

CITY OF VERO BEACH, FLORIDA
AUGUST 16, 2016 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

The invocation was given by Assistant Pastor Kenny Pope of Calvary Chapel of Vero Beach 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. Turner made a motion to adopt the agenda as presented. Mr. Howle seconded the motion and it passed unanimously.

B. Proclamations and recognitions by Council.

1. 93.7 WGYL to make a presentation to the City Council.

The radio station presented City Council with a guitar that had autographed by all the bands that played at the July 4th event.

C. Staff/Consultant special reports and information items.

1. Attorney Schef Wright to discuss the proposal made by Florida Power and Light (FPL) to purchase the Indian River Shores (IRS) Electric System.

Mayor Kramer asked Mr. Wright to give them a brief synopsis of the offer on the table.

Mr. Jim O'Connor, City Manager, suggested having Florida Power and Light (FPL) speak first.

Ms. Pam Raush, Vice President of External Affairs and Economic Development for FPL, requested to speak. She said she knew all of them have had the opportunity to work with Mrs. Amy Brunjes from FPL for the last several years. She knows that Mrs. Brunjes has represented FPL well and always treated everyone with respect, she has been transparent and committed in finding the best solution and she always does the right thing. It has

been about one (1) year now since FPL came back to Vero Beach with a partial sale solution. She said while the City and FPL were apart on price at that time initially, Mayor Kramer recently came to them and asked them to reengage in those discussions with the understanding that they would not be able to get to the \$42 million purchase price that the City consultants had initially arrived at. She said FPL could not get comfortable with the analysis that was put into that assumption as to what would make the remaining Vero Beach customers whole. The proposal that Mr. Sam Forrest, Vice President of Energy Marketing & Trading, will be presenting to them is the right thing for their City customers and the right thing for the City of Vero Beach. She said FPL knows that their customers need to be protected and that is exactly what their offer here today does. She said that Mr. Forrest would be presenting their final offer to the City. She said that is why they have included an expiration date of August 25, 2016. She said the FPL "Team" has exhausted all of their analysis and she knows that IRS has done the same. At FPL, their goal from day one (1), which was actually six (6) years ago, has been to find a solution to lower electric bills for customers, but at the same time protect the City of Vero Beach. They have worked very hard to overcome every obstacle that has come their way. She said the question has been asked, why they are doing that. She said it is because they have always been committed to doing the right thing. She said while the 3,000 customers that they would acquire under this partial solution does not dramatically move the needle for their company and it gives the City a very unique opportunity to significantly improve their financial conditions. She asked Council to consider their proposal and do the right thing.

Mr. Sam Forrest, FPL Vice President of Energy Marketing & Trading, stated that it was a pleasure to be at their meeting this morning to discuss the updated proposal for the customers for IRS that are currently served by the City utilities. They appreciated the City's willingness to engage with FPL to bring low rates to as many Vero Beach customers as possible. They started this endeavor six (6) years ago and that was the ultimate goal throughout this entire process. Their original letter of intent to acquire the City of Vero Beach's electric utility was signed in May 2011. Then they made their initial offer for IRS customers about one (1) year ago. They hope their proposal for the 3,000 customers located in IRS will be accepted by the City Council. They believe the offer is fairly straight forward. They are offering \$30 million in cash for the Vero Beach facilities inside the IRS boundaries including distribution lines and feeders, real property rights, meters, and the associated equipment and infrastructure that provide electrical distribution service directly to the IRS customers, as well as customer information requested to set up customer accounts by FPL. The City of Vero Beach's rights, title and interest in the City of Vero Beach's 138kV transmission system and the seller's rights, title and interest in the Fort Pierce Utilities Authority joint facilities. He appreciated the fact that the City Council has always tried to put together a proposal that would benefit all. He said FPL has approached this as well from their side. They reviewed the IRS analysis as performed by the City's consultants and believe by making two (2) reasonable changes to the model it shows the City's remaining customers are kept whole and unharmed by the potential transaction and the City will benefit greatly by having the \$30 million in hand. The changes he references have to do with estimates of expenses that have to do more with their projections on base sales growth. It also reflects the loss of

IRS accounts and implementing a system that reflects a smaller business. The value of the IRS customers comes out to about \$27.5 million in their analysis. They appreciated the City Council's careful consideration of this offer and are looking forward to working together on this. The offer provides a good value to the City and keeps the City's remaining customers whole, while providing customers within IRS, FPL's lower electric rates.

Mr. Winger referred his questions to Mr. Wright. He said that FPL and IRS have offered to buy the City's facilities that serve the City's customer accounts in IRS for \$30 million. He asked in his opinion, would this offer, if accepted, keep the City, our citizens, and the City's remaining electric customers whole, including any shift of fixed cost responsibility and reasonable protection against future cost risks, which are also referred to as contingent liabilities. He asked for a yes or no answer.

Mr. Schef Wright, City's outside attorney, answered no.

Mr. Winger then asked the same question to Mr. Wright as to Mayor Kramer's \$47 million suggestion outlined in his August 11, 2016 letter to Mayor Brian Barefoot (attached to the original minutes).

Mr. Wright answered yes with a brief explanation. He said as to the fixed cost responsibility away from the departing IRS customers and the remaining City customers. He said the extra \$5 million estimated by Mr. Herrington (City consultant) is a reasonable and sound estimate of potential cost impacts that could occur and an estimate of IRS's share of what they would pay towards the City's share of cost risks associated with the three (3) big power plants in which the City participates. He said things could be worse, which underscores the point that if IRS was to depart the City citizens and remaining electric customers would be taking on all of the risks that anything could happen. He said when things go wrong with nuclear power plants across the state things could be really bad and really expensive and even more expensive than what Mr. Herrington has anticipated.

Mr. Winger stated at the end of this discussion, he will be ready to accept Mayor Kramer's proposal outlined in his August 11, 2016 letter and will not accept less than that.

Mr. Wright continued with his presentation. He said that Council asked him to assemble a team of experts to estimate the rate impacts on the remaining Vero Beach customers or citizens if the City was no longer to serve IRS. The team consisted of Mr. Bill Herrington, Mr. Gerry Warren, Mr. Henry Thomas, Mr. Murray Hamilton, and himself. He said that Mr. Thomas and Mr. Hamilton are their rate experts, Mr. Warren and Mr. Herrington have an extensive knowledge in the electric utility industry and he has over 36 years of experience in the energy industry in Florida. The "Team" prepared the best estimates that they could come up with. Their estimates are if there were to be a shift and they were to no longer serve IRS it would take a one (1) time payment of approximately \$42 million to keep the remaining customers whole with respect to the fixed cost

responsibility shift. He said if the City no longer served IRS some costs would be reduced and is reflected in their analysis. But there are a lot of bulk power costs that don't change. There are fixed costs of operating the City's electric department and non-departmental functions that support the City's electric that don't change. He said there is a General Fund transfer and the City's electric debt that doesn't change. If they were to consider reducing the General Fund transfer then there is a real economic cost to everyone who is remaining on the system. He said either customers have to pick paying higher utility rates, higher taxes or those who benefit from City services will have to accept a lower level of City services because there will be less money available to fund those services. He said the Team came up with their best estimates and their best estimate is that \$42 million should be the cost paid to the City if they were to sell their IRS customers. He said \$30 million does not cover it and does not keep the remaining customers whole. In addition they were asked to look at "contingent liabilities" and the City are virtual co-owners in three (3) big power plants. He said they are Stanton I, Stanton II, and St. Lucie II. If something goes wrong with one (1) of those plants the repair bill will be part of their obligation and the City will have to pay their share. He addressed the escalation rate by saying the Team assumed 3% including customer growth. He said this is a rounded down value from the 3.2% values that are included in the rate study their consultants are currently working on. He said regarding escalation, he told Council in the current pending rate case before the Public Service Commission (PSC) there is the issue of what are the appropriate inflation and other trend factors for use in forecasting the 2017 test your budget (FPL's 2017 budget). He said FPL's position is the appropriate inflation factor forecasting the 2017 test year budget is a 2.5% increase in the Consumer Price Index (CPI). The suggested criticism that the City should be able to reduce its cost by more than 3% to 7% assumed in their analysis for the Electric Fund and non-departmental costs is unfounded. He said it is because those are numbers founded by an analysis by the City's Finance Director and Utilities Director.

Mr. Howle asked Mr. Wright with regards to the \$5 million in contingent liabilities and assuming that IRS makes up less than this and let's just assume they make up 10%. He said if that is the case then one would discern for the entire whole system they would have contingent liabilities of \$48 million. He asked where is that \$48 million in their budget today for those contingent liabilities.

Mr. O'Connor explained that this money is not in a budget because it is dealt with as an "expense occurs." He said it would be reflected in the rates.

Mr. Howle continued by saying that they have had numbers brought before them several different ways and several different times. It is his understanding that just a few years ago Mayor Kramer estimated the value of each of these consumers to be approximately \$3,000 per person. He said now FPL has figured \$10,000 per person, which has more than doubled what Mayor Kramer was proposing. He doesn't know how they could not see that this was a fair deal for the City. Especially if they consider the fact if the sale does go through the City would be making a smaller electric utility business. He said a 3% escalation rate is very cautious. He recalled that Mr. Bob Auwaerter brought up

some interesting numbers showing that the City would not be at a loss if this deal is to be completed.

Mr. Wright stated that he felt their escalation rate was probably conservative and given findings that may come from the efficiency study that they may be under staffed and he thought 3% was a very conservative number in favor of IRS with respect to the cost savings that would kick in, in 2019.

Mr. O'Connor commented that they did the Optimization Study on the electric system and one of the findings was that their employee to customer ratio was very low considering the standard electric utility working under the same environment. The idea that they could reduce their employee workforce when they are too low already is impractical.

Mr. Howle stated that if he was to take a 3% escalation rate and expand on it for a 30 year period, he does not know if anyone would be able to pay their electric bill because it would be such an absorbent cost. He does not know how this could be possible considering the fact that no one would be able to afford electricity at the end of that 30 year period.

Mr. Wright explained that there are a lot of variables that go into whether you would be able to afford electricity in 30 years. He said they are using a 2½% inflation rate. He said as sales grow someone would spend more money on water, electricity, etc. He said if your income grows by 3% or more then you would be able to afford electricity in 30 years to the same extent that you can afford your electricity bill today.

Mr. Howle said if they don't take advantage of this deal that has been brought before them and in turn could utilize this money for debt service they have in the City today and don't take this offer there is a judgment in favor of IRS essentially allowing them to get out of their relationship with the electrical business in Vero Beach. He assumed that \$30 million is off the table and also assumes they will only hit an amortized rate for the remaining electrical equipment that is on IRS's property.

Mr. Wright did not agree with the statement made by Mr. Howle. He said that IRS has dismissed with prejudice its lawsuit and they cannot bring those claims back and the standard evaluation principle articulated in Florida Statutes for the purchase of an electric utility system in a domain proceeding is replacement cost new, less depreciation, plus going concern value. He said the shift cost responsibility is the going concern value.

Mrs. Turner asked Mr. Wright if it was true in both his analysis, as well as the offer they received from IRS that both of those offers include the 6% transfer from IRS customers, that dollar amount for the 30 and 50 year period.

Mr. Wright said not specifically. He said the \$42.4 million number provided to them by their Team includes that. He said IRS's offer (\$30 million offer) does not provide for 6% of the General Fund.

Mrs. Turner commented that they have recently executed a new contract with Orlando Utilities Commission (OUC) and asked if there was anything in the OUC contract imposed on the City that would prevent them from agreeing to sell 10% of their customers. Mr. Wright answered no. Mrs. Turner then asked the same question regarding their FMPA contract. Mr. Wright said not specifically. He said his understanding is that FMPA has communicated with IRS that they do not believe that the sale of 10% of their customer base would cause a violation of the City's obligation to them under the project contracts. His answer was no with an explanation.

Mr. Howle went back to contingent liabilities and asked if they had any incidences in the past where they were responsible for any contingent liabilities that he is unaware of.

Mr. Wright explained when the City entered into its contract projects for the St. Lucie project in 1984 they did not foresee that FPL would spend several million dollars upgrading the plant in 2011. He said as a virtual co-owner the City had to step up and pay for their share. He said as far as the discount rate, they assumed is 3%. He said the 3% they assumed was a round-up in favor of IRS from the 30-year Treasury Bond rate that was prevailing in April of this year.

Mr. Bob Auwaerter, Vice President of the Utilities Commission, passed out a memo that he referred to and explained it (please see attached). He addressed Crystal River. When looking at FMPA financial notices the only thing they talk about in regards to Crystal River is suing Duke Power for money. He said they (FMPA) will end up getting their money back and not the other way around. He concluded by saying that the \$30 million offer from FPL is a win/win situation for all parties involved.

Mr. Winger asked Mr. Auwaerter if he was an FPL or City utility customer. Mr. Auwaerter said that he was a City utilities customer. Mr. Winger asked Mr. Auwaerter where did he live. Mr. Auwaerter said that he lives in IRS. Mr. Winger said so he advocates for lower power rates for himself. Mr. Auwaerter said yes and admitted that he had some "skin" in the game.

Mr. Howle stated for the record that he was in favor of lower power rates.

Mrs. Laura Moss, Chairwoman of the Utility Commission, stated that she has been through all the numbers. The Utilities Commission voted unanimously to recommend this offer to the City Council that they are in favor of it and expressed the expiration date that is included in the letter. She showed a newspaper article from 2013 where the headline was the Vero Beach Utilities Commission supports the sale of the utilities to FPL (sell the entire utility). She said that Mr. Scott Stradley was Chairman of the Utilities Commission at that time. She read some excerpts from that article and said they have been looking at this for a long time. In 2010 there was an article printed stating that Mayor Kramer proposed a partial sale and it was not well received, but it was talked about. She said what they are leaving out of the equation is the will of the people. They have spoken and voted on this and it is time to fulfill the will of the people. She said the

Utilities Commission spent more than an hour discussing this matter. She invited everyone to review that meeting, which is on the City's website. She said on behalf of the community let's fulfill the will of the people.

Mr. Winger asked at that time was this to sell part or the whole system. Mrs. Moss said it was to sell the whole system. Mr. Winger felt if they sell off part of the system it will make it difficult to sell the rest of the system. He questioned if FPL has increased their offer for IRS, why aren't they pushing for the entire sale for all the people. Mrs. Moss said that Mr. Auwaerter did a good job explaining the numbers and the offer from FPL is a solid one. As far as the will of the people the Utilities Commission believes that there is no harm in doing this. It is the first step in deliberating. Mr. Winger reiterated by making the utilities smaller it will be less attractive to sell. Mrs. Moss did not agree.

Mr. Howle commented that when looking at the numbers provided by Mr. Auwaerter he felt that this was a great deal.

Mr. Brian Barefoot, Mayor of IRS, stated that he was a resident of IRS and thanked Council for allowing him to speak. He then read a prepared speech (please see attached).

Mr. Lange Sykes commented that politicians make promises and a majority make promises that they don't keep. He said this deal is a no brainer, but the majority of the City Council lacks the willingness to push for this deal. He asked Council to please vote in favor of this deal for the future of Vero Beach and Indian River County.

Mrs. Debbie Mayfield, State Representative, said that no one is a stranger to this issue and there is a one person swing vote on the Council. She hoped that Council would listen to the people. The Utilities Commission came back with a decision of 5-0 in favor of the sale. Their comments are right on target. Council is supposed to be representing all of their customers. The Utilities Commission has laid out the right thing to do. She said FMPA is the driving force in not wanting this to happen. The electric department has been the City's cash cow for a long time. The citizens of IRS should have the opportunity to choose who they want for their services. This is a fair price. She said they probably know how this vote will go. She asked them to listen to the people. There have been two (2) referendums held and the people voted to sell and are still being blocked by the City Council to sell.

Mr. David Hunter brought up the concerns of the pension liability. He said that is a serious issue, but they are mixing apples and oranges. The issue today is if you want to do a partial sale, but not a give away. They have hired consultants who have done an economic analysis and decided the numbers that work for Mayor Barefoot assuming no contingent liabilities is like having a king walk around without clothes saying he has clothes on. The question of the gap is between \$42 million and \$30 million. They have to consider and be concerned about the General Fund transfer if they don't get that reimbursement from the partial sale. They would have to cut costs throughout the City or raise taxes, which means declining services in the City of Vero Beach. He told Council to stand with their experts and ask that the counter offer be more realistic.

Mr. Richard Gilmore recalled nine (9) years ago he was at a Florida League of Cities (FLOC) conference sitting with former Mayor Tom White and his wife and he asked him about the sale of the utilities. He said ultimately the best thing for Vero Beach would be to switch over to FPL for lower rates. This would save their constituents millions of dollars for years. Mr. Gilmore said when companies take over piece-meal it generates more cash than sold whole. He said \$30 million now for their clients is a good deal and should be considered seriously. He thanked Council for all their hard work.

Mr. Toby Hill stated that he lives in the City of Vero Beach, his business operates in the County, but he pays City utilities. He said as a contractor most of his sites are on City of Vero Beach power. He is in favor of the sale and would like lower rates. He mentioned the number of years this has been going on and that it took two (2) years for Dr. Faherty and Mr. Heran to bring it to the public's attention. He knew that Council was familiar with his involvement with the Tea Party and he recalled at one of their meetings, Mr. Winger indicated approval of the sale.

Mr. Winger stated that he was in favor of a total sale and this would make a total sale harder.

Mr. Hill honored the Mayor's request to not get into any sort of debate. He said that Mr. Winger has been a proponent to sell the utilities when running for office. He said when Mayor Kramer first ran for office he was in favor of the sale of the utilities. He was also a proponent of having a partial sale of their 3,000 IRS customers and now has said that he won't vote for it. The question of what is going on here is a good question. He feels this has gotten very political. He brought up the FMPA contracts and the OUC contracts when they were first signed. He said taking dollars without getting approval from their neighbors is deplorable. He questioned why they mistreated IRS. He understands that the unfunded liabilities are a daunting number, but mistreating their neighbors is not the answer. He said until forced to address this issue head on they will continue to be stuck in the sand.

Mr. J. Rock Tonkel read his prepared speech that he submitted to the Press Journal.

Mr. Mark Mucher commented that when this was brought up before the Utilities Commission he reminded them that this \$30 million was going into the electric coffers. It cannot be used to pay off Other Post Employee Benefits (OPEB) or anything like that. If the \$30 million were to remain in the Electric Fund the rates could be reduced and not raised. He questioned if their rate consultants examined what would happen if they put this \$30 million in the Electric Fund what impact would it have on their rates. He asked them to minimize this concept of contingent liability. He suggested having their rate consultants look at putting the \$30 million into the Electric Fund.

Mayor Kramer reminded Mr. Mucher that they have a deadline of August 25th to give their decision to FPL.

Mr. Al Benkert mentioned his background and said FPL is a for profit company. The electric utilities are a profitable business owned by the City of Vero Beach. They have an asset that makes money for the citizens of Vero Beach. The City Council is responsible for this asset and before selling any asset they better make sure they are getting a good price for it. He suggested having FPL or IRS be responsible for the contingent liabilities. He asked for a raise of hands from the Council members who were supported by FPL in the last election that they ran in or accepted contributions from residents in IRS.

Mayor Kramer told Council that they did not need to respond to Mr. Benkert's request. He said the City Clerk has those records on file if anyone would like to request them. They don't need to get into any animosity.

Mr. Benkert felt that if there is someone on Council who has an allegiance to FPL or IRS they should reclude themselves from voting. He hoped any Councilmember voting to sell the utilities to FPL would remember the asset they are selling and it is their job to protect the City.

Mrs. Erin Grall appreciated the opportunity to speak today. She thanked the City Council for their service. She commented that she recently moved into a different home and when they were looking for a home it made a difference to her whether the utilities was on FPL or City utilities. They did purchase a home that is in the County, but on City utilities and their electric rates are high. She said they are being taxed by the City of Vero Beach without representation on this Board. Since she started campaigning for the State Representative position she has been knocking on a lot of doors and has spoken to people, not just in IRS, who have told her that their electric rates are burdensome. This is coming from both residents and businesses. She supports this sale to FPL. She would love it if the total utilities could be sold, however she understands what is in front of them and this is the first step. She knows that there are a lot of people in this community who would help the City of Vero Beach with their challenges in moving forward. The City will have challenges, but if they work together these things can be accomplished.

Mr. Philip Katrovitz commented that he is hearing people say that it is the will of the people to sell their utilities to FPL and he cannot agree with that. He said that FPL has brainwashed a lot of people with a myth that the rates would stay the same. He said once they get control and their lobbyist do their job then rates will start going up. He lives in Vero Beach and pays electric rates and is happy with the service he receives. He said if it wasn't for Vero Beach electric years ago, IRS would not have power because FPL turned them down. The sale is not the will of the people and if you have to sell a partial of it you will need to get a decent price.

At this time, Council took a five-minute break and the meeting reconvened at 11:25 a.m.

Mr. Erin Indian stated that he lives in Vero Beach and is on City utilities. He said his bills are high even though he tries to conserve electric. He felt that the basic point was not being addressed. If this is an asset and the City Council is the Board of Directors what are the chances having them think outside the box that they hold the key to the

energy available today. By releasing the power to a large corporation getting things done is a lot easier than if it is in their hands. He said they may want to consider alternative energy sources.

Mr. Miles Conway, South Beach Homeowner's Association, stated that he was representing 20 of the 31 Associations on South Beach. There are 2,600 utility customers located in this area. He said that he would basically tell Council what the will of the people in South Beach is. He was able to send out an email to these different Associations asking them to let him know how they feel. He then shared with Council the results that he received back. One Association said they would support it if it lead to a total sale. Another Association said they could not support the sale because they want the whole system sold. He said that Mayor Kramer is attempting to protect the full time residents in South Beach as well as mainland residents. The next Association said they would go either way. Another Association opposed any increase on top of what they were already paying. The next Association (Group 5) the vote currently stands 3-2 against the partial sale. In Association Group 6 it was an inclusive recommendation. He said Group 7 was in favor of the sale providing that it would lead to a further sale to FPL and Group 9 remained neutral. He said the overall consensus was not to support the sale if would not lead to a total sale.

Mr. Conway then made some personal remarks. He said that he has lived in the unincorporated area of Vero Beach for the last 25 years. His electric bills range around \$1,000 a month. He has put a human touch to the numbers, which he will explain. There is a real estate lady who lives in the South Beach area and who is a mother to her 54 year old son suffering from terminal cancer. She struggles to cover her electric bills. Now with this proposal they are going to be asked to subsidize IRS. He told the Mayor not to listen to a word that 32963 magazine (he referred to it as a "rag") says about him. He urged the City Council to look at the Mayor's honesty and go with his leadership.

Mr. John Bezzy (spelling may not be correct) said that he would like to have his electric rates lowered if possible. He appreciated the difficult decision this Council was facing today. He heard earlier that in 2011 there was an FPL letter of intent to buy the whole utility and included all liabilities, which they know has been peeled away. He noted that FPL has the lowest rates in the state. He asked if this agreement is still in place. He was told that it is still in place until December 2016. Mr. Bezzy continued by saying that he has not heard any more on discussions of that exclusive agreement. He said right now they are dealing with a partial sale to FPL. He believes in the economy of scale and something whole is more valuable then when you take it apart.

Mrs. Linda Hillman stated that she lives in the City of Vero Beach and pays utilities and is in favor of a complete sale of the whole system. She recalled in the 1960's IRS petitioned to the City of Vero Beach asking for help. They begged the City for water, sewer, and electricity and now they say they are not represented. She pays taxes to both the County and the City and doesn't complain about her utility bill. She doesn't complain because a couple of years ago on Christmas Day her electricity went out at 7:15 a.m. and very soon after there was someone from the City of Vero Beach utility company

fixing the problem and getting her electricity turned back on. It was only out for approximately twenty-minutes. She agreed that \$30 million would bring down the debt and \$47 million would pay it off so the City of Vero Beach wouldn't have to foot the bill. The City stepped up to help IRS when they needed it. She mentioned that FPL has been putting thousands of dollars into campaigns to buy people. The City voters voted this Council in and they (City Council) need to help them. They do not need or want a partial sale. When Mayor Kramer brought this up years ago every City Councilmember said no.

Mr. Jerry Weick, IRS ratepayer and Vice Mayor of IRS, requested to speak. He said the agenda item is a partial sale for \$30 million. The City Council is concerned that the ratepayers and taxpayers should be kept whole. The deal is between FPL and the City of Vero Beach for \$30 million to buy 3,000 customers. That \$30 million should go into the Electric Fund and if that is done there will be no downsizing for taxpayers or ratepayers. This would be good for 50 years in subsidizing their taxpayers. Now if the money is put in other places then the taxpayers could lose. He understands if they went over power authorization and had to pay higher cost for electricity if IRS was to leave they would have less power demands and a cushion before going over their power limit. In the winter time they go over their limit more often because heat is more expensive. He asked who is going to pay for the Power Plant to be torn down. They could use some of the proceeds from the sale to cover this expense. The ratepayers would get the building torn down and the City would save money. There will be fewer customers in Vero Beach so they won't be sending out so many utility bills and will be saving in postage. Maintenance costs would go down because they would not have to maintain the facility in IRS. They would save on material cost (telephone poles, transfer poles, etc.). So the taxpayers are being taken care of by money being invested and the ratepayers are being taken care of by taking down the building. This City Council will be able to make a decision that is best for everyone. Ratepayers and taxpayers are not harmed by this \$30 million offer.

Mr. Ken Daige stated that he has heard a lot of interesting comments today and the City Council has a tough decision ahead of them. They (City Council) are elected to represent the taxpayers of this City. They have taken an oath to do what is right for this City. The Council hired consultants to do a study and they have hired a City Manager and a Finance Director to give them advice on what is best for the City. These are people they rely on for pertinent information. The consultant hired to do the rate impact study did their analysis and is responsible for the results they presented to Council. The offer on the table from FPL on behalf of IRS does not keep the City whole. He went through the consultant's report, which says this is not going to work (referring to the money needed). He asked staff what would be the benefit of this partial sale to their residents and he was told there is none. A number of years ago they were approached by IRS to bring water, sewer, and electric to their City in order to help them develop, which they did. They have to honor the agreements they made years ago. Some people do feel any contract can be broken. Take a look at what has happened to the City of Vero Beach. There have been lawsuits from Indian River County and IRS. So far the City has had victories with all of these lawsuits. He said everyone needs to understand that you cannot break certain laws and statutes. He said it was very clear in going forward that the City, City residents, and

City taxpayers, will have to pay in the future for this partial sale if it goes through. He doesn't think any of them should pay one (1) dime to make this happen. Council is under political pressure to go along with the partial sale. The City is under constraint with the agreements that the City has signed. They have to follow what is in the contract that they signed. If they break up the system then there will be less value to it. How much risk are they willing to put them (City residents) under. A number of years ago, he was pushed to do what he was told regarding this situation, but he was not willing to push it without certain things being addressed. He asked Council to please do what is right for the people they serve. It is not a great idea to go with this offer. Everything has not been weighed out. Do what is right for the City. As a Councilmember you have reduced their electric rates and should continue to look for other ways in reducing their costs.

Mr. Weick clarified that if they tore down the Power Plant then the City could reap the profits of that piece of property. Also, by not serving IRS they won't have any contingencies for that area in case of a hurricane. These are some more pluses for the City taxpayers.

Mrs. Honey Minuse stated that she has been a City resident for 28 years and remembered when the idea of a partial sale came up some years ago that there were not very many people in favor of it. When it was suggested, FPL said that they wanted to see if they could get a full sale first. Unfortunately, the numbers don't work. Council needs to trust the attorneys and experts hired to look at these numbers. The numbers received from FPL are the best they can do. The function of the City is to provide service. Council needs to listen to their hired outside attorney and the experts they hired to evaluate this and not proceed with doing something that would be burdensome to their customers residing in the City and in the County. She congratulated Council in their continuing efforts to lower the electric rates.

Mrs. Peggy Thompson commented that three (3) of the five (5) Council members received her vote when they were running for election because they were in favor of selling the utilities. They were put in this position by the majority of the people who want this sale to happen. She said six (6) years have gone by and the person she is speaking to knows who they are and ran on the platform for this sale and now all of sudden is saying he is not going to do this. She reminded Council that they appoint the members who serve on the Utilities Commission and these members have unanimously recommended approval of this partial sale. She urged Council to listen to the people they have appointed to the Utilities Commission to make this decision.

Mr. Peter Gorry, Chairman of the Finance Commission, stated that unlike the Utilities Commission, everyone sitting on the Finance Commission must reside in the City. The Utilities Commission's only responsibility is giving advice on the electric, water, sewer, and solid waste, and none of the other entities residing in Vero Beach. He expressed that the City is in good financial shape. He made a presentation at the Utility Commission meeting and had some questions because the due diligence done in the total sale was flawed. He has a concern about FPL's deadline of December 2016. He has some real reservations about the numbers they are looking at today. He feels they should do due

diligence and not in one week make a decision. He would be happy to have the Finance Commission review this if Council would like them to.

Mr. Jeff Thompson stated that he is an advocate for the sale. He has heard people say \$30 million is not a lot of money. He said it is a lot of money. He brought up the unfunded liabilities that they are looking at. He said this \$30 million would help with those liabilities. They have a verified offer from FPL for \$30 million and the majority of the City of Vero Beach voted for this sale. He asked the City Council to make a good decision, because this offer is fixing to disappear.

Mrs. Turner made a motion to accept the \$30 million offer for the sale of IRS. Mr. Howle seconded the motion.

Mayor Kramer amended the motion that IRS pay an additional \$17 million to make it \$47 million. Mr. Winger seconded the amendment to the motion.

Mrs. Turner commented that she was a bit shocked to see the letter sent to Mayor Barefoot on Mayor Kramer's own initiative. She said they are a five (5) member Council and as Mayor he is given the authority to preside over a meeting and to handle ceremonial manners. She said putting forward that negotiation she felt would have required review and discussion of the total Council.

Mayor Kramer noted that the memo that went out was not on any type of stationary and was signed by Jay Kramer and not Mayor Jay Kramer. It was signed as an individual and any individual could write that letter.

Mr. Howle stated that IRS has a franchise agreement that is going to expire. He said at the end of the day this is taxation without representation. They need to take into consideration what is right and what is correct.

Mr. Old commented that this is a very difficult decision for them to make. He has spent a lot of time on this issue. He attended the Utilities Commission meeting and the discussion was good so he had to stop and think how strongly he felt about these numbers. He said that he is good with numbers, however maybe not as good as Mr. Auwaerter and his presentation before the Utilities Commission was very good. Mr. Old said he spent a lot of time after that meeting going through the numbers and he came away supporting the numbers given to them by their consultants. He said in his mind the inflation rate going forward is conservative. He knows that there are things that have not been done with the utilities in the last couple of years because it has been up for sale. He said it makes sense to try and make sure that they go with what the experts they hired are recommending. He feels very comfortable sticking with the \$42 million in terms of the idea of what doesn't hurt their citizens. He said that he is up for re-election and he doesn't understand people calling him and saying that they will support him if... He doesn't get that and doesn't think that many people get it. He said people do not influence him. He said the insinuation that they are in someone's pocket is just not true. He said this is a hard decision to make when there have been a lot of good arguments

come up about how to handle this and why it should be done this way or that way. He reiterated that he felt comfortable concluding that their numbers were correct.

Mrs. Turner commented on the amendment and said obviously looking at the contingent liability if this estimate is correct that they have been given for IRS and they are looking at a \$53 million contingent liability for the total electric utility in addition to another \$42 million that FMPA has claimed that they owe to get out of All Requirements Project (ARP) then they are all going in the wrong direction. They have stopped fighting FMPA early on, which is why they are here today. She said if they had kept that fight to push forward for the total sale they wouldn't be looking at a partial sale. She felt the whole contingent liability was a nightmare. She said this City Council is also the Board of Directors for the utilities. They have a vested interest to look out for all of their utility ratepayers. She said although they have not asked that IRS customers be put up for sale, IRS is an independent City. She believes in home rule and every municipality has the right to decide what goes on within their boundaries. She said IRS has complied with the franchise agreement and given proper notice. They have paid Vero Beach electric rates for over 30 years and now they have come to the City with a reasonable offer whether someone wants to agree with one group of experts or another group of experts. She said they need to look at the objective market and see what has been sold at a National and State level. She said this offer is two (2) to three (3) times higher per customer than what has ever been offered. She said they can keep hiring consultants and playing the game. But, they need to be looking at the objective market. They have been given a reasonable offer. She believes in protecting their customers and feels this \$30 million offer does that. It protects their customers and will return tranquility to their community. She said IRS are their neighbors and should be treated fairly. She said this is a good deal for the City of Vero Beach.

Mr. Winger stated that he agrees with the comments made earlier by Mr. Old. He felt that he would be violating his fiduciary responsibility to take anything less than the advice given to them by their consultants. He has studied this, been involved in it, but felt they were talking about the wrong subject. He said what they really should be talking about is FPL enhancing their offer and buying the whole utilities. He feels the right course in the long run would be to sell all of their utilities.

Mr. Howle felt that this was a step in the right direction to get a full sale. He said it was better than nothing and won't falter any eventuality of that happening.

Mayor Kramer wanted them to keep in mind that this was not something that they could sell a piece here and then sell a piece there. He said once they start eroding their pay there becomes a limit where you are not allowed to do that anymore.

Mrs. Turner commented that yet the impact of the sale of IRS was evaluated as negligent when they first did the analysis.

Mayor Kramer stated that there does come a point where it does matter.

Mr. Weick asked what the motion was and if it has been amended.

Mayor Kramer told him that the motion was amended, but they have not voted on it yet.

Mr. Weick continued that this sale is between FPL and the City of Vero Beach and they are amending a motion that IRS has never discussed and as Vice-Mayor of IRS, he is saying that it won't be discussed. It is not on their agenda. The item on their agenda is for a partial sale for \$30 million and that is what the motion should be not with amendments to it.

Mayor Kramer said that the agenda item was a presentation from their attorney.

Mrs. Turner understood Mr. Weick's objections to the wording of the motion.

Mr. Weick said that the motion maker has to accept the amendment to the motion. He asked Mrs. Turner if she accepted the amendment.

Mrs. Turner answered no, that she has not accepted the amendment.

Mr. Wayne Coment, City Attorney, instructed Council that they need to vote on the amendment first, then they go back to the original motion. He said there is a motion on the floor and there should be no public comment once a motion is on the floor.

Mayor Kramer commented that he does not believe that this vote is the end, although some people believe it is. He is amazed at some of the work that has been done with the numbers to justify this \$30 million. He said if the numbers are supposed to be good for them, why are they not good for IRS. They need to put their money where their mouth is. He said that is what needs to be done and what he has done. He said if they want to come up with a method to mitigate those things they have not had the time to go through that.

Mr. Weick said they have heard the presentation for the \$30 million and that is it.

The Clerk read the amended motion back for the record.

Mr. Coment suggested that considering the objections they were just hearing that perhaps the amendment would be to counter to FPL for \$47 million.

Mayor Kramer said that he would accept that. Mr. Winger seconded it.

On a roll call vote the amended motion passed 3-2 with Mr. Howle voting no, Mr. Winger voting yes, Mrs. Turner voting no, Mr. Old yes, and Mayor Kramer yes.

Mayor Kramer stated that there is a motion on the floor for the offer. He asked Mrs. Vock to call the roll.

There was some confusion as to what the motion was.

Mr. Wright stated that he would try to clear this up. He said that Mrs. Turner made a motion and it was seconded by Mr. Howle and before it was voted on it was amended to accept an offer of \$47 million. That amendment passed as it was by a vote of 3-2. Then Mr. Coment chimed in to clarify that there is no offer of \$47 million on the table. He would understand the intent of the amendment was to extend a counteroffer to FPL to sell the Shore's business as defined in FPL's nonbinding offer letter for a price of \$47 million. He thought this is what Council voted on.

Mr. Coment commented that Mrs. Turner made a good point that the original motion was to accept the offer of \$30 million and he might of misspoke when he said a counteroffer of \$47 million. He said the option is to go back to the \$30 million and if that doesn't pass then another motion could be made or to consider the amendment, which is that the City would accept an offer of \$47 million.

Mr. Wright felt that the intent is to make a counteroffer to FPL that this City would sell the Shore's business as set forth in FPL's non-binding offer for \$47 million.

Mayor Kramer withdrew his amendment. Mr. Winger withdrew his second.

Mr. Wright said now they need to amend the original motion to make a counteroffer to FPL to sell the Shore's business for \$47 million.

Mrs. Turner suggested taking a vote on the original motion because she said that this is becoming so confusing that no one knows what is being voted on.

The Clerk polled the Council on the amended motion to make a counteroffer to FPL to sell the Shore's business for \$47 million. Mr. Howle voted no, Mr. Winger yes, Mrs. Turner stated that she was still not clear on what the motion was. Mrs. Vock reread the motion. Mrs. Turner said that this was an amendment to her motion, which was to accept a \$30 million offer and she would vote no, Mr. Old voted yes, and Mayor Kramer voted yes. The motion passed 3-2 with Mr. Howle and Mrs. Turner voting no.

Ms. Jackie Rauch, Vice President of External Affairs and Economic Development for FPL, stated that their offer was final and will remain open until the deadline date of August 25th. She said if the City chooses not to accept the offer then FPL wishes them the best of luck.

At 12:49 p.m., Council took a lunch break and the meeting reconvened at 2:00 p.m.

D. Presentation items by the public.

3. CONSENT AGENDA

- 1. Regular City Council Minutes – July 12, 2016**
- 2. Request for Alcohol – Burgers & Brews Event – July 1, 2017**

3. **Bid #RFQ122624011 LUMINAIRES LED – Request to Stock Luminaire Salem LED**
4. **Bid 010-16/PJW – Contract #1709-C – Fuel, Piping Removal & Fuel Oil Tank Cleaning Final Payment**
5. **Responder Outage Management System (OMS) Implementation – Change Order 1 (Contract #1696-C)**
6. **Renewal of Contract 1578-C – Overhead Electrical Lineworkers**
7. **Contraband Forfeiture Fund Donations**
8. **Excavator/Breaker/Heavy Haul Trailer – Bid No. 190-16/PJW**
9. **Indian River Rowing Club License Agreement – Request for One-Year Renewal**
10. **Request for Alcohol – Cultural Council/Celebrate the Arts Festival – September 24, 2016**
11. **Approval of Police and Fire Pension Board Documents for Globe Tax Services Incorporated**
12. **Coverage Agreement between FMIT and the City of Vero Beach Health Insurance Plan**
13. **Corporate Lease Between the City of Vero Beach and Corporate Air Inc.**
14. **Lease between City of Vero Beach and Flightline Group, Inc.**

Mr. Winger pulled item 3-12) off of the consent agenda.

Mrs. Turner requested with the consent agenda items that when they get the description of the items and it says the funds will be coming out of certain accounts that they include what account this money is coming out of and the amount of monies remaining in that account. She just wants to make sure that when they say they are taking money from these fund balances that there are sufficient funds available.

Mr. Old made a motion to adopt the consent agenda with the exception of item 3-12). Mr. Winger seconded the motion and it passed unanimously.

Mr. Winger noted in item 3-12) that there were two (2) charts attached in the backup material and he did not know how they related to each other.

Mrs. Gabrielle Manus, Human Resources Director, explained that the charts show the cost for the low plan and the cost for the high plan.

Mr. O'Connor noted that there was only a one (1) percent increase for their health insurance for the upcoming year because of their choice to go with FMIT.

Mr. Winger made a motion to approve the coverage agreement with FMIT. Mrs. Turner seconded the motion and it passed unanimously.

4. PUBLIC HEARINGS

A) Public Hearing for City Council Consideration of Minor Site Plan Application #MA16-000007 for Construction of Outdoor Boat Storage Facility and Code Compliance Certification Application #CC-16-000173 for Installation of a Dock; 310 Acacia Road – Alex MacWilliam Park

The City Clerk read the title only.

Mr. Tim McGarry, Planning and Development Director, was at today's meeting requesting approval for construction of an outdoor boat storage facility and Code compliance certification for the installation of a dock. The site plan application submitted by the Indian River Rowing Club is for the construction of an outdoor storage facility with an accessory enclosed storage container, two additional parking spaces, and a boat dock. The site plan application was approved by the Planning and Zoning Board on July 7, 2016. The lease agreement with the Indian River Rowing Club requires that any site improvements within the leased premises must be approved by the City Council and Section 69.09.01 of the Code requires City Council to conduct a public hearing for approval of any site plan proposing additional impervious parking lot improvements within the boundaries of any City-owned Park. The applicants are at today's meeting if there are any questions. Mr. McGarry showed (via-computer) where the outdoor storage area and dock were located. He said the applicant initially submitted a separate application for a variance to allow the proposed chain link fence located along Acacia Road to be increased from four (4) feet to six (6) feet. Section 62.16, Walls and Fences, in the P-1 and P-2 zoning districts prohibits any chain link fence located along a street or parallel to a street to be higher than four (4) feet. The applicant has stated that the proposed height increase was needed to protect the valuable rowing craft to be stored on the property. Staff advised the applicant to withdraw their variance application subject to staff moving forward with the Planning and Zoning Board approval to prepare a draft Ordinance amending Section 62.16 (to be heard before the City Council at their September 6, 2016 meeting). The Ordinance, if approved, would grant authority to the City Council to approve through an exception process an increase in height of chain link fences from four (4) feet up to six (6) feet subject to demonstration that the increase was needed to protect the property. The Planning and Zoning Board supported this approach in an increase in the height of the fence and approved the site plan with the condition that the final height of the subject fence along Acacia Road was subject to City Council approval. In the site plan application, the applicant indicated that they intend to save all the existing Live Oak Trees on the site. However, upon review of the site plan the Public Works and Planning Department staff determined that further assurances were needed to protect the existing Live Oak Trees on the premises. Staff recommends approval of the site plan subject to the following condition that prior to removal of any muck or dirt or placement of fill around a Live Oak Tree on the premises that a plan be prepared by a certified arborist and submitted for review and approval by the City Engineer. He expressed how important it was to keep the trees on the property.

Mr. McGarry explained that the Code compliance certification application was for the installation of a floating dock and launch ramp for the Indian River Rowing Club's

outdoor storage facility. The application was approved by the Planning and Development Department on August 2, 2016.

Mayor Kramer opened the public hearing at 2:10 p.m.

Mr. Chris Ryan, Rowing Club Board member, expressed that this project has been going on for six (6) or seven (7) years now and he wanted to extend his appreciation to Council for allowing this to happen. He also thanked them for all their support throughout these years.

Mrs. Turner made a motion to approve the Code compliance certification application #CC16-000173 and Minor Site Plan Application #MA16-000007 subject to the following two conditions: 1) The proposed six-foot chain link fence along Acacia Road is subject to adoption of the Ordinance amending Section 62.16 to allow the City Council to approve an exception to the maximum four-foot height limit and 2) that no muck or dirt shall be removed or fill placed around any Live Oak Tree on the leased premises until a plan is prepared by a certified arborist and submitted to the Public Works Department and approval is given by the City Engineer. Mr. Old seconded the motion and it passed 5-0 with Mr. Howle voting yes, Mr. Winger yes, Mrs. Turner yes, Mr. Old yes, and Mayor Kramer yes.

5. RESOLUTIONS

- A) A Resolution of the City Council of the City of Vero Beach, Florida, Authorizing the City to enter into a Joint Participation Agreement with the Florida Department of Transportation for the Rehabilitate T-Hangar Buildings (FDOT #439716-1-94-01) at the Vero Beach Regional Airport; Providing for an Effective Date. – Requested by the Airport Director**

The City Clerk read the Resolution by title only.

Mr. Eric Menger, Airport Director, reported that this project is to rehabilitate the five (5) oldest T-Hangar buildings at the Airport and is included in the City's Five-Year Capital Improvement Program. He said some of these hangars cannot be used until this rehabilitation is done.

Mayor Kramer opened the public hearing at 2:13 p.m.

Mr. Ken Daige asked if the City owns the hangars could in the future solar panels be put on the roofs. Mr. Menger said that he is exploring that issue. However, this project does not have the funding for solar panels at this time.

Mr. O'Connor added that the Airport Commission is continuing to discuss having a solar farm on Airport property.

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

B) A Resolution of the City Council of the City of Vero Beach, Florida, Authorizing the City to enter into a Joint Participation Agreement with the Florida Department of Transportation for Airport Security Improvements (FDOT #439717-1-94-01) at the Vero Beach Regional Airport; Providing for an Effective Date. – Requested by the Airport Director

The City Clerk read the Resolution by title only.

Mr. Menger reported that this project is for Airport security improvements. These improvements allow the Airport to comply with Transportation Security Administration (TSA) regulations in the pursuit of a complete Airport security improvement. He said since the Airport now offers a commercial air service that further improvements to the security of the airfield are needed to meet TSA security program requirements. The security improvements will allow for anticipated expansion of services by the airline. Florida Department of Transportation (FDOT) has agreed to fund the project at 80%, with the remaining 20% being the responsibility of the Airport. He said with the present security their carrier airplanes are only allowed 61 passengers at a time.

Mayor Kramer opened and closed the public hearing at 2:18 p.m., with no one wishing to be heard.

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

C) A Resolution of the City Council of the City of Vero Beach, Florida, Authorizing the City to accept a Grant offer from the Federal Aviation Administration to rehabilitate Taxiway C (AIP Number 3-12-0083-040-2016) at the Vero Beach Regional Airport; Providing for an Effective Date. – Requested by the Airport Director

The City Clerk read the Resolution by title only.

Mr. Menger reported that this project will rehabilitate Taxiway C, which serves as their primary taxiway, and is about 7,300 feet long and 50 feet wide. This is a two (2) phase project, with the design phase (phase 1) having been completed in early 2016. The construction for this project will be funded by both FAA at 90% and FDOT at 5% leaving the additional 5% for the Airport to fund. He recommended approval of the Resolution providing for the acceptance of the anticipated FAA Airport Improvement Program Grant. Staff also requests authority to sign any supplemental documents pertaining to this grant in keeping with FAA's current policy.

Mr. Old asked if this project would impede traffic at the Airport.

Mr. Menger said it would, but they would try to do as much work at night as they could. He commented that they were currently working on the Apron project west of the Airport.

Mr. Howle asked how old is this runway. Mr. Menger said that it was originally built some time around World War II. Mr. Howle asked if there would be any chance that the Environmental Protection Agency (EPA) would not give their approval for this paving project. Mr. Menger said there is always a chance that EPA would delay the project and FAA would have to assist them in handling additional costs.

Mayor Kramer opened and closed the public hearing at 2:22 p.m., with no one wishing to be heard.

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

D) A Resolution of the City Council of the City of Vero Beach, Florida, regarding the Florida Auditors General's Audit Findings of the Florida Municipal Power Agency and the Plans of the State Audit Committee in response to that Audit Report; Providing for an Effective Date. – Requested by the City Council

The City Clerk read the Resolution by title only.

Mr. Howle commented that this Resolution was originally brought up by Mrs. Turner with the intention of keeping transparency. He brought it back to Council for approval. He said that it was first read in 2015 and at their last meeting when they discussed the Resolution they took out some of the Whereas clauses because they were not applicable anymore.

Mrs. Turner commented that taking a close look at FMPA's finances was more important than ever. She said with the different projects there are huge liabilities hanging out there. They have belonged to this organization for over 30 years and there has been no transparency. The rules have just been ignored. There have been significant losses involved and FMPA has been playing with their money. They (FMPA) have been the roadblock for them selling their utilities. She said contracts are renegotiated every day, wholesale rates are higher than FMPA retail rates. It is an unregulated monopoly. She strongly agreed with the passage of this Resolution.

Mr. Winger felt that the fourth Whereas clause in the Resolution where it talks about the Taylor Swaps was not needed.

Mr. Howle was fine with taking out that Whereas clause in the Resolution.

Mr. Winger made a motion to approve the Resolution with the fourth Whereas clause being removed from the Resolution. Mr. Howle seconded the motion.

Mayor Kramer opened the public hearing at 2:27 p.m.

Mrs. Laura Moss thanked the Council for bringing this Resolution forward. She referred to the Audit Report and read excerpts from page 14. She said it talks about the Debbie Mayfield Bill that died, but they expect these kinds of Bills to come back and FMPA is committed to speak with Indian River County. She hoped FMPA will keep a closer watch on their own activities.

Mayor Kramer commented that FPL lost more on hedging than FMPA did. He said nothing prohibits anyone from talking to FMPA about what their liabilities area.

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

6. PUBLIC NOTICE ITEMS FOR FUTURE PUBLIC HEARING

- A) An Ordinance of the City of Vero Beach, Florida, Amending provisions of Chapter 62, Article I, P-1 and P-2 Zoning Districts, in the Code of the City of Vero Beach, related to Walls and Fences; Providing for Conflict and Severability; Providing for Codification; Providing for an Effective Date. – Requested by the Planning and Development Director**

The City Clerk read the Ordinance by title only and stated that the public hearing on this Ordinance would be heard on September 6, 2016 at 6:00 p.m.

7. CITY CLERK'S MATTERS

- A) Appointments to Commission/Boards**

AIRPORT COMMISSION

Mrs. Vock reported that there was an opening on the Airport Commission. Ms. Mary Wood serves as Alternate #1 and would like to remain in that position. Mrs. Carole Jean Jordan serves as Alternate #2 and would like to be moved up to a full member. It was the consensus of the Council to move Mrs. Jordan up to a full member. Mrs. Turner made a motion to appoint Mr. John Calcagno as Alternate #2 on the Airport Commission. Mr. Howle seconded the motion and it passed unanimously.

CODE ENFORCEMENT BOARD

The City Council accepted Ms. Suzanne Shell's resignation from the Code Enforcement Board. Mr. Howle made a motion to move Mr. Eric Price up to a full member position. Mr. Old seconded the motion and it passed unanimously.

RECREATION COMMISSION

Council accepted Mrs. Angie Schepers resignation from the Recreation Commission. Mr. Winger made a motion to move Ms. Christina Pierce up to the Alternate #1 position. Mr. Old seconded the motion and it passed unanimously.

8. CITY MANAGER'S MATTERS

A) AC4P (Actively Caring for People) Policing

Mr. David Currey, Police Chief, pulled up the Police Department's website and showed a video on the new program *AC4P which stands for Actively Caring for People*. He said this is a program where wrist bands with a serial number are provided to people that police officers feel have done something good in the community in the hopes that this person will pass the bracelet on to someone else that does something good. He referred Council to their website to find out more information about this program.

Mrs. Turner thanked the Police Chief for all of his efforts in reaching out to the community.

B) Emergency Repair of Water Line at 20th Avenue and 16th Street

Mr. O'Connor reported that the water line in the middle of the intersection of 20th Avenue and 16th Street began to leak on June 18, 2016. The City proceeded with emergency repairs to the water line and intersection because the water line provided necessary fire protection for Vero Beach High School and the damage to the roadway created unsafe travel conditions for the southbound lane. The cost for the repair of the water main and roadway is expected to be in excess of \$125,000. The repair was made by the County's contractor who was selected through the bidding process. The County bid did not account for the water line repair and the cost of peeling back and disposing of the asphalt. The use of a different contractor would have been challenging since the intersection project was still under construction with the County contractor. By using the County contractor all future warranties for the roadway still remain in effect. Mr. O'Connor said that because this was an emergency purchase that was over \$100,000 he needed to bring it before Council.

Mr. Howle asked if they would be able to recoup this money. Mr. O'Connor said no because in this case he felt that it was their obligation to pay the cost because it was the City's water line.

C) Unused Parcel – Greytwig Road East of Indian River Drive East

Mr. O'Connor reported that the Public Works Department recommends declaring Greytwig Road East of Indian River Drive East as surplus land and supports the sale of the property with an easement for municipal purposes being retained. The parcel is not a buildable lot so they would recommend offering it to the adjacent property owner as requested.

Mr. Coment explained to Council that if they were in agreement to declaring this piece of property surplus then he would need to prepare a Resolution.

Mr. O'Connor commented that they have already previously abandoned a portion of it. A Resolution declaring this property surplus will be forth coming.

Mr. Winger asked Mr. O'Connor to give an update on the conference call between the County, City, and FMPA.

Mr. O'Connor reported that the conference call would be occurring tomorrow. He said that himself, Mr. Schef Wright, Mr. Dylan Reingold, Mr. Wayne Coment, FPL, and FMPA would all be on the call. He said that Mr. Reingold has come up with four (4) different questions that they would be asking. He thought that FPL would probably have some questions also.

9. CITY ATTORNEY'S MATTERS

A) Duran v. COVB, et al – U.S. District Court Case No. 2:16-CV-14301

Mr. Coment explained that there has been a police liability case filed against the City and certain police officers. He said that Mr. Robert Bonner is currently retained by the City through the City's insurance carrier to represent all the defendants involved in the case. He agrees with Mr. Bonner that there does not appear to be a conflict in his representation of all the defendants in this matter simultaneously as the subject matter of the claim appears to be related to the officers acting within the scope of their official duties. Mr. Coment said that he has executed authorization for Mr. Bonner to deal with this matter on behalf of the City in a multiple representation in order to expedite defense of the City and its police officers in a timely manner.

Mr. O'Connor added that Mr. Bonner is a very ethical person and would let the City know if there were any conflicts with handling the case this way.

Mr. Howle made a motion that the Council consent on behalf of the City to representation of the City by Mr. Bonner and his law firm simultaneously with representation of the City's police officers involved in this matter and approve the authorization for multiple representation. Mr. Old seconded the motion and it passed unanimously.

Mrs. Turner commented that she was still a bit appalled at the handling of motions and things that happened earlier today, as well as at the recent Utilities Commission meeting. She felt that they needed to have some clarification. She also wanted to see some

clarification when a motion is amended. She said to her an amendment to a motion is a slight “tweak” and not a complete rewriting of the intention of the original motion. She asked that this be revisited and that they be given some clear direction.

Mr. Coment commented that he did a memo some time back, which he will pull out.

Mrs. Turner commented that the memo certainly was not being followed. She said as their City Attorney he is in charge of making sure that the motions and the meeting is being conducted properly.

Mr. Coment said that the Mayor is responsible for conducting their meetings, but he is happy to give advice on procedures.

Mr. Howle added that none of them had the intention of having what happened today occur. He said personally he was embarrassed and in the future they should all really try harder to structure the wording of their motions better and be more cognizant of what they are saying.

Mr. Old recalled that he recently heard about a lawsuit they are involved in with someone falling at the Oceanside Farmer’s Market.

Mr. O’Connor explained that someone fell and is suing the City, as well as the Oceanside Business Association.

Mr. Old asked how they are informed about lawsuits like this one.

Mr. Coment commented on the annual report that his department does for their auditor he provides copies to Council. However, he is not cognizant on what cases are handled by their insurance carrier. He said they do assist as much as they can on who the outside attorney hired by the insurance company will be.

Mr. Old felt that Council needed to be aware of these lawsuits when they occur.

Mr. Coment said that he would speak with the Human Resources Director about providing them with a list of the cases that the City is involved in. He said the FLOC is very good about involving him when they are in the negotiation stages of a lawsuit, but the matter is in their hands.

10. PUBLIC COMMENT

None

11. CITY COUNCIL MATTERS

A. Old Business

None

B. New Business

None

12. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Jay Kramer's Matters

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

Mayor Kramer commented on how successful the last Downtown Fridays have been. He attended the wonderful breakfast with the Recreation Department junior staff, as well as attending the aerial antics circus. He also attended an Indian River Lagoon Council meeting where a letter will be sent to try and attract more money for the Lagoon.

B. Vice Mayor Randy Old's Matters

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

Mr. Old reported that he would be in Tallahassee for their scheduled October 18th Council meeting and asked the Council if they would have a problem moving that meeting to a different date. Council said that they would work with Mrs. Vock in changing the date of the meeting.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner commented that it has been reported that she approved the latest budget revisions. She made it clear that she has not approved the latest budget. She did vote for the maximum tax rate increase because she felt that was the only way to get this Council to address their Other Post Employment Benefit unfunded liabilities. She said she does have some budget issues. She brought up the way the budget is presented and adding new employees without taking care of some of the issues that they already have. She objects to increasing the electric rate transfer from the electrical utility. This continues to increase the dependence they have had with the flat 6%. She said even though the property values have gone up and more money is coming into the City's coffers they are still taking more funds from the electric utility. She just received a run down on their Police Department and giving raises to their Police Officers. She said they have Officers who have been on the force for four (4) years who will be making the same salary as new hires. They should be showing more support and appreciation for their police force and

more attention needs to be given to this matter. She will be bringing a proposal at their September meeting on how to fund this.

D. Councilmember Richard Winger's Matters

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

Mr. Winger reminded the public that their meetings were now being televised on AT&T, Channel 99. He reported that he attended a Beach and Shores Advisory Committee meeting yesterday where they continued to talk about Sector 5. They are probably about 18 months away from anything being done. He said they have had a record turtle nesting season and anyone wanting to see the turtles can go to Sexton Plaza Wednesday or Thursday morning at 8:00 a.m. to observe them. However, he reported sadly that there have been some records reporting mortality of young turtles along South Beach in front of the condos. This is because when the lights are turned on the turtles are going towards the condos and not towards the water.

E. Councilmember Harry Howle's Matters

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

No report was given.

13. ADJOURNMENT

Today's meeting adjourned at 2:57 p.m.

/tv