turner made a motion to allow beer to be served for this event on November 15, 2015 at the Dog Park. Mr. Old seconded the motion and it passed unanimously.

4. Mrs. Sue Dinenno to discuss Private Docks Construction Ordinance.

Mrs. Sue Dinenno gave a Power Point presentation concerning private docks (attached to the original minutes). She showed a picture of what the view was when she purchased her property in 1999, what the view looked like in 2013 after the first large dock expansion and the view in 2015 after a super dock was completed. The State and local government regulations provide specific criteria intended to protect waters and other natural resources, which must be met before a permit will be issued. Mrs. Dinenno feels there are deficiencies in the Code that should be looked at (outlined in her Power Point presentation). She said to appeal the approval of this dock would cost $750.00, which she chose not to do.

Mayor Winger was interested in knowing how other government entities regulate private docks and if there is anything that they could do.

Ms. Graves felt that the appeal fee should be looked at to see if it is reasonable.

Mr. O'Connor explained that the fee is to cover costs. He had no problem researching to see what other cities do. He did not think that canal permits required by the Department of Environmental Protection (DEP) were any different than those required for the Lagoon.

Mr. Kramer requested a memo outlining the justification of the $750.00 appeal fee.

5. Mr. Shef Wright, Attorney, requesting that Council consider choosing an option for the Electric Utilities.

Mr. Shef Wright, Attorney, stated that he has been talking to Orlando Utility Corporation (OUC) in trying to get a deal with them that would leave the City in the best position they could be in if they were to pursue a going to market scenario, which could mean defaulting under the OUC contract and purchasing power from market sources. The Finance and Utilities Commission met last Tuesday and they reviewed some estimates and their recommendation was to stay with the present base case scenario (existing OUC contract) and keep the Power Plant operating. If they took OUC's best offer based on their November 25th offer it would be eight hundred and eight nine million dollars nominal, six hundred and six million dollars present value. After the meeting last week he had further conversations with OUC and they said he misunderstood some of their proposals and instead of $25 million dollars it is $20.4 million dollars present value plus or minus $30 million nominal dollars. He said $30 million dollars over four years is a little less than $4 million dollars a year in nominal dollars. He expressed that OUC has been great to work with and have been completely cooperative. He presented a recommendation to the Finance and Utilities Commission that a Request for Proposal (RFP) be issued to test the market to determine what the market is and then go back to OUC after they have those numbers and see where they are. The Finance Commission voted 4-0 to issue the RFP to determine the market and the Utilities Commission voted 7-0 to issue the RFP with the provision that the RFP be issued within four weeks after Council votes tonight. He said Mr. Harrington will be drafting the RFP and have it to City staff for review by Friday of next week and send it to bidders by July 3rd and propose that the bidders have their bids back to them by July 31st. He expects to receive eight (8) to ten (10) bids in response to the RFP. He hopes to be back with a definitive recommendation at one of their September City Council meetings.

Mayor Winger commented that before September 1st there would be another joint meeting of the Finance and Utilities Commission to review what comes back and staff's recommendation. Mr. Wright anticipated having this meeting around the middle of August. Mayor Winger brought up the $50 million dollars that they don't expect to have to pay, but if they had to they would still save $25 million dollars. Mr. Wright said that is their belief. He said there is a difference of opinion as to whether or not the $50 million

dollars is an actual nominal damages number. He thinks that it is. If they had to pay damages at all, OUC has taken the position that it is a present value of $50 million dollars so their view of the world is that it is either $50 million dollars upfront or a stream of payments that would bring them back to $50 million dollars and have said they would litigate that issue. Mr. Wright stated that there is nothing in the Purchase Power Agreement (PPA) that says anything about a present value of $50 million dollars. It is a bilateral provision that says if the City defaults for economic convenience their damages are capped at $50 million dollars and if OUC were to default for economic convenience then their damages are capped at $50 million dollars.

Mayor Winger asked Mr. Wright to comment on the inbound transmission assuming they were to close the Power Plant.

Mr. Wright commented that he was asked the same question at the joint Finance and Utilities Commission meeting. The City has received the System Impact Study from Florida Power and Light (FPL) and it does identify a number of overloads that would require some mitigation factors. This would entail some expense and they were not sure how much that would be. There are other potential options and one of them would be to keep running only Unit 5 at the Plant. He said it could be run with very minimal staffing on an annual basis. By doing this it would relieve all the overloads as identified by FPL until other facilities could be in place. He said they would evaluate all of the different options. This would not stop them from moving ahead. They may need to run Unit 5 in order to do so.

Mayor Winger stated that no matter what they do there are risks and there is no perfect decision. He personally believes the market is softer then the projections they have and may do better. He felt the responsibility of this body is to find the best rates they can and pass it on to the ratepayers.

Mr. Wright said they would reserve the right to reject all bids and felt that OUC would stand by their November 25th offer.

Mr. Old commented that they can look back at some of the issues that happened before. He said in 2008 there were some decisions made that seemed right at the time. Now they are making decisions that could go the other way, but at least the time to get out of the agreements would be shorter.

Mr. Wright agreed that when the City entered into the OUC contract in 2008 it was a good contract. The City was concerned about having a long term supply. Then the economy changed and the commodities market went south. He said the contract is simply under water. He reiterated what he has said before and that there is always a risk with whatever decision is made.

Mayor Winger asked Mr. Wright to comment on the amount of new generation in this State.

Ms. Graves asked what kind of contract length they would have if they choose to go to market.

Mr. Wright said they would be looking at a set of staggered contracts. He said there would be between three and four contracts with staggered terms from around three (3) year terms out to 10 years.

Ms. Graves questioned how many firms would they be contracting with.

Mr. Wright said they would have to see what the bids are. He would like to see them contract with two or three suppliers, but this will depend on the bids.

Mr. Kramer commented that getting stuck in long term contracts is not a good idea. He recalled four years ago watching Winter Park stagger their suppliers and said that is what Vero Beach should be doing.

Mayor Winger asked if there were any public comments on this matter.

Mr. Joseph Guffanti told Council that he did not want them to speculate with his tax dollars and power bills. He said what happened years ago has cost them a lot of money because of the FMPA contract.

Mayor Winger made a motion to authorize the City Manager, with the assistance of Council, to put an RFP out for their total needs of power less the power they are committed to. Mr. Kramer seconded the motion.

Mrs. Turner asked that a caveat be added that this be completed in four weeks. Mayor Winger agreed with this caveat.

Mr. Kramer wanted to have a caveat that this be done as soon as possible. He would hate to think that the language and RFP document would have to be approved by Council.

Mr. O'Connor stated that they would proceed as rapidly as possible. They hope to have the RFP done and on the streets by July 3rd.

The Clerk polled the Council on 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.

Mrs. Turner had some questions about the elimination of the Power Plant and the study they received back from FPL. The study indicated that there would be modifications that needed to be made to the system. She asked if they knew what the extent of these modifications would be and the costs.

Mr. O'Connor felt that a lot of the modifications were for the capacitors at the substation for their distribution. He said they would be having some meetings with FPL to define these things. He said that FPL has been very good to work with, but because of the type

of organization it is they are split into different departments where the Distribution Department are not allowed to talk to the Transmission Department so sometimes it takes time to get all the issues worked out.

Mr. Old said looking at what they are going to do in the future is going to be an interesting exercise. He asked should they be a power generator or would they be just buying power. Also, questions will need to be answered as to what they should do with the Power Plant, such as should it be dismantled and when.

Mr. Wright commented that because of the study that they were presented with by FPL they are now looking at keeping Unit 5 running in order to facilitate getting a PPA in place. He agreed with coming up with a long term plan for the Plant.

Mr. Old expressed that it was important to figure out how this is going to be managed going forward, what they are going to do, and what the costs will be.

Mr. O'Connor explained that the RFP will show them the costs for power going out. He said when Mr. Wright brings up running Unit 5 they are only talking about doing it for 12 to 18 months. He said for the use of the property they will need to look at what opportunities are available at that time.

Mayor Winger commented that one thing that could surface because of the permitting and the water cleanup, should it be a peaking Plant with the oil tank gone. He said it was too early to figure out what they are going to do with the Plant other than shut down as much as they can as soon as they can. He agreed that they probably would have to run Unit 5 for a period of time.

Mr. Wright reported that he is working on the responsive motions to filings by Indian River Shores, as well as Indian River County's appeals of the Public Service Commission (PSC) on the declaratory statements.

Mr. David Hunter thanked the Council and the City for all of the progress that has been made regarding short term rentals. He was at tonight's meeting because of the response that Council has made to his suggestions of having an attorney represent the City at Code Enforcement Board meetings. He said the City Attorney now serves as the Code Enforcement Board's legal counsel and therefore the City itself does not have an attorney. Council asked the City Attorney to come up with recommendations for a solution for that problem and Mr. Coment has come up with a list of options. He said of those options he (Mr. Hunter) suggested going with number four in Mr. Coment's memo, which would be to retain outside counsel as legal counsel to the Code Enforcement Board. The projected cost would be $125 per hour, $181 (first hour then $100) per hour; one locale reported $260 per hearing, plus additional City Attorney and staff time for consulting/advising enforcement officers and personnel on cases, preparing and presenting cases. He then referred to the Ordinance on the agenda for first reading amending the Code Enforcement Ordinance. He was encouraged to see that they were looking at passing an amendment of deleting the step in the enforcement process referred

to as issuance of a "notice of assessment" in the case of a repeat violator. However, what concerns him is that the City Attorney has chosen to eliminate section 2-305(d), outlining superiority of liens (page 15 in the proposed Ordinance). He said this is their protection on claims regarding the liens law if a violator does not pay his fine. He said if this clause is not left in the Ordinance then the City might never see any of this money. He passed out a copy of the Town of Jupiter's code regarding administration of liens (please see attached). He reiterated if they were going to wipe this section out of the Ordinance then it may cause disadvantages in allowing them to force payment. He said if every municipality was doing this then maybe he could buy into it, but they are not. He said if they don't have to give up this protection then don't take it out of the Ordinance.

Mr. Joseph Guffanti referred to an article that he read in Vero Beach 32963 concerning comments made by the Mayor on a partial sale of their utilities to Indian River Shores. In the article the Mayor was quoted as saying that he was concerned about stranded costs, and hirer electric bills would be passed on to the remaining utility customers. He expressed that Indian River Shores has a contract to buy power from the City and not from FMPA. He recalled that Mrs. Turner asked for financial information from FMPA and the City Council did not want to do that. He said they don't want to see this information because they don't want the public to see what bad shape they are in. He said in looking to the future one can see how bad of shape the City of Vero Beach is in. He told them 10 years ago that the best thing they could do would be to dismantle the Power Plant and that they were dealing with gangsters and thieves at FMPA, which is what the recent audit showed.

Council took a short break and the meeting reconvened at 7:55 p.m.

3. CONSENT AGENDA

1. **Regular City Council Minutes – June 2, 2015**
2. **Young Park Seawall Cap Repair – COVB Project #2003-20 – Bid No. 120-15/JO**
3. **Funding Request from the Veterans Memorial Island Sanctuary Advisory Committee to replace the cenotaph marker for Sergeant Jimmie Doles.**
4. **License Agreement #2015-LA-0245, Gibson Family Trust 2012 – Dock & Boatlift Constructed on City-Owned Submerged Lands 15 Park Avenue**
5. **License Agreement for use of Vero Beach Municipal Airport Property (FPL Emergency Response Staging)**

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

4. PUBLIC HEARINGS

A) ORDINANCES

(Quasi-Judicial)

1. An Ordinance of the City of Vero Beach, Florida, requested by Dr. Benjamin D. Emerson of Vero Beach, Florida, Inc., to amend the Comprehensive Plan Future Land Use Map by changing the Future Land Use designation from Residential Low (6 Units per acre) to Residential High (15 to 18 Units per acre) for property located at 1610 Highway A-1-A, including all of Lot 1 and 18, Block 2 of the Ocean Corporation Subdivision, totaling 0.74 of an acre, more or less, and providing for an Effective Date. – Requested by the Planning and Development Director (Final Public Hearing)

Mayor Winger read the Ordinance by title only.

Mayor Winger disclosed that he was familiar with where the site is located, he received several phone calls about this, but did not know what the context of the phone calls were because he did not answer these calls and that Council has received numerous emails concerning this rezoning. He also attended the Planning and Zoning Board meeting when this matter was heard.

Mr. Old disclosed that he visited the site.

Ms. Graves disclosed that she was contacted by someone about the rezoning, but never talked to them. She did glance at some of the emails that they have received.

Mr. Kramer disclosed that he did drive by the site and has received some emails about the rezoning.

Mrs. Turner disclosed that she lives in this neighborhood and walks her dogs near this property. She has not spoken directly with anyone. She has reviewed the notes from the Planning and Zoning Board meeting when this matter was heard. She said having followed the first two readings of this Ordinance she reminded Council that according to their City Attorney's briefing on Quasi-Judicial matters that officials must go into the hearing with an open mind and base their decisions on competent substantial evidence and law as presented.

Mr. Coment stated that Mr. John Moore, Attorney, represents the applicants and if he has any questions of Council he is entitled to ask them.

Mr. John Moore, Attorney representing the applicant, asked if any of the Council had conversations with any individuals.

Mayor Winger stated that one of the Planning and Zoning Board members came up to him after their meeting and said that it didn't seem that he was pleased. He said that he did not comment. He said they have received emails, but he has tried not to read them.

Ms. Graves stated that she has not spoken to anyone.

Mr. Old mentioned that he does live near the area.

The City Clerk swore enmasse witnesses testifying at today's hearing.

Mr. Tim McGarry, Planning and Development Director, told Council that both Ordinances (4A-1 and 4A-2) could be heard at the same time.

Mayor Winger announced that any Exhibits referred to during the testimony or which they would like Council to consider must be marked for identification and kept by the City Clerk.

Mr. McGarry entered his written report as part of the Exhibits.

At this time City staff gave their presentation.

Mr. McGarry went through his report in detail. He said that Dr. Benjamin D. Emerson, is requesting a combination small scale comprehensive plan map amendment and zoning map amendment to change the land use designation of property comprising of approximately 0.74 of an acre located on the east side of State Road Highway A-1-A between Sandpiper Lane and Jasmine Lane. The subject property address is 1610 Highway A-1-A. The only structures on the subject 0.74 acre property are a one story single-family residential home and a small utility shed. Directly abutting the property to the east is a single-family residential home and has a future land use designation of Residential Low (RL) and a zoning designation of R-1A, Single-Family Residential. Across Sandpiper Lane to the north are multi-family residential units and the property is designated Residential High (RH) on the Future Land Use Map (FLUM) and RM-13, High Density Multiple-Family Residential District on the Zoning Map. South of the property across from Jasmine Lane are multi-family residential units and the property is designated Residential High (RH) on the Future Land Use Map (FLUM) and RM-10, Medium High Multiple-Family Residential District on the Zoning Map. The property has road frontage along SR A-1-A. In 2013 the average daily traffic volume of the roadway segment was 14,792. Based on the latest data provided by the County, the north and southbound lanes of SR A-1-A are within the Level of Service (LOS) standard "D" plus 30% (Peak Hour/Peak Season/Peak Direction). Northbound peak hour traffic is approximately 71.3% (LOS "C") and the southbound peak hour traffic is approximately 64.9% (LOS "B") of the LOS standard. The existing future land use designation is RL, Residential Low. This land use category is applied in areas of the City that are suitable for detached, low-density single-family dwelling units on individual lots based on existing development patterns infrastructure capacity, natural conditions and constraints. The existing zoning of the property is R-1A, single-family residential. The proposed zoning designation of RM-13, multiple-family residential district allows single family, duplexes, and multiple family residential uses; adult congregate living facilities and nursing homes. The RM-13 zoning district would allow residential development up to 13 units per acre for multiple family housing and up to 18 units per acre with conditional use approval for congregate multiple-family exclusively for senior housing with kitchen

facilities and daycare services. Staff has reviewed the requested land use map and zoning map amendments based on the standards for considering such amendments pursuant to the provisions of Chapter 65, Article III, of the City's land development regulations. Pursuant to Section 65.22(i)(1), staff finds that the requested amendments are warranted and justified to improve the potential for the property to be redeveloped with multi-family residential units. Pursuant to Section 65.22(i)(4), staff finds that the requested amendment to the future land use map is consistent with the goals, objectives, and policies of the Comprehensive Plan and Chapter 163, Florida Statutes. Staff finds that the requested amendment to the future land use map is consistent with Policy 1.6 of the land use element of the Comprehensive Plan. Staff finds that the requested amendment to the future land use map is consistent with Policy 5.3 of the Coastal Management Element of the Comprehensive Plan. In the zoning district standards and criteria the amendment shall be consistent with the land development regulations and zoning and criteria. Staff finds this has been met. With the compatibility with zoning map designations within the immediate vicinity of the subject property, with the exception of the subject property, all of the end of block parcels within this neighborhood that have frontage along the eastern section of SR A-1-A have commercial or residential high land use designations and corresponding zoning districts. To the north and south of the property along SR A-1-A and Sandpiper and Jasmine Lanes neighboring properties are zoned Rm-13 and RM-10. Staff finds the requested RM-13 zoning district classification is compatible with the existing RM-13, RM-10, and single-family residential zoning districts, in the immediate vicinity. Staff finds that the request to change the zoning district designation to RM-13 is warranted due to the already existing multi-family residential zoning and uses in the area.

Mr. McGarry went over the maintenance of the Level of Service (LOS). He said sufficient capacity exists in the road system to accommodate development under both the existing and requested zoning designations without any degradation in LOS. The traffic report prepared by the applicant's traffic engineering consultant assumes the highest traffic generating use possible under the zoning designation to compare differences in levels of traffic that may be generated. Under the RM-13 zoning district, the consultant identified nine (9) multi-family residential units as the most intensive trip generating use. In addition to the submitted traffic report, the Public Works Department and the Engineering Division staff reviewed the submitted traffic impact analysis and provided the following information: based on the existing zoning the property (assuming the existing lot could be split into two (2) parcels – the potential development could include two single-family residences with 19.14 weekday trips, 1.5 A.M. peak hour, and 2.02 P.M. pear hour trips) and the proposed trip generation rates for the potential (nine (9) multi-family residential units) described in the applicant's traffic report, there could be an increase of approximately 38 daily trips, with two (2) additional AM peak hour trips and three (3) additional PM peak hour trips. The estimated increases in traffic due to the proposed rezoning are below the County's threshold of concern for traffic impacts. Staff finds that the requested change in zoning designations is consistent with the public interest and in harmony with the intent of the land development regulations.

Mr. McGarry recommended that the Ordinance amending the Future Land Use Map of the Comprehensive Plan for the property from RL to RH and the Ordinance amending the Official Zoning Map for the property from R-1A to RM-13 be approved.

Mayor Winger asked what the vote was at the Planning and Zoning Board meeting.

Mr. McGarry said that the Planning and Zoning Board voted unanimously to approve the request.

Mayor Winger referred to the Planning and Zoning Board minutes where there appeared to have a lot of discussion with going to a RM-13 zoning based on the neighborhood they were discussing.

Mr. McGarry explained they discussed at the meeting the way the property was shaped and flexibility should be given.

Mayor Winger reiterated that there was a great deal of discussion at that Planning and Zoning Board meeting. He then brought up the traffic light and said that he did not think that street could hold any additional traffic during season.

Mr. McGarry referred back to the outcome of the traffic study and did not believe that an additional 30 trips was significant.

Ms. Graves asked does the RM-8 and RM-10 zoning designations allow adult congregate living.

Mr. McGarry said they are allowed as a conditional use.

Ms. Graves asked how many units are allowed in RM-8 zoning and in the RM-10 zoning.

Mr. McGarry stated that with the RM-8 zoning, five (5) units would be allowed on this property. Ms. Graves asked in RM-13, would adult congregate living be a conditional use. Mr. McGarry answered yes.

Mr. Kramer asked when the present owner purchased this piece of property.

Mr. McGarry stated that the present owner purchased the home in 1986, but does not presently live there. He is renting it out.

Ms. Graves referred to the designation of RM-8 and RM-10 west of Pirate Cove and asked how long ago this zoning was changed. Mr. McGarry did not know.

Mayor Winger told Mr. Moore that he could cross examine staff. Mr. Moore had no questions of staff.

At this time, the Applicant was asked to give his presentation.

Mr. Moore was at tonight's meeting representing the applicant, Dr. Ben Emerson. For the record he entered his Power Point presentation and a copy of the Professional, Office, and Institutional (POI) Study South A-1-A Corridor dated July 1988.

Mr. Moore went through his Power Point presentation. He said that Dr. Emerson has owned this property for 30 years. The site consists of .74 acres currently zoned R-1A, single-family residential. It is bordered by multi-family uses to both the north (RM-13), south (RM-10 with 16 units) and west (RM-8). There are 88 total acres in the neighborhood (east of A-1-A, south of Causeway, and North of Seagull Drive). Dr. Emerson applied for POI zoning in 1989 and staff recommended approval at that time. Council delayed action pending a study of POI options at the south end of the beach, which resulted in a document entitled "Professional, Office and Institutional Study." This document has been entered into the record. The study was never adopted, but it has been implemented over time. He went over the specific requests to be evaluated at tonight's meeting. The Future Land Use Amendment: small scale change, from RL (Residential Low) to RH (Residential High) necessary to accommodate any change to multi-family use. Rezoning: from R-1A to RM-13 – differences: density (property will support nine (9) units, substantively different permitted uses in RM-13 that are not in R-1A include: adult congregate living (may not be possible because of two (2) acre minimum) nursing homes (likely not viable because of size/scale. Staff report based upon review of the City's land development regulations said that the requested amendments are warranted and justified. With the exception of the subject property, all of the "end of block" parcels within this neighborhood that have frontage along the eastern section of SR A-1-A have commercial or residential high land use designations and zoning districts. The Future land use plan amendment is consistent with the comprehensive plan and rezoning is consistent with the comprehensive plan and LDR's. The Planning and Zoning Board approved the request on a vote of 5-0. They (Planning and Zoning Board) discussed the possibility of lower density and the Assistant City Attorney reminded the Board that staff found RM-13 was consistent and appropriate for this site. The Planning and Zoning Board was offered and declined the opportunity to recommend lower density. The size of the lot will limit the density of use. RM-13 gives greatest flexibility in planning and the neighbors do have input in the site planning process.

Mr. Moore went through the nature of a Quasi-Judicial hearing. He said that Council holds three roles and they are legislative, executive, and judicial. He said that sometimes Council acts as legislators in passing new Ordinances dealing with beach rentals or parking. Sometimes the Council acts as executives. They hire and fire employees and they negotiate contracts. Tonight the Council is acting as a judge. They are not setting policy, but implementing policy. There was a bit of a hiccup at the first reading of this Ordinance. The first reading is to set the date for this hearing, which is a matter of right to the applicant. There was some confusion among the City Council when this was heard as a first reading and there was not a second to the motion to pass it.

Mr. Moore stated that the competent evidential matter they are hearing tonight calls for approval. Their staff recommends approval that the property be rezoned to RM-13. To back this up there is an expert traffic analysis by both the applicant and City Engineers. The Planning and Zoning Board recommended approval to RM-13 by a 5-0 vote after hearing public comment, which includes comments on density concerns. The multi-family use is consistent with the overall character of both the neighborhood in general: 12.5% of relevant area is single family. The proposed use is consistent with the City's own POI study and with 30 years of development and specific discussions between the City and this applicant in which an even higher use was discussed. The size of the property limits many options. The designation of RM-13 gives greater flexibility in development and is fully consistent with the neighborhood. He expressed that public concerns can be addressed in the site plan approval process. Mr. Moore concluded his Power Point Presentation by saying the zoning maps are on the City's website.

Mayor Winger asked if there was any public testimony.

Mr. Ron Rosenthal stated that he had been sworn in. He had some comments to make on some of the statements made tonight. He said one of the things he brought up was that the zoning from RM-8 to RM-13 has never been done before in this City. In the staff report it states that staff did not evaluate any other various options to the Planning and Zoning Board. There was no evaluation done for any lower density zoning. The only zoning considered was RM-13. He thought it was unusual that other things were not considered even though it is constricted by the amount of land. The discussion has been that this is for .74 acres and the tax records show it is .69 acres. He did not know if it makes any difference or not. It was mentioned the increase above single family and he said the biggest thing that the neighbors are concerned with is the fact that given this zoning it allows between 15 to 18 units. He knows there is not enough property there, but all that has to be done is another piece of property is purchased then it will be a full acre. Everyone knows that this is a heavy traffic area. It mentioned in staff's report that a traffic impact analysis was done by Kimley-Horn. He said when you read through this traffic study it refers to an area of influence (which he read) and he found it hard to believe that the analysis of the busiest or second busiest intersection on the barrier island was not required. He said if you look at the potential of traffic in that area you could add 113 additional cars, which he explained. He said so instead of having to wait for three (3) lights to get through the intersection, you will be waiting for five (5) lights. He said that he did not think this was the correct rezoning for this particular piece of property.

Mr. Moore cross-examined Mr. Rosenthal. He asked Mr. Rosenthal where he lived. Mr. Rosenthal said that he lives at 910 & 912 Jasmine Lane. Mr. Moore asked if he lives in both houses or just one house. Mr. Rosenthal said that he uses both houses and does not rent either one of them out. He is single and there are no children living with him. Mr. Moore said at the end of Jasmine Lane where he lives what is the current land use there. Mr. Moore said it is Jasmine Villas. He recalled that Mr. Rosenthal has some concerns about the density. He asked Mr. Rosenthal to describe the difference between five (5) units being on that property and nine (9). Mr. Rosenthal stated that RM-13 is not limited to nine (9) units. He said if the property owner, or whoever he sells the property to buys

one more lot then 15 to 18 units would be allowed. Mr. Moore asked Mr. Rosenthal if he had read the POI study. Mr. Rosenthal said not completely. Mr. Moore thought that Mr. Rosenthal was familiar with it because he was at the Planning and Zoning Board meeting. Mr. Rosenthal said that he was at that meeting. Mr. Moore pointed out on the map where Mr. Emerson's property is located. Mr. Moore asked Mr. Rosenthal if he was a traffic engineer. Mr. Rosenthal said that he was not.

Mr. Arthur Neuberger was sworn in. He said that this property abuts up to his property. His concern is that this property is three quarters of an acre so he is wondering how it warrants being RM-13. He said this is close to the 17th Street intersection and as it is now during rush hour cars in this intersection gets backed up. His other comment is that he is concerned with the lot next to him and what would happen to the many Live Oak Trees that are on the lot.

Mr. Scott Smith, was sworn in. He mentioned the emails that were sent to the Council in which some Councilmembers have said they did not read. He is concerned about Sandpiper and Jasmine Lanes because what will happen is people will go through the neighborhoods to get to the beach during season. He did not want more traffic on the road he lives on. If they don't stop this now then what is next.

Mr. Moore asked Mr. Smith where he lived. Mr. Smith said he lives on Sandpiper Lane, five (5) units in from the road. Mr. Moore asked Mr. Smith if he has reviewed the traffic study. Mr. Smith said that he does not believe in traffic studies because it is all about numbers. Mr. Moore asked Mr. Smith based on the colors on the map would he agree that Dr. Emerson's property sticks out. Mr. Smith answered yes.

Mr. Ken Daige was sworn in. He said in the event that the City Council goes with this recommendation of the highest zoning, could it be rezoned to POI down the road.

Mr. McGarry explained under the future land use designation the applicant would have to go through a rezoning process. He said that staff is not in favor of rezoning this property to POI.

Mr. Daige understood that, but still was concerned that it could be rezoned to POI in the future if someone was to request it. He said there were some POI rezoning requests approved in his neighborhood some years back and it has hurt the neighborhood.

Mr. Moore asked Mr. Brian Good of Kimley-Horn & Associates to speak. He said that Mr. Good prepared the traffic study.

Mr. Brian Good, Kimley-Horn & Associates, stated that he has been sworn in. He was requested to perform a traffic study based on the proposal to rezone the parcel from its current designation to RM-13. He looked at the most intense use under that zoning, which would result in nine (9) units on that piece of property. Based upon the land use classification (townhome, condominium unit) they looked at nine (9) units and generated traffic loading from this land use. Based upon the volume of traffic that is calculated

they performed a traffic study that was consistent with the City and County land development regulations. He explained how area of influence was defined in the report. That is a definition that is defined by the City and County and not by him. He said under the most intense land use this particular parcel has not reached the minimum thresholds as identified by the City and County for analysis of the roadway sections and intersections. He studied the roadway segment and the roadway segment as identified in the staff report does have adequate roadway capacity to handle the four (4) to five (5) trips. He studied the intersection of A-1-A and 17th Street. He said as they studied this, at one time the applicant was looking at a POI zoning as a potential land use and they studied it under POI, which is much more intense than the current RM-13 land use designation before Council tonight. Under POI, the intersection still meets the minimum level of service standards as defined by the City and County. With this particular application all the roadway segments and intersections directly adjacent to the parcel have been demonstrated to have the capacity to support the zoning change.

Mr. Moore asked Mr. Good if he was a Professional Traffic Engineer. Mr. Good said that he was. Mr. Moore commented that they have heard some discussion about the horrible things that will happen at the A-1-A and 17th Street intersection if Dr. Emerson's property is rezoned. He asked if the nine (9) units were to be constructed is the intersection at A-1-A and 17th Street going to fail. Mr. Good explained that it will not fail and will operate the same way they see it operating today. Mayor Winger said "poorly." Mr. Good agreed that anyone using that intersection would probably characterize it as acting "poorly." However, it still meets the City and County level of service standards. He noted years ago there was an intersection improvement proposed to expand the capacity of the intersection, but it has not been implemented. Mr. Moore stated that even though the intersection is not operating the way they would like to see it operate, there is at least proposed relief for the future. Mayor Winger asked when this will take place. Mr. Good did not know. He said at one time it was a funded project, but over the last couple of years that funding has been removed from the capital improvement plan as a funded project. So it sits as a potential project, but not a funded project. Mayor Winger questioned Mr. Good's statement that it was adequate by any standard. He said there have been many occasions when he has had to go south on A-1-A, turn around and come back and go down Sandpiper or Jasmine in order to get home. Mr. Moore asked Mr. Good to translate the definition of load bearing keeping in mind that there is a single-family use so zoning would only result in incremental use. He asked Mr. Good to quantify the incremental use from this rezoning in terms of trips per hour. Mr. Good stated that it would be two (2) additional traffic trips in the A.M. and three (3) additional trips in the busiest hour in the P.M.

Ms. Graves asked Mr. Good if he looked at the possibility of diversions down Sandpiper Lane or Jasmine that it might increase traffic going towards Coral. Mr. Good said that was discussed, but when you are talking in order of magnitude of one (1) car or two (2) cars then that is inconsequential to the traffic loading. The analysis load took the more conservative route and looked at the most intense use and routed the traffic to A-1-A, which is the most highly congested traveled road. Also, they looked at the capacity associated with the entire traffic load onto A-1-A. Ms. Graves asked what was the

number of cars that were estimated based on the nine (9) units. Mr. Good said it was based upon nine (9) units and it would be about a half a car per unit. He said that would be five (5) trips at the peak morning hour and five (5) trips at the peak evening hour.

Mr. Moore gave his summation. He said the evidence before Council shows that RM-13 is the appropriate density for this property. He also pointed out in that context the applicant in discussion with staff decided not to pursue going to POI zoning, which is more intensive zoning for the property. He said POI was the use that was suggested for this property by the POI Corridor Study. He said in terms of intensity use the applicant has met in the middle and is asking for the multi-family use. He referred to Mr. Good's comments on the traffic study. The counting units for traffic are trips. The traffic impact is expected to be low. He agrees they all have concerns about the intersection of A-1-A and 17th Street, but there are potential improvements planned for that intersection. There is a concurrency review that takes place for traffic uses at the time of permit application and at that point in time the traffic analysis has to establish that it will not adversely affect the level of service. He said what will be done with the property takes place with the site plan approval process. In closing he felt that a record was built to allow the Council to find that there is substantial evidence to support the RM-13 zoning.

Mayor Winger referred to the May 7, 2015 Planning and Zoning Board minutes on page 7, and he read paragraph 4, *"Mr. Moore said there are currently no plans for this property. The number of units is tied to the size of the property, which is remarkably small to consider for multi-family development. In terms of rental properties verses condos, they would think the market would support a few townhome units. Mr. Cahoy asked why didn't they apply for RM-8 zoning. Mr. Moore explained that they are asking for RM-13 because it would give them the potential of having nine units. He noted that having nine units on this site would be a very tight fit. Their thought was to ask for the largest density possible and work backwards from there. Mr. Croteau said RM-8 would allow five units. He asked wouldn't that be a more logical number of units that could comfortably fit on this site. Mr. Moore answered perhaps, but the flip side is if the viability of a developer comes in at six or seven units they would have to come back requesting another increase in density."* Mayor Winger asked Mr. Moore why isn't RM-8 satisfactory to his client. Mr. Moore stated because this property is seven tenths of an acre and oddly shaped. He said at this point there are no development plans for this property. He said RM-13 comes with a higher degree of flexibility in terms of size of units, floor area coverage, and different options that would enhance the viability of the project. Mayor Winger said to Mr. Moore that he was going for all he could get. Mr. Moore stated that he would not characterize it that way. What he is saying is that the RM-13 zoning gives flexibility to the property. The size of the property is what effectively limits it. Mayor Winger believed keeping Vero Beach a great residential community is important. He also personally believed that what Mr. Moore was doing was building a path to something that is unacceptable. Mr. Moore appreciated Mayor Winger's opinion and said that it was hard to refute an opinion. He said there are other reasons to ask for the RM-13 zoning other than to try to maximize the single number of units.

Mr. McGarry clarified that adult congregate living is allowed in this district. He said the highest density that could be on this property is 13 units an acre, which would be nine (9) units an acre under RM-13. It would only be a conditional use if someone was to use the 18 units per acre.

Mayor Winger commented that it was clear that Dr. Emerson had the right to have this property rezoned. He said zoning is one of those things that governments do and end up with results of one sort or another. He does not believe having nine (9) units is a good idea. He could vote for RM-8, but would vote against RM-13.

Mrs. Turner reminded Council that they need to review the evidence that has been presented to them. She said the applicant has gone through all the steps, paid their fee and presented their case quite thoroughly to the Planning and Zoning Board and now to City Council. She believed the requested zoning change is consistent with the area and Council has a duty to allow this property owner the right to develop this property. The City will be able to maximize the benefits as far as taxes go. Because of the size of the property there will not be some huge structure built there. She said as a civil engineer it is probably easier for her to understand the traffic studies presented and as a member of MPO how the level of service is determined. She said if this project is denied the Council would not be resolving any issues with the interchange. She said the interchange is a whole different matter. They are only talking about adding five (5) trips to this area and would be doing a disservice if they denied this application.

Ms. Graves stated that her concern was that with having nine (9) units possible as an adult congregate living facility there could be two (2) people per unit. She does feel that the applicant should be allowed to develop this property, but she has a problem with the RM-13 zoning and wished the applicant would have requested RM-8 or RM-10. This way they would be looking at more of a residential possibility rather than adult congregate living.

Mrs. Turner cautioned Ms. Graves not to confuse the zoning with the use.

Ms. Graves said by law the Council can't say because the use allows adult congregate living or sober homes in the area it should be denied.

Mr. McGarry commented that adult congregate living is allowed as a permitted use under RM-8. Ms. Graves understood that and said going with RM-8 only five (5) units would be allowed and the decrease in units would decrease the likelihood of adult congregate living. Mr. McGarry explained adult congregate living doesn't go by units where they have kitchens, etc. He said adult congregate living refers to when a meal facility is provided and they look at the number of rooms.

Mr. Old was uncomfortable with the potential density.

Mr. Kramer referred to the map and was looking at the property between Jasmine and Sandpiper. He said if you go from east to west and you get to the applicant's property

you could probably fit four (4) units there. He would say that RM-8 is probably the appropriate zoning at this time. He could possibly vote for RM-10, but was leery of RM-13 because he does not know what the potential uses of this property will be. He would like to know what the future plans are in rezoning this property to RM-13.

Mayor Winger asked if Council has to accept the zoning in the application, which is RM-13 or could they vote to change it to some other zoning or ask the applicant to come back to them.

Mr. Coment explained that if they change the zoning from what has been requested then the Ordinance would need to be amended. He said they could amend the zoning to RM-8 or RM-10. He reminded Council that they have two (2) Ordinances that have to be voted on separately.

Mayor Winger made a motion to change the zoning to RM-8. Mr. Kramer seconded the motion.

Mrs. Turner did not think that could be done because that was not what the applicant was requesting. She would think they would have to reject the rezoning completely. She said they could ask the applicant if he would be willing to accept the change in zoning. But, she did not think that Council could arbitrarily change it.

Mr. Coment stated that Council can amend the Ordinance and the applicant has the right to appeal their decision to the Circuit Court.

Mr. McGarry added that Council needs a specific finding to change the zoning, but they can change it.

Mrs. Turner asked Mayor Winger based on the evidence presented what would be the specific finding to justify changing the zoning.

Mayor Winger stated that it was because there would be too many units allowed on .74 acres. He said nine (9) units is not reasonable on .74 acres.

Mrs. Turner asked not reasonable based on what.

Mr. Kramer said it would not be reasonable based on the surrounding neighborhoods.

Ms. Graves referred to the map and said if you look at the size of this property compared to another piece of property that is zoned RM-10 these two (2) properties are almost identical. Then if you look at the piece of property zoned RM-13 it is much bigger. She made a motion to vote on the rezoning as RM-10.

Mayor Winger withdrew his motion.

Mr. McGarry explained to Council that they needed to vote on the future land use before they voted on the zoning.

Ms. Graves asked if RM-10 was considered residential high or residential medium.

Mr. McGarry said that it covers all of the residential densities and they could go to residential high. The zoning will be what establishes the density on the property.

Ms. Graves asked Mr. McGarry based on RM-10, would the number of units drop to five (5). Mr. McGarry said that it would be seven (7) units under RM-10. He said residential low covers all single-family dwellings and any multi-family dwellings go under a different classification.

Ms. Graves made a motion to accept this Ordinance to residential-high. Mrs. Turner 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.

(Quasi-Judicial)

2. An Ordinance of the City of Vero Beach, Florida, requested by Dr. Benjamin D. Emerson amending the Official Zoning Map by Changing the Zoning District designation of R-1A, Single-Family Residential District, to RM-13, Multiple-Family Residential District for property located at 1610 Highway A-1-A, Lots 1 and 18, Block 2, The Ocean Corporation Subdivision, containing 0.74 of an acre, more or less, Providing for an Effective Date. – Requested by the Planning and Development Director (Final Public Hearing)

*Please note that discussion of this Ordinance took place in conjunction with item 4A-1).

Mayor Winger read the Ordinance by title only.

Ms. Graves made a motion to adopt the Ordinance with the modification that the zoning move from RM-13 to RM-10. Mrs. Turner seconded the motion. She (Mrs. Turner) felt they needed to ask the applicant if he would be in agreement with this.

Mr. Moore said that it was workable and better than RM-8.

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

(Legislative)

3. 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 the City Council (Final Public Hearing)

Mayor Winger read the Resolution by title only.

Mr. O'Connor stated that passage of this Resolution would freeze the defined benefit plan effective July 1, 2015 and the companion Resolution for consideration is the defined contribution, which would take place on July 1, 2015. This would be in conformance with the direction that Council has given staff to take.

Mayor Winger opened the public hearing.

Mr. Steve Myers, Business Agent with Local Teamsters 769, stated that he was going to talk about both Resolutions (items 4-3 and 4-4). He said there are certain provisions that have already been imposed by this Council and those terms and conditions are not lining up with what is being brought forward tonight. He suggested tabling this issue or put it off to a date other than July 1st because there are things that have not been negotiated. He also pointed out that July 1st is only a couple weeks away and moving employees from a defined benefit plan into a defined contribution plan takes some planning and the employees need time to meet with someone who can tell them how to invest their money. He heard the City has not set up those meeting dates until sometime in August. He said Council is implementing something to start on July 1st and the employees will not have their money invested or they will have to make a rushed choice in where to invest their money. Again, he reiterated that he would suggest tabling items 4-3) and 4-4).

Mr. O'Connor announced that there is some training classes planned for the employees. The only change that he is aware of that Mr. Myers alluded to is where they went from 7% to 9% referring to the defined contribution plan.

Ms. Cindy Lawson, Finance Director, stated that her understanding is that ICMA accounts will be set up before August and the payroll deductions would be made. She said until employees have the chance to meet one on one with ICMA, the funds would be defaulted to the vanguard funds for a month or so. She said the one on one meetings will be held in August, but she understood that there would be ICMA Representatives having group meetings for employees starting next week.

Mr. Myers stated there are provisions that conflict with these Resolutions and the language that this current Council imposed. He said these things need to be reconciled before these Resolutions are passed or else there will be a lot of conflicting dates and amounts. He said these things can be worked out, but not before July 1st.

Mrs. Turner asked Mr. Coment if there were problems with these Resolutions.

Mr. Coment said that he was not sure because Mr. Jason Odom is the attorney who handles the collective bargaining.

Mr. O'Connor stated that Mr. Odom has reviewed the Resolutions.

Mayor Winger closed the public hearing at 9:40 p.m., with no one else wishing to be heard.

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

(Legislative)

4. 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 the City Council (Final Public Hearing)

Mayor Winger read the Resolution by title only.

Mr. O'Connor explained what this Resolution does is it moves the defined benefit plan over to a defined contribution plan. He said since Council has enacted the freeze they need to have a pension plan and this would be that plan. Council has also agreed to allow ICMA to serve as the administrator of the plan.

Mayor Winger asked Mr. O'Connor why they selected IMCA.

Mr. O'Connor said they went through a selection process and ICMA was chosen. One of the things they liked about ICMA was that they will come in and train the employees and they have been involved with the City and a large percentage of the employees already contribute to an ICMA plan. Also, the fees charged were competitive, if not below, what the other agencies wanted to charge.

Mayor Winger asked if ICMA was suitably bonded and is the money suitably protected. Mr. O'Connor said that it was and ICMA is represented throughout the State of Florida.

Mayor Winger read the Resolution where it stated that the employee would be contributing 3% and the City would put in 9%, but if the employee is new then they would contribute 5% and the City will put in 7%.

Mayor Winger opened the public hearing at 9:44 p.m.

Mr. Myers stated that he had the same objections with this item that he had with the previous Resolution.

Mr. O'Connor commented that Mr. Myers was correct that they did make some changes and went from a 7% City contribution to a 9% City contribution.

Mr. Myers explained it is not just the amount that is in question. He said there are specific provisions that were imposed by this Council relating to dates. He gave an example that if an employee is hired after October 1, 2014 they will be required to put in 5%. The Resolution states this occurs to new employees hired after July 1, 2015. He asked what date they are going to go with.

Mr. O'Connor stated that there was no reason why they could not go with July 1, 2015 for new employees.

Mayor Winger made a motion to accept this Resolution as written except for the fact that new employees are ruled as of July 1, 2015 and not any other date. Ms. Graves seconded the motion.

Mrs. Turner stated that she has been a strong proponent of going with a defined contribution plan. However, this plan with a 9% City contribution is unreasonable. She said the industry standard is 6%. She said for the next 12 years the City will be paying $4 million dollars every year just to get their current pension plan paid. In addition now they are adding a higher contribution from the taxpayers. She said they could raise the number later on, but now they should start at 7% as proposed by staff as opposed to 9%. She would be voting no to the motion.

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.

B) RESOLUTIONS

1) A Resolution authorizing the Mayor of Vero Beach, Florida, to accept a Grant amendment agreement from the Federal Aviation Administration, U.S. Department of Transportation to Rehabilitate Runway 4-22 (Design) and Wildlife Hazard Assessment (FAA #3-12-0083-036-2012). Requested by the Airport Director

Mayor Winger read the Resolution by title only.

Mr. O'Connor reported that this is a grant amendment for change of scope to include the Wildlife Hazard Management Plan. The Federal Aviation Administration requested that a Wildlife Hazard Assessment be developed for public airports. After the Wildlife Hazard Assessment was complete it was determined that the Airport needed to develop a Wildlife Hazard Management Plan, which will be reviewed and updated annually by staff to ensure proper wildlife management is being done. There is no increase in funding. This is a change to the project scope only and the Airport has sufficient funding in the current grant agreement to complete the Wildlife Hazard Management Plan.

Mayor Winger asked what the overall cost was and how much is the Airport's share. The Airport Director could not answer the question, but told the Mayor he would provide him with the information.

Mayor Winger opened and closed the public hearing at 9:50 p.m., with no one wishing to be heard.

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

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

(Legislative)

A) An Ordinance of the City of Vero Beach, Florida, Abandoning that portion of Catalina Street bounded on the west by a line established between a point on the north right-of-way line of Catalina Street lying 22.2 feet east of the southwest corner of Lot 22, Block 34 and a point on the south right-of-way line of Catalina Street lying 30 feet east of the northwest corner of Lot 51, Block 22, Royal Park, Plat No. 7, as recorded in Plat Book 1, Page 36, of the public records of Indian River County, Florida; and bounded on the east by the west line of the partial replat of Plat No. 7 of Royal Park as recorded in Plat Book 14, Page 72, of the Public Records of Indian River County, Florida; retaining a Utility Easement; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Public Works Department (Public Hearing to be held July 21, 2015)

Mayor Winger read the Ordinance by title only.

Mr. O'Connor reported that this request is to abandon the eastern end of Catalina Street. The vacant lots adjacent to this right-of-way have been re-subdivided, and this abandonment of right-of-way request is the final step prior to the sale and development of these lots.

Mayor Winger opened and closed the public hearing at 9:51 p.m., with no one wishing to be heard.

Mrs. Turner made a motion to hold the public hearing on this Ordinance on July 21, 2015. Ms. Graves seconded the motion and it passed 5-0 with Mr. Old voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

(Legislative)

B) An Ordinance of the City of Vero Beach, Florida, relating to Code Enforcement; amending certain Sections and Subsections in Article VII,

Code Enforcement, of Chapter 2, Administration, of the Code of the City of Vero Beach to clarify and make more efficient the City's Code Enforcement Process; Providing for Conflict and Severability; Providing for Transition and Codification; Providing for an Effective Date. – Requested by the City Attorney (Public Hearing to be held July 21, 2015)

Mayor Winger read the Ordinance by title only.

Mr. Coment reported that this Ordinance would amend certain sections and subsections of the City's Code Enforcement Ordinance. The primary amendment is the deletion of the step in the enforcement process referred to as issuance of a "notice of assessment." Currently when there is a citation issued for a continuing correctable violation and the violation is not corrected within the reasonable time given by the Code Enforcement Officer the case goes to the Code Enforcement Board for issuance of a "notice of assessment of continuing penalties" which imposes continuing civil penalties. When there is subsequently no correction of the violation the case then comes back to the Board for issuance of an order to correct the violation and imposition of the continuing civil penalties. Elimination of this step in the process will speed up enforcement and obtain correction of violations as much as a month earlier. Two other matters being addressed by the proposed amendments are deletion of the Ordinance language regarding the seniority of the City's code enforcement liens and assignment of such liens. The Supreme Court of the State of Florida rendered an opinion striking such a provision in the City of Palm Bay Code as being in conflict with State law, which governs seniority of such encumbrances. Other case law holds that municipal liens such as code enforcement liens are purely governmental in nature and cannot be assigned or sold to others for collection. This assignment process has not been used in the past by the City.

Mayor Winger referred to page 15 of the Ordinance where these liens were being discussed and asked what was wrong with leaving them in the Ordinance.

Mr. Coment said because they are unenforceable.

Mayor Winger opened and closed the public hearing at 9:56 p.m., with no one wishing to be heard.

Mrs. Turner asked what are considered uncorrectable violations.

Mr. Coment explained that it was a one-time violation.

Mr. Kramer made a motion to set the public hearing to hear this Ordinance for July 21, 2015. Mrs. Turner seconded the motion and it passed 5-0 with Mr. Old voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

6. CITY CLERK'S MATTERS

A) Commission/Board Appointment

Mrs. Vock explained to Council that Mr. Ken Daige currently sits on the Veterans Memorial Island Sanctuary Committee as an alternate member and he would like to resign from that Committee and serve on the Planning and Zoning Board as an alternate member.

Mr. Kramer made a motion to appoint Mr. Daige to the Planning and Zoning Board. Ms. Graves seconded the motion and it passed unanimously.

7. CITY MANAGER'S MATTERS

A) High Pressure Pumps (Afton Pumps) Reverse Osmosis Plant Water Treatment Facility Expansion (ROWTF) WS Project No. WS09009

Mr. O'Connor reported that the Water and Sewer Department is in the process of expanding the capacity of the RO Plant from 2 Mgd to 4.6 Mgd. The expansion requires the addition of two (2) high pressure vertical turbine feed pumps to accommodate the increased capacity. Reiss Engineering and City staff performed an analysis on the existing pumping system piping that was installed in the building when the RO Plant was constructed in 1992. Reiss Engineering recommended Afton Pumps for the installation. The two (2) existing 23 year old pumps currently utilized at the RO Plant were manufactured by Afton and have demonstrated excellent performance and reliability. It would be his recommendation to waive the competitive bid process and purchase two (2) high pressure vertical turbine pumps manufactured by Afton Pump.

Mayor Winger made a motion to approve waiving the competitive bid process and approve the purchase of two (2) new RO feed pumps in the amount of $291,346. Mr. Kramer seconded the motion and it passed unanimously.

B) License Agreement #2015-LA-0242 for Submerged Lands Use 1 Royal Palm Pointe

Mr. O'Connor recommended adoption of this license agreement for submerged lands use at 1 Royal Palm Pointe as outlined in the agreement (on file in the City Clerk's office).

Mayor Winger opened the meeting up for public comments. There were no comments made.

Mrs. Turner made a motion to approve the license agreement. Mr. Kramer seconded the motion and it passed unanimously.

8. CITY ATTORNEY'S MATTERS

A) Code Enforcement

Mr. Coment provided Council with a memo on some alternatives for code enforcement board legal counsel and City representation for presenting contested cases (please see attached memo). Inquiry was made of other Florida local government attorneys regarding the use of outside legal counsel as code enforcement board/magistrate legal counsel or for presenting code enforcement cases to the board or magistrate. The responses received as well as other research showed that there is a mix of options utilized. There was a case held at the Code Enforcement Board's last meeting where Mr. Frost's firm handled the case on behalf of the City. This is an option they could use, which allows the City Manager to retain an attorney to handle cases when needed. He expressed that the City Attorney cannot act as an advisor to the Code Enforcement Board and present cases to the Code Enforcement Board. He is able to do one or other, but not both.

Mr. O'Connor suggested handling this on a case by case basis and hiring an attorney to represent the City when one is needed. He said right now short term rentals is a hot topic and an attorney is usually required, but with the other cases heard before the Board a prosecuting attorney is usually not necessary.

Mrs. Turner was happy with leaving this the way it is and allowing the City Manager to use his discretion in hiring an attorney when one is necessary.

Mr. Kramer commented that he would not have a problem having a magistrate handle the contested cases and having the Board handle the uncontested cases.

Mr. Coment explained in doing that they would need to have someone also present the cases, which would mean they would have to hire two (2) attorneys.

Mayor Winger agreed with leaving this the way it is.

9. CITY COUNCIL MATTERS

A. Old Business

B. New Business

1. Request from the Hibiscus Children's Center to put a bench on the City right-of-way and Parks. – Requested by Vice Mayor Jay Kramer

Mr. Kramer reported that the Hibiscus Children's Center will be holding a fundraiser to benefit abandoned, neglected and abused teenagers in Martin, St. Lucie, Okeechobee, and Indian River Counties. The fundraiser will consist of local artists painting chairs to be auctioned off at the "Chairish the Children" event that will take place in February 2016. To make the public aware of this event and to remind them of the cause for domestic child abuse the Center would like to place a park bench on the public right- of- way and in the Parks. The bench would be moved each month to a new location and would be coordinated with the Public Works Department to ensure safety and functionality.

The general consensus of the Council was to allow the Hibiscus Children's Center to put their bench on the City's right- of- way and in their Parks.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Richard Winger's Matters

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

Mayor Winger reported that the Indian River Lagoon Coalition met (himself, Mayor Richard Gilmore, and Mayor Susan Adams) and will be working on their bylaws to bring back to each city for approval. He said that the cities have been accepted to be members of the Indian River Lagoon Council.

B. Vice Mayor Jay Kramer's Matters

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

Mr. Kramer reported that he attended the grand opening of the new Hampton Inn located at Miracle Mile, the MPO meeting, the MainStreet Board meeting, the Downtown Economic Development Zone Advisory Committee meeting and the Flag Day Ceremony held at the Elks Club.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner reported that she attended the MPO meeting, the Indian River County Chamber of Commerce lunch on tourism, and the Dare graduation held at Rosewood Elementary. She also reminded everyone that this weekend McKee Gardens was having their Waterlily presentation.

D. Councilmember Amelia Graves' Matters

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

No report given.

E. Councilmember Randolph Old's Matters

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

3. Comments

No report given.

Mr. O'Connor reported that this is the first year that the DARE program has been offered in the middle school.

11. ADJOURNMENT

Tonight's meeting adjourned at 10:13 p.m.

/tv