

CITY OF VERO BEACH, FLORIDA
AUGUST 19, 2014 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

The invocation was given by Reverend Mindy Sarafin of Indian River Medical Center followed by the Pledge of Allegiance to the flag.

1. CALL TO ORDER

A. Roll Call

Mayor Richard Winger, present; Vice Mayor Jay Kramer, present; Councilmember Pilar Turner, present; Councilmember Amelia Graves, present and Councilmember Craig Fletcher, present **Also Present:** James O'Connor, City Manager; Wayne Coment, City Attorney and Tammy Vock, City Clerk

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

Mayor Richard Winger requested that item 7-A) be moved up on the agenda and that Mr. Coment discuss the lawsuit and PSC petition regarding the City Electric Utility. This would be heard before Public Comment. He requested that Mr. Gorry be allowed to give his report under Public Comment as item 2C-2). He asked that Council adjourn their meeting for lunch at 12:35 p.m. and reconvene the meeting at 1:45 p.m. He advised Council that he would be running the meeting today according to the proposed revised meeting agenda that they will be discussing under first reading.

Mayor Winger stated that there are two kinds of Public Comment. Those when people ask for more than three minutes and receive permission from Council to be on the agenda and those which are limited to three minutes from someone speaking at the podium. He will be turning on the red light to let people speaking at the podium know that they are getting close to their allowed time and they need to wrap up their comments. He reminded the public that City Council is interested in facts and their opinion. The Council is not here to debate with anyone and all questions should be directed to the Chair. He said as far as debate is concerned, debate is not appropriate in remarks made under Public Comment. He said anyone can make comments after any item on the agenda, but it can only be done once. He knows that this is election season and there is to be no campaigning at the podium. This is a non-political body and there are other places where campaigning can take place. He realizes that the Council can overrule his decision, but he is going to conduct the meeting according to their new proposed rules governing the agenda and the running of meetings.

Mrs. Tammy Vock, City Clerk, asked that items 2D-5) and 2D-8) be pulled from the consent agenda. She also requested that item 3B-1) be moved to item 4-A) and heard under Ordinance and Resolutions that require a public hearing.

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

Mr. Wayne Coment, City Attorney, stated that the City is currently involved in a lawsuit with Indian River Shores. They are required by State law to go through the dispute process. He said they also have a Public Service Commission (PSC) petition that has been filed by the Board of County Commission with the PSC. He cautioned Council just as he has with the Finance Commission and the Utilities Commission that because of litigation to confine their comments to other than those lawsuits and the City's positions. This would be the same advice he would give to any client when they are in litigation. He cautioned them against getting into debates with people regarding the subject matter.

Mrs. Turner asked under what circumstances they could talk about the lawsuits since the Council cannot discuss things among themselves because of the Sunshine Law. She knows that the City has proceeded to defend these cases and that action is being taken, but when will Council have discussion on the direction that they are taking and to give their input.

Mr. Coment explained that Attorney Schef Wright has already been retained on a PSC matter and also involved with the sale of the Electric Utilities to Florida Power & Light (FPL), so it would be natural that he would continue representing the City with the lawsuit before the PSC and they also need representation for the lawsuit filed by Indian River Shores. He said since both are basically the same matter, staff agreed that he would be the obvious attorney to represent the City.

Mrs. Turner had some concerns after she read the extensive public records request that Mr. Wright requested from the County. She said they are looking at an adversarial relationship within their own community.

Mr. Coment explained to Mrs. Turner that the City has been sued and that is adversarial. Mr. Wright needs this information in order to defend the City. He said "we" are not going to control how Mr. Wright develops his case to defend the City and will not tell him to ask for these documents/records. It is his duty to do that.

Mr. Kramer asked if there is any basis to hold a shade meeting so Council could talk about this.

Mr. Coment explained a shade meeting could be called to talk about litigation strategy and they could work with Mr. Wright to be present for the shade meeting.

Mrs. Turner requested that a shade meeting be held.

Mayor Winger suggested that the shade meeting be held close to one of their meetings in September.

Mr. O'Connor said that they would try to set up the shade meeting close to the first Council meeting in September.

Mrs. Turner suggested that the shade meeting be held sooner than that because of the upcoming meetings occurring with Indian River Shores.

Mayor Winger asked Mr. Coment if any mediation meeting would likely occur before or after September 2, 2014.

Mr. Coment explained on Thursday there is a meeting with Indian River Shores (conflict resolution) and following that meeting there will be a meeting between Indian River Shores Council, City of Vero Beach City Council, and Indian River County Commission (if they join in), and assuming that the issue is not resolved at this meeting on Thursday. The third stage would be to bring in a mediator.

Mrs. Turner objected to staff going into negotiations without getting clear direction from the Council.

Mayor Winger stated that he does not believe in micro-managing City Managers or Attorneys.

Mrs. Turner felt that clear direction needed to be given to where Council wants to go with this.

Mayor Winger said that the point of clear direction is before the second occurrence (meeting of the different councils').

Mrs. Turner said to Mayor Winger that he is handcuffing their "team" that is going in to meet with Indian River Shores on Thursday by not giving them any direction.

Mr. Kramer didn't see there was an urgency to have this shade meeting. However, he did feel that there needs to be one to discuss things in order to resolve any ideas that staff is running the show, but he does not see an overwhelming majority of Councilmembers wanting to change the way things are happening.

Mr. O'Connor clarified that they are several weeks away from litigation and there will be plenty of time for input. The first meeting of this process is to find out what are the facts that he can bring back to the City Council and then they will need to go through the mediation process before they get to litigation. He said that in regards to the PSC, the City has filed their brief and he was not sure if there were any changes in that lawsuit because it is a determination of facts.

Mrs. Turner felt that Council deserves a description and explanation of the charges being filed against the City, what they think their position is, and how they will move forward.

Mayor Winger made a motion to have a shade meeting prior to the next City Council meeting. Mr. Kramer seconded the motion and it passed unanimously.

B. Proclamations

None

C. Public Comment

1) Mr. Charlie Wilson to present a plan for the Vero Beach Electric Utility

Mr. Charles Wilson, 2134 18th Avenue, was at today's meeting to present a plan to go forward for the sale of the utilities. He noted an ad that appeared in the Press Journal 37 years ago, which said that "We believe that positive and creative leadership can make our electric system competitive. There is no changing the fact that our rates are higher than FPL's. All we want is lower rates, but we will not be stampeded." He asked how long the citizens are supposed to wait for the City of Vero Beach to do something. He said after negotiating for five (5) years they still own nothing. He said that Attorney Schef Wright was chosen after a new attorney was demanded by the Florida Municipal Power Agency (FMPA). He said that FMPA is an actual co-owner of the Power Plant, which was told to them in a letter written by Mr. Wright on June 16th. They have now learned that there is no end to their obligations and no end to getting out of their dealings with FMPA and they are being used as collateral for risky investments and then presented with a bill from FMPA that is eleven times larger than the City's entire tax revenue. The City Manager has testified that the City is unable to pay a fraction of the current debt because of their connection with the FMPA. The voters have told the City to get out of the electric business. The sale of the utilities to FPL continues to move its way forward, but the issues have grown much larger. The only thing worse than getting into the FMPA would be to stay in the FMPA and he said the City must get out of FMPA. Mr. Wilson commented that Mayor Winger told the Men's Republican Club at their June 6, 2014 meeting that "The deal is dead, get over it." He said the deal is dead plan consists of three parts: 1) the deal is dead when six months ago it was a done deal; 2) we need to stay in the FMPA because there is no legal options; and 3) they can get lower rates, which is exactly what the City residents have been hearing for 37 years. Mr. Wilson then introduced a new plan, called the Vero Plan, which stands for Vero Electric Reorganization Option. The Vero Plan is to protect the City of Vero Beach, achieve separation from FMPA, pay their legitimate debts, avoid legal cost of fighting neighbors and bring relief to electric ratepayers. They have learned two lessons from four years of negotiations with FMPA and that is they must get out of the FMPA plan and FMPA will never voluntarily let them go. The first step in the Vero Plan is to understand. They must understand that any solution is one that does not require FMPA approval and can be achieved by 2016. Step two is to project Vero Beach, which means protecting the assets of the City and their citizens from the FMPA by separating the City's assets and

responsibilities from the responsibilities of Vero Electric. Step three would be to join with Indian River Shores, the County, and others in a united front against the real problem, FMPA. Step four would be to identify and pursue all options for reducing rates including cost cutting measures, renegotiating contracts, and Plant closures. They would need to work with local legislators to pursue legislation that requires municipal electric legislation that requires municipal electric companies with outside ratepayers to choose to be subjected to PSC regulations or allow ratepayers a choice of providers. Mr. Wilson provided the time line for the Vero Plan to be implemented. He said that it is time to stand up for Vero. He said if there are any other plans being brought forward he would be happy listen to them.

Mrs. Alice Johnson, 5470 East Harbor Village Drive, stated that she echoed everything just said by Mr. Wilson. She started doing some financial analysis of what would happen at the end of 2016. She said the City will lose 10% of their customers and then in 2018 they will lose 60% of their customers. She said at that time if they are still tied to FMPA and have to pay those rates she believes that either the City will be in danger of bankruptcy or their rates will be 50% higher than FPL rates. She felt it was time that they use this mediation to join in with their neighbors instead of fighting with them. She said if the City loses litigation and are asked to tear out their lines in Indian River Shores then they will have “a bunch of stuff” that is worth nothing. She had some concerns if Indian River Shores wins the rights to rebates because of bad management of City utilities.

Mr. Herb Whittall, 19 Park Avenue, commented that what Mr. Wilson presented to them today is interesting. He mentioned that the City tried to sue FMPA a couple of years back and lost. He is for the sale of the utilities and agreed with Mr. Wilson that the City has hired some bad attorneys who got them into this mess.

Mr. Mark Mucher, 617 Indian Lilac Road, commented that he keeps hearing that the City sued FMPA and lost. He agreed that the City did sue FMPA in 2005, but it was because the City didn't think that FMPA was paying them enough money to run the Power Plant.

Mr. Peter Gorry, Chairman of the Finance Commission, asked for seven minutes to speak. He read from a prepared report (please see attached).

Ms. Graves thanked the Finance Commission for all of their efforts.

Mr. Dan Stump, spoke on behalf Vero Beach Chamber of Commerce, announcing that they would be sponsoring a City Council candidate forum on September 9th from 12:00 p.m. to 2:00 p.m. at the Elks Lodge and everyone was invited to attend.

Ms. Alma Lee Loy commented that she has been a resident of Vero Beach her entire life. She was at today's meeting to urge each Councilmember to give the citizens of Vero Beach the opportunity to place their Crestlawn Cemetery in the protective custody of the City Charter and that the referendum be on the November ballot. She said Crestlawn Cemetery is a place of hallow ground and should never be used for any other purpose. The citizens that this Council represents deserve the opportunity to make their wishes

known. She thanked Council for their consideration in this matter and she looked forward to the final resolution in the November election.

Mrs. Phyllis Frey, 275 Date Palm Road, provided information on All Aboard Florida and read a prepared statement.

Mrs. Hildi Tripson, President of the Indian River County Historical Society, read a prepared letter (please see attached).

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – July 15, 2014**
- 2. License Agreement #2013-LA-0225 – Tatiana & William Dyer – Dock & Boatlift constructed on City-Owned Submerged Lands – 17 Sailfish Road**
- 3. Contraband Forfeiture Fund Donations**
- 4. Indian River Farms Water Control District Permits and Interlocal Agreements**
- 5. 69 KV Breaker Replacements**
- 6. Extension of Bid 3280-10/JV – Supply of Gasoline and Diesel Fuel to the City Marina – Contract #1510-C – Port Consolidated, Inc.**
- 7. Approval of Change Order No. 2 and Final Payment Request from Ranger Construction Industries, Inc., for Rehabilitate Runway 4-22 and Rehabilitate Taxiway A/E, Bid No. 160-13/CSS; FDOT Project No. FP 425744-1-94-01 (RWY4-22) & 425749 (TWY A/E); FAA AIP 3-12-0083-036 (Design) & FAA AIP 3-12-0083-038 (Construction)**
- 8. License Agreement #2014-LA-0226 – Raymond P. Sandor – Residential Dock – 115 McKee Lane**

Mrs. Turner made a motion to approve the consent agenda as amended (items 2D-5 and 2D-8 were pulled from the consent agenda). Ms. Graves seconded the motion.

Mayor Winger opened the meeting up for public comments on the consent agenda. There were no comments made. The motion passed unanimously.

3. PUBLIC HEARINGS

A) ORDINANCES

- 1) An Ordinance of the City of Vero Beach, Florida, to Amend the Comprehensive Plan Future Land Use Map by changing the Future Land Use Designation from Residential Medium and Government/Institutional/Public Use to Residential High for properties located South of 18th Street between 17th and 20th Avenues, including leased public lands and Lots 7 and 8, Block 4 of Edgewood's Second Addition to Vero, containing 2.12 acres, more or less, as requested by St. Francis Manor**

of Vero Beach, Florida, Inc.; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning and Development Director

- 2) **An Ordinance of the City of Vero Beach, Florida to amend the City of Vero Beach Official Zoning Map by changing the Zoning Designations from RM-10/12, Medium and High Density Multiple-Family Residential and H, Hospital and Institutional to RM-13, High Density Multiple-Family Residential for properties located South of 18th Street between 17th and 20th Avenues including leased Public Lands and Lots 7 and 8, Block 4 of Edgewood’s Second Addition to Vero containing 2.12 acres, more or less, as requested by St. Francis Manor of Vero Beach, Florida, Inc.; Providing for an Effective Date. – Requested by the Planning and Development Director**

Mayor Winger read both Ordinances by title only.

Mayor Winger conducted the quasi-judicial hearing and asked Council if they had any ex parte communications, which Council said that they had nothing to disclose.

Mr. Tim McGarry, Planning and Development Director, was sworn in. He reported that St. Francis Manor desires to expand its existing development that provides efficiency apartments to seniors 62 years of age and older on limited incomes who are able to live independently. The existing St. Francis Manor congregate multiple-family development is zoned RM-13. The zoning designation of RM-10 allows only 10 units per acre, which is less than the 13 to 18 units allowed under the requested RM-13 zoning designation. He said that the existing site is generally vacant and the site has access to full range of utilities. The traffic study shows that both north and south bound lanes of 20th Avenue are well within the Level of Service (LOS) standard of “D.” Northbound peak hour traffic is less than 17% and southbound peak hour traffic is only 27% of the LOS standard. Based on the analysis and findings in staff’s report, the Planning and Zoning Board recommended approval of the Ordinances and that their recommendations are sent to the City Council for final approval.

Ms. Graves asked if this will be specifically for St. Francis Manor. She said for example, if they were to go out of business it couldn’t be turned into apartments, etc.

Mr. McGarry explained that most of property is under lease by either the City or the County and they (St. Francis Manor) are held under those leases.

Mr. George Glenn, Attorney representing St. Francis Manor, was at today’s meeting to answer any questions that Council might have. He answered Ms. Graves question by saying that most of the property is under lease with either the City or the County and they require that the land be used for senior low income housing. He said if St. Francis Manor should dissolve that whoever took the leases over would have to run it the same (senior housing).

Mayor Winger opened and closed the public hearing for both Ordinances at 10:35 a.m., with no one wishing to be heard.

Item 3A-1 – Mrs. Turner made a motion to adopt the Ordinance amending the Comprehensive Plan Future Land Use Map by changing the Future Land Use Designation from Residential Medium and Government/Institutional/Public Use to Residential High for properties located south of 18th Street between 17th and 20th Avenues. Ms. Graves seconded the motion and it passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes and Mayor Winger yes.

Item 3A-2 – Ms. Graves made a motion to adopt the Ordinance amending the City of Vero Beach Official Zoning Map by changing the Zoning Designations from RM-10/12, Medium and High Density Multiple-Family Residential and H, Hospital and Institutional to RM-13, High Density Multiple-Family Residential for properties located south of 18th Street between 17th and 20th Avenues. Mrs. Turner seconded the motion and it passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

3) An Ordinance of the City of Vero Beach, Florida, Providing for Amendments to the City of Vero Beach Charter, Section 5.05, Relating to limitations on the Sale, Lease, Trade, or Gift of certain City-owned Parks and Public Lands; Calling for a Referendum to be held on Tuesday, November 4, 2014, to present the proposed amendments to the Electors of the City; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the City Council

Mayor Winger read the Ordinance by title only.

Mr. Coment recalled at the last meeting they discussed the sales and transfers of interests in Crestlawn Cemetery. He has modified this Ordinance to address those concerns and added an exception in subsection 5.05(b) to remove doubt that Crestlawn Cemetery may continue to be operated by the City as a Cemetery pursuant to Ordinance notwithstanding its addition to the list of Charter protected properties.

Mrs. Turner thanked Mr. Coment for clarifying this so that there does not have to be a referendum before burying someone at Crestlawn Cemetery. She said in listing the lands at the Cemetery as item 22 and the old City Nursery as item 26 she felt this may be lead to being deceptive or misleading by the voters that these two particular properties are hidden in a group of Parks. In order for complete transparency and to show it is not their intent to hide these properties, but to showcase them she moved that they modify the Ordinance to move the Cemetery and Old City Nursery to the top of the list. She said this would be clear as to what they are asking the voters to vote on.

Mr. Coment commented it is Council's preference on how they want these items listed. In the existing list they have City properties listed with Parks. He had no problems with rearranging the order.

Mrs. Turner wanted it to be clear to the voters on what they are voting on.

Mayor Winger opened the public hearing at 10:40 a.m.

Mr. Mark Mucher had asked them to clarify the issue of the Power Plant and Sewer Plant. He said the intent of adding those to this list of Parks was in the event of a change of use. The City Attorney at the time wrote this into the Charter and the change of use part was never included. He thought this would be a good time to clear this up. In a separate issue having to do with the Cemetery, he has no problem with requiring a referendum in order to do anything with the Cemetery. However, he felt it should be a separate referendum because it is not a Park, it is a Cemetery. As far as the Old City Nursery goes, that is located across the street and is just a piece of vacant land and does not need to be included in this list of properties. He doesn't think it should be given the same protection as the Cemetery.

Mr. Charles Wilson agreed that everyone wants to protect the Cemetery. However, this has to go before the voters and sometimes the public gets confused. He would hate for them to be confused and vote no, which would mean voting no to having the Cemetery kept as a holy place. He urged Council to be careful in how they are presenting this.

Mr. Dan Lamson read a prepared statement (please see attached) into the record. He clarified that the Indian River Neighborhood Association (IRNA) is in favor of the Ordinance with the modification that have been made.

Mr. Ken Daige thanked Ms. Graves for helping put this Ordinance together. He also thanked the Council for allowing them to work on it. He said that as this process has been moving forward there have been a lot of the public reviewing it and they know what is taking place. They understand this is a Charter amendment and are aware of the properties being included that will be protected and there is no confusion in their minds. He said they understand what they are voting on. He told Council it would send a positive message to the community if they vote in favor of the Ordinance.

Mr. Tony Young commented that there are over 14,000 Veterans in Indian River County and during Memorial Day and Veterans Day you can visit Crestlawn Cemetery and will see it clothed with numerous flags. He thanked the Council for taking the time and energy to create this Ordinance. He knew their heart was in the right place.

Mayor Winger closed the public hearing at 10:51 a.m., with no one else wishing to be heard.

Mrs. Turner referred to the beautiful letter written by Mrs. Tripson. She said her main issue is transparency and all she asks is for Council to be as open and clear as they can. She said lets say "yes" we love our Cemetery and put it at the top of the list so the voters will know that it is a part of the list. She moved that this modification be made to the list as it will read on the referendum question. Mr. Fletcher seconded the motion. Mrs.

Turner said this would allow Crestlawn Cemetery to be above Block Manor Park and Old City Nursery would be number two on the list.

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

Mayor Winger made a motion with that change that Council accepts the Ordinance as written. Mr. Fletcher seconded the motion and it passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

4) An Ordinance of the City of Vero Beach, Florida, amending Section 60.16 of the Land Development Regulations of the City relating to Restrictions on the Location of Establishments dealing with or in Alcoholic Beverages; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Planning and Development Director

Mayor Winger read the Ordinance by title only.

Mr. McGarry explained that this Ordinance amends the City's Land Development Regulations to eliminate the restriction on locating establishments dealing with the sale of alcoholic beverages within 500 feet of a place of worship. It would also bring them into compliance with the Florida Statutes and eliminate issues having to do with churches moving into commercial districts.

Mr. Fletcher asked if a Church moves into a commercial district do they forego the requirements for the 500 foot clearance. Mr. McGarry explained if they have a license then there are no problems and any Church already there will be grandfathered in.

Mayor Winger opened and closed the public hearing at 10:55 a.m., with no one wishing to be heard.

Mr. Kramer asked if by passing this Ordinance will it bring them into compliance with State law.

Mr. McGarry answered yes and expressed that the County amended their regulations many years ago to take care of this.

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

B) RESOLUTIONS

1) An Ordinance of the City of Vero Beach, Florida, Amending Chapter 2 of the Code of the City of Vero Beach Relating to City Council Meetings, Agendas, and Order of Business; Providing for Conflict and Severability; Providing

for Codification; and Providing for an Effective Date. – Requested by the City Clerk and City Attorney

This item was heard as item 4-A) on today's agenda.

4. FIRST READINGS BY TITLE FOR ORDINANCES AND RESOLUTIONS THAT REQUIRE A FUTURE PUBLIC HEARING

A) An Ordinance of the City of Vero Beach, Florida, Amending Chapter 2 of the Code of the City of Vero Beach Relating to City Council Meetings, Agendas, and Order of Business; Providing for Conflict and Severability; Providing for Codification; and Providing for an Effective Date. – Requested by the City Clerk and City Attorney

Mr. Coment explained that they took the comments from Council discussed at their last meeting and revised the Ordinance, which is before them today.

Mrs. Turner referred to page 6 and wanted to know why "Written Communications" was taken out of the Ordinance. She said they no longer would allow people to write to Council and ask that their letter be read into the record.

Mr. Coment said that is typically what was done anyway. He said most of the letters that they receive are not read into the record, but made a part of the record.

Mrs. Turner asked if someone is unable to attend a meeting and wants to submit a letter and wants their opinion heard, she couldn't understand why they would deny the public this option.

Mayor Winger objected to "Written Communications" being in the Ordinance because he could see their meetings being cluttered by all of the letters that they receive and having to read them into the record. He is not against the concept, he just thinks it is very impractical.

Mr. Coment explained that the rule is just not needed. Everyone has the right to submit written communication.

Mayor Winger opened and closed the public hearing at 11:00 a.m., with no one wishing to be heard.

Mayor Winger made a motion to bring the Ordinance back for a second public hearing on September 2, 2014. Ms. Graves seconded the motion.

Mr. Fletcher referred to page 8, (2) and said that he felt a very strong tool was being taken away from the Mayor in the sentence "shall be declared by the presiding officer to be out of order. Any person who refuses to obey an order of the presiding officer in relation to preserving order and decorum shall be barred from further attendance at the

meeting in question, unless permission to remain is granted by a majority vote of the council.”

Mr. Coment explained that they were trying to reorganize the Ordinance where it would make more sense. He said that this sentence is now included in the section entitled *Enforcement of decorum*. After seeing this, Mr. Fletcher withdrew his complaint.

The Clerk polled the Council and the motion passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

A break was taken at 11:01 a.m. and the meeting reconvened at 11:10 a.m.

5. CITY CLERK’S MATTERS

A) Alternate position open on the Utilities Commission

Mrs. Vock reported that there is an opening on the Utilities Commission for an alternate member. At this time they have two (2) applications on file. One is from Mr. William Teston and the other application is from Mr. Brian Heady.

Mrs. Turner asked how long they have been advertising this open position.

Mrs. Vock said since they received the resignation letter from Mr. George Christopher, which was in the beginning of July.

Mayor Winger nominated Mr. William Teston for the position of alternate member. Mr. Kramer seconded the nomination. With no other nominations the vote was taken and Mr. William Teston was appointed alternate #2 on the Utilities Commission by a vote of 4-1 with Mrs. Turner voting no.

Mrs. Vock asked the Council if they wanted to hold their regular meeting on November 4, which will be Election Day. It was the consensus of Council to hold their regular meeting on November 4, 2014.

6. CITY MANAGER’S MATTERS

A) Membrane Replacement Project (WS 14004) – Recommendation of Award – Bid No. 070-14

Mr. O’Connor reported that the replacement of the Reverse Osmosis Plant (ROP) membranes will result in an annual cost savings and better water quality for customers. If the membranes are not replaced, the City may experience degradation in water quality and higher electric costs as the existing membranes plug and fail. There is an opportunity to utilize annual savings through electrical costs to fund the capital investment needed for the new membranes. The Utilities Commission reviewed this item and recommended approval of this bid to City Council.

Mr. Fletcher asked Mr. Coment if there were any requirements that they must take the low bid that they receive. Mr. Coment answered no.

Mayor Winger opened and closed the public hearing at 11:15 a.m., with no one wishing to be heard.

Mrs. Turner made a motion to approve the Membrane Replacement Project (WS14004). Mr. Kramer seconded the motion and it passed unanimously.

B) Reiss Engineering, Inc., Work Order No. 1615-C-2 – Reverse Osmosis Water Treatment Facility Expansion (ROWTF)

Mr. O'Connor reported that the City's Reverse Osmosis Plant was constructed in 1991 and is in need of a capacity expansion to maintain operational efficiency and reliability and to improve water quality. The expansion of the Reverse Osmosis Water Treatment Facility Expansion (ROWTF) will result in an annual cost savings and better water quality for customers. If it is not expanded the City may experience degradation in water quality.

Mayor Winger opened and closed the public hearing at 11:17 a.m., with no one wishing to be heard.

Mr. Fletcher made a motion to approve Work Order No. 1615-C-2. Ms. Graves seconded the motion and it passed unanimously.

C) COVB Stormwater Outfall Priorities

Mr. O'Connor reported that their backup material contains a list of the City's stormwater outfall priorities that were sent over to the County Commission per Council's request. He said that he would make any changes to the list that Council would like to have made.

Ms. Graves asked if the numerical order of the priorities is listed by the importance of the project.

Mr. O'Connor answered yes. He said they have been listed by priority.

Mayor Winger asked what percentage of the outfalls have been addressed.

Mr. Bill Messersmith, Assistant City Engineer, explained that 34% of the developed territory has been addressed. He said the City has already put some sort of stormwater treatment facility along 34% of that area. He said the seven (7) top priority projects will bring that number up to 46% and the additional DOT projects will take it up to 53%.

Mayor Winger asked what year would they get to 53% at this rate.

Mr. Messersmith explained at the rate of spending \$300,000 a year this would be about 19 years out.

Mrs. Turner commented that when they did the modeling for the Indian River Lagoon, in Mr. Messersmith's initial memo he stated that the City contributes approximately 11% of the entire central basin B of the Indian River Lagoon. The central basin goes from Cape Canaveral to the St. Lucie line. Their part of the portion of the basin goes from Wabasso to the County line (central B basin). She said that Mr. Messersmith also stated in his report that they already appear to be in compliance with the proposed required reductions for nutrients, of nitrogen and phosphorous. She said these are 33% DEP reductions and certainly not where they want to be. Mr. Messersmith explained that this was a 50% reduction. Mrs. Turner felt that the City as a whole were making great strides and have met this 50% reduction with the projects that they have done and will continue along this path.

Mayor Winger reported that he attended a Florida League of Cities Energy & Environment Policy Committee meeting last week and was proud to say that the City of Vero Beach has done more than their share in helping the Lagoon starting with the Deep Injection Well. However, when only 34% of the outfalls have been completed it disturbs him. He felt the three biggest problems they have in regards to this matter is seepage of septic tanks, runoff from streets, and the muck. He commended the City Council for what they have done so far, but they need to do a lot more.

Mrs. Turner commented that they recently received Indian River County's Priorities for Lagoon Projects and she was pleased to see that their number one project, Vero Isles was on the list.

Mayor Winger asked for comments from the public, which there were none.

D) Asphalt Roadway Maintenance and Stormwater Utility

Mr. O'Connor reported that during the budget workshops City Council asked staff to prepare two documents: one describing their asphalt roadway maintenance process; and the other outlining stormwater utilities, which they have before them. Staff is recommending that while stormwater utility is simple, establishment and implementation can be complex, that a consultant specializing in stormwater utilities be retained to assist in this process should Council decide to move forward.

Mayor Winger felt that this was a good report, but unfortunately the City is only budgeting \$200,000 for \$600,000 worth of projects (asphalt roadway maintenance). He said that \$200,000 is not enough to budget for the streets.

Mrs. Turner was concerned with forecasting such huge needs or requirements on the streets if only 3% of their roads are poor and 28% are fair. She noted the priorities don't address the poor roads, possibly due to low volume usage. She wanted to see a better description of these categories.

Mr. O'Connor stated that staff could work on the definition of the terms. He expressed how important preventative maintenance is and a lot of their projections are based on preventative maintenance operations. The City is very fortunate that they have had a good paving program and they are not suffering from issues, such as pot holes.

Mayor Winger explained that this item was discussed at the budget workshops.

Mr. O'Connor agreed and explained that he brought it to Council at their request and for information purposes only.

Mr. Kramer assumed that in the past they have done a roadway condition distribution. Mr. O'Connor explained staff does it internally all the time. However, he doesn't know if it has been brought to Council or not. Mr. Kramer wanted to see this report periodically to see if there was a shift to more poor than fair roadways. This would indicate that they are underfunding this portion of the budget.

Mr. Don Dexter, Public Works Manager, explained there is a consultant that comes in every three years and does a report and then once the report is complete staff goes out and examines the condition of the roads.

The next item discussed was the stormwater utility. According to the backup material, if a stormwater utility is properly implemented it can provide the funding necessary to operate and manage a stormwater system, much the same way that a sewer utility provides the means to operate and manage a sanitary sewer system.

Mayor Winger felt that Council has a responsibility to the public to move forward to agree to have this study to decide if this is what they want to do.

Ms. Graves agreed with Mayor Winger's comments. She said it takes into account that everyone impacts the Lagoon and not just people who pay property taxes to the City of Vero Beach. This would enable everyone to bear some of the responsibility.

Mrs. Turner added that she looked at the 44% of properties who do not pay property taxes to the City. At first she thought it was shocking, then when you analyze it you have to remember that 25% of the property in the City is the Airport, another 4% are preserved Charter properties, so you end up with around 15% that will be a mix of non-profit and City property. She explained you would not be picking up another 44%, she felt it would be more around 15% or less.

Ms. Graves felt that every bit helps.

Mayor Winger agreed with Mrs. Turner's calculations. He said after attending many Florida League of Cities meetings one of the things often discussed by some of the other cities is not being able to collect money from the School Districts.

Mrs. Turner objected to the stormwater utility concept. She said this Council voted not to raise taxes and the stormwater utility is just another tax. It is more government and increasing costs to the taxpayers. She said according to the stormwater utilities website their cost barely covers their administrative costs. She would like to see them putting more emphasis on stopping the pollution at the source rather than taking it out. She suggested letting property owners use their tax dollars to buy slow release nitrogen to prevent the runoff from their own yards. She also mentioned some other things that could be done. She said science may prove that the main cause of the algae blooms is Roundup or weed killer around the swales or that it is an agricultural issue. She felt that the City has set up a good plan and has been on the forefront in addressing these pollution issues. She didn't want them to put any additional burdens on their taxpayers. She said right now they are looking at higher electric rates, the possibility of losing electric rate customers, pension liabilities, etc. She reiterated it was not a good time to be adding another burden on their taxpayers.

Ms. Graves felt by having this study done they could look at concrete numbers, which will address a lot of the issues just brought up by Mrs. Turner. She said it would benefit them to have something concrete in making a decision rather than guessing. She made this in form of a motion. Mayor Winger seconded the motion.

Mayor Winger opened the discussion up for public comments.

Mr. Ken Daige asked if this passes and all properties are assessed, does that also include the non-profit organizations.

Mayor Winger answered yes. He said what they are talking about here is having a stormwater utility for the life and need of the Lagoon and then it would be sunsetted. They need to gather the information and then implement the correct kind of program so that they make an effect on the Lagoon. If this gets accomplished, he didn't think there are many people who would not pay for it because it will go towards helping the Lagoon.

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

Mr. O'Connor told Council that he would provide them with copies of the Sebastain and Fellsmere Stormwater Ordinances.

Mayor Winger expressed that Council would take the direction of staff in telling them how they should proceed with this item. He said everyone knows that one size does not fit all, which means they are not able to do the same thing as Fellsmere.

E) Draft Request for Proposals (RFP) – Electric Utility Rate Study

Mr. O'Connor reported that Council directed staff to prepare a Request for Proposals (RFP) for both a rate sufficiency/rate structure study and a utility optimization study. He presented them with a draft of the RFP for the electric utility rate study. The consultant

chosen will look at their rate structure and determine if they are in line. The draft RFP has been reviewed by both the Finance Commission and the Utilities Commission. The optimization study will be the subject of a separate RFP to be reviewed and released at a later date. He said unless there were some objections from Council he plans on proceeding with the RFP for the electric utility rate study.

Mayor Winger opened the discussion up for comments at 11:44 a.m.

Mrs. Turner expressed that it would be a great idea to have this on a work order or a continuing service order so as things evolve they will be able to go back and utilize the consultant's expertise and analysis.

F) Staff Analysis of Finance Commission Chairman Potential Pre-Sale Rate Reductions

Mr. O'Connor reported that on March 28, 2014, Mr. Peter Gorry, Finance Commission Chairman, provided a list of potential options to reduce pre-sale Vero Beach Electric rates to be evaluated by staff using a "SWOT" analysis. He provided Council with the original list provided by Mr. Gorry as well as staff's analysis of each item. The staff SWOT analysis was reviewed by both the Finance Commission and the Utilities Commission. Each Commission provided a separate recommendation or endorsement for each item, in order for staff to have appropriate direction to move these items forward for consideration by the City Council.

Mr. O'Connor commented that quite a few of the items on the list have been implemented. Both Commissions recommended not incurring debt service for T&D (long term assets as opposed to cash reserves). Both Commissions accepted staff's recommendation to evaluate all current fees (connect, disconnect, provisioning of services, late payment penalty charge) to determine cost recovery versus revenue. Both Commissions accepted staff's recommendation to defer an in-depth discussion of examining customer service operations until the cost benefit analysis is complete. Both Commissions endorsed the City moving forward in pursuing negotiations with FMPA/OUC regarding their contracts and both Commissions authorized the continuation of the study to optimize power supply options in short term.

Mr. O'Connor reported that he has a meeting in Orlando tomorrow with OUC to talk about their contract that will include the future operation of the Power Plant and purchasing of capacity for fulfillment of contractual obligations.

Mayor Winger felt staff was moving in the right direction and some of these changes will result in rate reductions.

Mr. O'Connor explained that when staff states that they are not going to incur debt what they are talking about is normal operation maintenance items.

Mayor Winger expressed what they were doing is paying \$3 million dollars every year for things that are \$150,000 - \$200,000 out of cash, but are putting them on the books as an investment.

Mrs. Turner commented that the Finance Commission and the Utilities Commission reviewed seven items and were unanimous on all of them, with the exception of reducing the transfer to the General Fund as a potential for lowering electric rates.

G) Third Quarter Fiscal Year 13-14 Electric Utility Rate Sufficiency

Mr. O'Connor presented the Third Quarter Fiscal Year 13-14 Electric Utility Rate Sufficiency. He said that the summary shows a year-end surplus estimated at \$817K at the current rates, which matches closely with their original target surplus of \$932K.

Mr. Kramer was amazed at Ms. Lawson's ability to predict these numbers and complimented her on the fine job she has done.

Mayor Winger opened up this item for public comments, which there were none.

7. CITY ATTORNEY'S MATTERS

A) Lawsuit & PSC Petition regarding City Electric Utility

This item was heard earlier in the meeting.

Mrs. Turner brought up the newspaper article where the City of Stuart is preparing for "medical pot passage." She did not want to see the City of Vero Beach get behind on this legislation like they did with vacation rentals. She would like staff to take a look at what they can do if medical marijuana is approved by referendum. She wanted to make sure that if there are things they can do to protect this community that they are put in place.

Mr. Coment explained that they are looking at this. He said it is a hot topic in the whole State.

8. CITY COUNCIL MATTERS

A. Old Business

B. New Business

1. Cost of Living Adjustment for Retirees on Old Plan – Requested by Vice Mayor Jay Kramer

Mr. Kramer reported this item is a follow up to the discussion that they had during their budget sessions. They talked about giving a cost of living increase to their old plan retirees and he did not think there was a real clear answer. He asked the Human

Resource Department for a list of those retirees, which consists of about 126 retirees and their ages range from 70 to 90. He said when these employees paid into the pension plan it was fully funded. He asked Council to approve an approximate \$18,000 out of the pension fund to give these retirees a cost of living increase.

Mr. Kramer made a motion to give the retirees a 1% cost of living increase. Mayor Winger seconded the motion.

Mrs. Turner stated that the taxpayers have met all of their financial obligations to these employees and the City continues to pay them. She said giving them a cost of living raise is in addition to the pension they are already being paid. The City has an unfunded pension liability amounting to \$56 million dollars and next year this amount is predicted to go up 30%. She reiterated they had a promise to these employees to pay them a pension and the City has met that promise. She told Mr. Kramer that his concerns were admirable, but suggested he exercise his philanthropy with his own money and not with taxpayer's dollars.

Mayor Winger opened this item to public comments with no one wishing to be heard.

The motion passed 3-2 with Mr. Fletcher and Mrs. Turner voting no.

9. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Richard Winger's Matters

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

Mayor Winger asked Council for their input on passing a Resolution urging the education of youth with respect to the harmful effects of flavored tobacco products and the enforcement of laws restricting the sale of flavored tobacco products. He said that the County has already passed this Resolution and he would be in favor of asking the City Attorney to look into this. He provided Council with a map outlining the cities and counties that have passed flavored tobacco Resolutions (on file in the Clerk's office). Council had no problems with this request.

B. Vice Mayor Jay Kramer's Matters

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

None

C. Councilmember Pilar Turner's Matters

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

3. Comments

Mrs. Turner asked Mayor Winger when he received the lawsuit from Indian River Shores why didn't he request a shade meeting at that time.

Mayor Winger said that he asked the City Attorney about having a shade meeting and he was told by the City Attorney that they could not hold one. He did not call a Special Call meeting because he does not believe in interfering with the City Manager's or the Attorney's duties.

Mr. Coment explained with the Indian River Shores lawsuit they immediately implemented the conflict resolution process, which takes about 100 days before they even get into the lawsuit.

Mr. Kramer felt that it would be prudent to wait for the discovery stage to be over and then they will have the information to make a good decision. He said that might be the time to hold a shade meeting.

Mayor Winger commented that he has been through these lawsuits before and has learned to let the lawyers handle these things unless they come to him. He takes his direction from the lawyers.

Mrs. Turner reported that she attended the FMPA Board meeting on July 28th and they continue to address that their audit is ongoing and the auditors will report their findings to the State on January 15th. At the FMPA meeting she raised considerable questions about the Stanton, Stanton II, and St. Lucie budget, particularly because they are their (City of Vero Beach) power sources. FMPA claimed they have no responsibility for the cost and when she looks at the budget it shows 35% of the costs are controlled by FMPA. She requested that the FMPA member evaluation include the elected board's input and not only the input from Utility Directors. She will be attending a workshop on the Taylor Swaps on Thursday, as well as the Audit Committee meeting, the Executive Board meeting, and the ARP meeting.

Mrs. Turner stated that the Tourist Redevelopment Board met and reported their bed tax is up 6% for the year exceeding their budget figures by 12%. She thanked Ms. Jane Stanfield (spelling may not be correct), Chair of the Waterway Cleanup, who coordinated with getting people to help clean the Lagoon.

Mrs. Turner was happy to see the positive results generating from the Fertilizer Ordinance that they passed. She reminded everyone about Downtown Friday where they will be holding a bike fest and everyone is invited to join in.

D. Councilmember Amelia Graves' Matters

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

Ms. Graves reminded everyone that today was National Aviation Day. She also commented on the email they received from Mr. & Mrs. Gorry concerning the bees in their meter box. She ran into the same problem and cautioned the public that if they have bees in their meter box to call the City so they can take care of it.

- E. Councilmember Craig Fletcher's Matters**
 - 1. Correspondence**
 - 2. Committee Reports**
 - 3. Comments**

None

10. ADJOURNMENT

Today's meeting adjourned at 12:06 p.m.

/tv