

**CITY OF VERO BEACH, FLORIDA  
SEPTEMBER 18, 2012 6:00 P.M.  
REGULAR CITY COUNCIL MINUTES  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**1. CALL TO ORDER**

**A. Roll Call**

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

**B. Invocation**

Pastor Greg Sempsrott of the First Church of God gave the invocation.

**C. Pledge of Allegiance**

Mayor Turner led the Council and the audience in the Pledge of Allegiance to the flag.

**2. PRELIMINARY MATTERS**

**A. Agenda Additions, Deletions, and Adoption**

Mrs. Tammy Vock, City Clerk, asked that the Proclamation observing National Sickle Cell Awareness Month be removed from tonight's agenda.

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

**B. Proclamations**

**1. National Sickle Cell Awareness Month – September 2012**

The Proclamation was removed from the agenda.

**C. Public Comment**

**1. Memorandum of Understanding among City of Vero Beach, Orlando Utilities Commission and Florida Power & Light Company – Transactional Attorney**

Mayor Turner stated that they will move to public comment and she reminded the audience that in order to speak they do need to be recognized by the Chair. She said that

this Council has shown a great deal of latitude to the public although there is still an Ordinance on the books that enforces the three minute rule. They have given speakers a great deal of flexibility and she hopes that this privilege will not be abused.

Mr. John Igoe, Transactional Attorney, stated that the City Manager has asked him to speak tonight to the proposed Memorandum of Understanding (MOU) between Orlando Utilities Company (OUC), Florida Power & Light (FPL) and the City of Vero Beach. The purpose of the MOU is to move to a document of more definitive agreements on what they are calling the exit costs. He said that as it is stated in the MOU they are going to move to these definitive agreements and all of effectiveness of these agreements will be subject to the closing of the proposed sale of the electric utility system to FPL. He will come back on October 16, 2012 and ask Council to approve the definitive agreements. The MOU is not asking for their approval to sell the electric system to FPL. That will come next after these steps are taken and they finish negotiating a definitive purchase agreement. He then ran through the MOU very quickly.

Mr. Kramer asked Mr. Igoe to explain to him how he came up with the thirty-four million dollar payment to OUC.

Mr. Igoe stated that it is referenced as part of the closing conditions in the agreement, but it is actually the payment the City will be making to OUC in consideration for their assumption of the City's obligations under the entitlements for Station I and Stanton II.

Mr. Kramer asked if that included the value of the natural gas agreement.

Mr. Igoe did not know if they have seen the Consultant's report (PA Consulting). He spoke to the Consultant's conclusion, which helped him answer Mr. Kramer's question. The Consultants looked at the negative costs of someone assuming the City's obligations under the OUC agreement and St. Lucie Stanton I and Stanton II. They also looked at the positive costs of the gas contracts and looked at the negative costs for the overall exposure obligations for the power and came up with the range of between negative eighty-three million dollars and negative fifty-one million dollars. He said part of the difference in the range has to do with whether or not the buyer is a tax paying entity or not tied to their cost of capital. He said when you add the positive value of the gas contracts, that reduces the negative exposure to a range of a negative seventy-seven million to a negative forty-one million dollars overall. He said that is the way to look at it since OUC is taking on all the obligations and receiving the value of the gas contracts. He said if you look at the mid-point between the negative seventy-seven million dollars and the negative forty-one million dollars it comes out to a negative fifty-nine million dollars. Then if you look at what the City is paying OUC (twenty-million dollars plus thirty-four million dollars) it adds up to fifty-four million dollars.

Mayor Turner explained that in the OUC contract they had the ability to come back to the City for as much as a seventy-million dollar penalty for the City breaking the contract.

Mr. Igoe said “theoretically” and explained that the provisions for the fifty-million dollars only applied to the City if they breached the contract and started to look for power somewhere else. He emphasized the cooperation that they have received from OUC, as well as FMPA.

Mr. Kramer said so the fifty-four million dollars is all of the money that is going to transact between OUC, FPL and FMPA.

Mr. Igoe said that is the money that will come out of the sell proceeds that the City receives, with the City will pay to OUC at the closing.

Mr. Kramer asked if OUC was going to get any more money out of this later on.

Mr. Igoe explained that OUC will be getting the benefit of FPL stepping up. He explained that one of the reasons that OUC was willing to do this at this price was because FPL is ready to step up and take on their power obligations for the first three years following closing for Stanton I and Stanton II. He said this reduces the exposure for OUC, which was the key to getting their agreement on the fifty-four million dollars.

Mr. Igoe went back to the MOU and said that there are two agreements between the City and OUC relating to the FMPA entitlements. He said one is the transfer agreement and then there will be an assignment document that will effectuate the assignment of all of their rights and obligations and the assumption of their rights and obligations by OUC. This is where the thirty-four million dollar payment comes in with respect to Stanton I and Stanton II. The closing for this entire transaction will not occur any earlier than January 1, 2014. The City has no obligations under this MOU or with the agreements that they are bringing back to Council in October to actually sell the system. That will come later.

Mr. Winger believed that the asset, sale, and purchase agreement have to be negotiated. Mr. Igoe told him that was correct. Mr. Winger continued by saying that what would happen at the closing when the asset, sale and purchase agreement is signed and then all of the other documents would be implemented with the October 12, 2012 date on them.

Mr. Igoe asked the Council to authorize the City to sign the MOU with one change and that was to change the target date of October 12<sup>th</sup> to October 16<sup>th</sup>. The reason for that is because that will be in line with when their second Council meeting is scheduled for. They will get definitive agreements to them as soon as they can, but would ask that the City authorize the exit agreements to be signed on October 16<sup>th</sup>.

Mr. Winger continued by saying that the main point was that these other agreements would be contingent upon signing the asset purchase and sales agreement, so when they agree to the terms of those if for any reason there is not a closing they would not be bound for the fifty-four million dollars to OUC. Mr. Igoe told him that was correct.

Mrs. Carroll recalled that Mr. Igoe mentioned that the agreement would be predicated on regulatory approvals. She asked him to list those regulatory agencies that would need to approve this.

Mr. Igoe did not have the list with him and was afraid if he started naming the ones that he knows have to give approval he probably would not cover all of them. He said that the first step once they get the definitive agreements signed was to work with FMPA to get their approval. This will involve presentations to the rating agency for the bonds, contact with the insurance company, and approval from the trustee of the bonds, etc. He said that these are the bonds that FMPA pays on the Power Plant, which will be paid off at closing. He said that FPL will have a long list of approvals they will have to receive from the Public Service Commission (PSC).

Mr. Winger asked if there were any filings with the Federal government on this.

Mrs. Carroll heard at one point that they had to go to the Justice Department.

Mr. Igoe was not sure about which agencies that they had to get approval from, but would be glad to put a list together for Council. He then said that they would not have to go before the Justice Department.

Mr. Scott Stradley, Chairman of the Utilities Commission, stated that the Utilities Commission had a very spirited meeting with a lot of public involvement. The Commission had an opportunity to interact with Mr. Igoe and try to get down to the details of these contracts. He said that it was a great opportunity for the public to sit down and talk with the Transactional Attorney. At the end of the meeting the Utilities Commission voted unanimously to recommend to the City Council that they approve the MOU.

Mr. Peter Gorry, Chairman of the Finance Commission, stated that some of the members of the Finance Commission attended the Utilities Commission meeting (not as voting members) and engaged in the dialogue. The recommendation of the members who attended that meeting was to approve the MOU. He went back to the Finance Commission and explained to them that it was not a sales agreement and the Finance Commission unanimously agreed to make a recommendation to the City Council that the MOU be signed.

Mr. Joseph Guffanti wanted to know who were the people who determined the value, assets and liabilities of the system. He wanted the names of these people and what their qualifications are.

Mr. James O'Connor, City Manager, addressed that question. He said that their first evaluation was done by GAI Consultants, who did an evaluation of the assets and then the evaluation of their power and gas contracts was done by PA Consultants.

Mr. Guffanti asked Mr. Igoe what he meant when he said that this was a big plus and they did not evaluate the benefit.

Mr. Igoe explained that what he meant in terms of allocating the price that the City is going to pay OUC that they were happy to take their entitlements under St. Lucie because it is a lot different than the volatility of the fuel prices and the cost of coal with Stanton I and Stanton II.

Mr. Guffanti said based on the meeting that the Utility Commission had the attorney (Mr. Igoe) mentioned what would happen in the event that OUC went bankrupt, that it would be a one way street. He asked Mr. Igoe to address the issue.

Mr. Igoe explained that in the Stanton I and Stanton II contracts there is a provision that permits an assignment with the consent of FMPA and a sentence at the end of the paragraph that says even if there is an assignment in the contract that we (the City) would remain liable for the obligations. He said that the reason for this is because of the bonds. The source of the funds for paying the bonds comes from the revenue at the Power Plant. He said that OUC is assuming one-hundred percent of the contracts.

Mr. Guffanti asked what amount he is talking about.

Mr. Igoe stated that OUC is obtaining one-hundred percent of the contracts for the life of the contracts.

Mr. Guffanti asked what the dollar amount of their liability is if OUC should go bankrupt.

Mr. Igoe stated that if OUC goes bankrupt the day we sign the contracts it would be all of the City's obligations under the contract.

Mr. Guffanti again asked what is the dollar amount. Mr. Igoe said it depends and it would be a speculative number.

Mr. Winger thought that Mr. Craig Dunlop of Dunlop Associates, would be able to tell Mr. Guffanti what the number is.

Mr. O'Connor asked Mr. Igoe what their pledge under exposure to OUC is under those contracts.

Mr. Igoe explained that our payments will come from the revenue for operating the electric system and since we would not have a system that would be our pledge.

Mr. Winger commented that OUC has a good credit rating and the risk is very small.

Mr. Guffanti continued by saying that is just one facet that they are involved in that looks dangerous to the City of Vero Beach. He said that all he can do is point out the simple

things. He referred to item #15, Construction where it says that “No provision in this MOU is to be interpreted for or against any Party because that Party or its counsel drafted such provision.” He said that was the most asinine statement he has ever seen.

Mr. Igoe explained that the purpose of item #15 is to reflect the fact that this is a negotiated agreement. If someone is going to have a dispute later, that you can't point the finger at whoever drafted it. This way if a judge had to look at a document that was disputed he would make a conclusion regardless of who wrote it.

Mr. Guffanti said that he did not like time constraints. He had some problems with #7 which is Waiver of Jury Trial. And the last thing he wanted to comment on is #17 Press Releases. The paragraph reads “Except as may be required by applicable law, the Parties shall not issue any press release or other public disclosure with respect to this MOU or the transactions contemplated hereby without first affording the non-disclosing Parties the opportunity to review and comment on such press release or public disclosure.” To him that means if someone comes before them and asks a question they will not be able to answer it unless they run their comments by FPL and OUC. He felt by approving this MOU it could be potentially detrimental to the City of Vero Beach. The recourse that they have is to call for investigation of the OUC contract to get this fee out of the contract.

Mrs. Caroline Ginn, 5151 North A1A, passed out some backup material (attached to the original minutes). Some of the material was from the US Census Bureau showing the population for 2010 in the City of Vero Beach to be 15,220 and persons being below poverty level from 2006-2010 is at 15.4%. Also, the value of the City of Vero Beach Electric Utility System according to the study conducted by GAI Consultants was \$184,900,000.

Mr. Igoe went over the term sheet that was distributed to Council at their August meeting.

Mrs. Ginn continued by going over what the valuation of the electric system covers. She had some concerns with selling their utilities and felt that they needed to remain independent. She also brought up smart meters.

Mr. Winger has some information on smart meters that he will make available to Mrs. Ginn.

Mrs. Ginn asked if they find out there are problems with smart meters, will FPL allow them to opt out of them.

Mrs. Carroll said that any individual may opt out. She was told by members of the audience that was not true.

Mayor Turner thought that they were digressing from discussing the MOU.

Mr. Warren Winchester, 1845 Tarpon Lane, stated that there is an obligation financially to take care of the City. He said if they are going to take care of the people the best way that they can then that is with an open sale.

Mr. Stradley wanted to explain the transmission upgrades and the costs of removing the Power Plant. He said that there is a tremendous cost to upgrading the utilities.

Mayor Turner made a motion that Council approves this MOU. Mr. Fletcher seconded the motion.

Mr. Brian Heady questioned why Mr. Igoe stopped going through the rest of the MOU. He went through items 1 – 4 and did not address items 5-15.

Mr. Igoe explained that he was concentrating on the important sections of the agreement. He then went over each item.

Mr. Heady mentioned that at the end of this meeting there is a consideration for a referendum and he had some concerns on how this MOU relates to how they are going to vote on a referendum. He said if they are going to vote in favor of the MOU and then at the end of the meeting approve a referendum, then it seems to him that the terms of the MOU should be contingent upon the outcome of the referendum. He said if they are not going to have a referendum then they would have the authority to enter into the MOU.

Mr. Winger made an amendment to the motion on the floor to put off the vote of the MOU until they get to the referendum on the agenda. He agreed that Mr. Heady's points were correct. Mr. Kramer seconded the amendment.

Mr. Igoe said that if the referendum has to do with the deal itself it doesn't need to be discussed before the MOU. He explained that the MOU calls for nailing down their exit costs agreements with OUC and FMPA and none of that is effective unless the asset purchase agreement is approved and the deal is closed.

Mayor Turner did not accept the amendment to her motion and wanted to vote on her motion.

Mr. Winger asked how the Mayor could not accept the amendment. He did not believe that this could be done under Robert's Rules of Order. He felt that the cleaner thing to do is deal with MOU along with the referendum.

Mayor Turner stated that according to parliamentary procedures she has proposed a motion, which has been seconded and she does not wish to have it amended. The MOU is clearly just setting out the parameters if they should go forward with a sales agreement, laying out what their terms and conditions would be for the sale. It is not a binding document should they not proceed with the sale.

Mr. Winger commented that he has supported the MOU, however he is being put in a position that he would rather not be in and Mr. Heady's point is correct.

Mr. Wayne Coment, City Attorney, reported that the Council has never officially adopted Robert's Rules of Order, but historically what has been done if someone has made a motion to amend a prior motion and there is a second to the amendment there usually is a vote on the amendment.

Mr. Heady referred to the MOU and said that the Utilities Commission has voted in favor of it unanimously. The Chairman of the Utilities Commission said how productive their meeting was and said that they were able to drill down into the details of the contract. He asked the City Clerk if she had the contracts. Mrs. Vock answered no. Mayor Turner said that the contracts Mr. Stradley was addressing was the MOU and not a purchase and sales agreement. Mr. Heady referred to the MOU and said that they agree to provisions 2, 3, and 4, which they are going to execute five or six contracts and those contracts are going to be available on October 16<sup>th</sup>. He asked if any of the Council knew the material terms of those contracts. Mayor Turner said yes, what is outlined in the MOU. Mr. Heady said that the MOU says they are going to negotiate the terms, but it doesn't identify the terms. So they have contracts that will bind this City to a hundred and seventy-nine million dollar deal, but they don't have the material terms of the contract yet, the documents are not available for public inspection and don't exist less than 30 days prior to the signing of the agreement. He wondered if this was going to be another deal where the contracts are delivered by uniform police the night before the meeting. He thought that this was basically the night before (less than thirty days). He went over the MOU, which says that some date in the future there are going to be contracts, but at this point they don't know what the material terms are. Mr. Heady referred to item #7, Waiving a Jury Trial. He said from a municipality standpoint if they are going to be in a trial over some issue what they want as a municipality is a jury trial. In this document they are waiving that right and would have a bench trial instead. He is in favor of selling the electric utility, but he is not in favor of entering into an agreement that says you agree to contracts that you have not seen. They are going to vote on a MOU and they don't know if there is going to be a referendum. The Mayor is not going to listen to two Elected Officials and decide regardless of past practices and Robert Rules of Order not to call a vote on the amendment. He understood that Mrs. Turner was the Mayor, but she had no more rights than any other Councilmember, but she is going to decide that those two Councilmembers don't matter and she is not going to recognize their amendment to the motion and the second.

Mayor Turner explained her issue with dealing with the MOU along with the referendum. She said that her whole idea of dealing with the referendum is for the public to vote on the sale. That is not what the MOU is about. She said that the MOU is not a binding document and will not go into effect unless they choose to move forward with a purchase agreement.

Mayor Turner asked Council if they wished to vote on the amended motion. Mayor Turner, Mr. Fletcher and Mrs. Carroll all said no.

Mr. Winger stated that personally he is in support of the sale, but he is not in support of the provision that does not allow for a jury trial.

The motion on approving the MOU passed 3-2 with Mr. Winger and Mr. Kramer voting no.

Mr. Kramer explained that his views on the MOU are very close to Mr. Warren Winchesters'. As he has gone through his business career he has noticed that you get the best deal when you use the market and go out and get as many bidders as you can. At one time he worked with the Department of Justice and he knows if they move forward with selling a public asset they could very closely be looking at jail time or paying for the consequences of the cost of the sale. He said that a public asset should not be sold without competition. He cannot find that FPL has dealt with a municipality that has not gone through the RFP process.

Mr. Igoe clarified again that the MOU that was just approved is just a MOU. He has to come back to Council at their October 16<sup>th</sup> meeting to ask for approval of the definitive agreements and he will make sure that everyone gets copies in advance of the meeting. He also mentioned that Mr. O'Connor asked him to ask the Council to authorize additional payment fees to him (his firm) under their agreement. The agreement that was signed said that fees would be approved as they move along. He asked Council to authorize payment of up to \$200,000, which will get them through this MOU phase and the purchase agreement phase.

Mr. Winger noted that they have invoices with PA Consulting, which they previously agreed to for \$100,000. He asked if that \$100,000 was part of this \$200,000 or is it a separate issue.

Mr. Igoe explained that the \$100,000 for PA Consulting was already approved within their engagement agreement.

Mr. Winger said so it is a total of \$300,000. Mr. Igoe answered yes.

Mr. Coment verified that up to \$100,000 was already approved for PA Consulting.

Mr. Fletcher made a motion to authorize the City Manager to pay the additional fees up to \$200,000. Mrs. Carroll seconded the motion.

Mr. O'Connor said that he would ask that the Transactional Attorneys continue to make reports to Council.

Mrs. Carroll recalled that they were provided with documentation some time ago that with a transaction this size the expected attorney fees would be a percentage of that and that percentage was about 5%, which they are still substantially under.

The motion passed 4-1 with Mr. Kramer voting no.

Council took a ten-minute break at 7:19 p.m.

**2. Dr. Howard Mielke from Tulane University to speak on the effects of lead.**

Mrs. Carroll expressed that she was told that this presentation will run about thirty-minutes. She asked if that was correct. Mayor Turner said that she had asked that it be limited to twenty-minutes. Mrs. Carroll had a major concern with a presentation on an issue that is not on their agenda in terms of the discussions that they are going to be speaking about. She said that it is also not something that has been planned to come before this Council. She read out of the City Code the procedures for having someone speak under Public Comment and that the time is to be limited to three minutes. There are a number of people from the community who have asked to speak about items that are on their agenda tonight. She said that this Council has not agreed to, as a group, to discuss this issue of lead transmissions from airplanes. She knows that these individuals have spoke to the Airport Commission and there was a discussion about a year ago as to whether or not this Council was going to hear this presentation and the vote at that time was that the matter be forwarded to the Airport Commission. She expressed by allowing members of the public to utilize this public venue is setting a bad precedent. She recalled that six months ago an individual was allowed to come in and speak about pollution in their lagoons and that was a long presentation, but it was directly related to a fertilizer Ordinance that was on their agenda that day. She then read Section 2.55 of the City Code that states any Councilmember may have the reasons for his dissent from or protest against any action of the Council entered in the minutes. She wished to have a protest against this method of allowing someone to come in and utilize twenty or thirty minutes of their time for this issue.

Mayor Turner told Mrs. Carroll that her points are well taken. She said that she scheduled this item to be on the agenda and takes responsibility for it being on the agenda. She believes that Mrs. Carroll does have a valid point and is something that they should discuss.

Mrs. Carroll added by doing this they are opening their meeting up to anyone in the world who wants to come in and use twenty or thirty minutes of television time to tell them about an issue. Then the people that are at the meeting to speak about other issues on the agenda are going to have to wait until the presentation is finished.

Mr. Fletcher wanted to hear the presentation.

Ms. Ruth Myers, 1122 Neapolitan Avenue, Louisiana, told Council that she was a member of the Airport Oversight Committee. She gave a Power Point presentation (attached to the original minutes) entitled "The Invisible, but known, Problem of Lead Emissions from Piston-driven Aircraft Using Vero Beach Municipal Airport".

Dr. Howard Mielke, Department of Pharmacology, Tulane University School of Medicine, told Council that he appreciated the opportunity to talk to them tonight. He gave a Power Point presentation (attached to the original minutes) entitled “Invisible poison: ending the use of lead additives in gasoline.”

Ms. Florence Lacata was at tonight’s meeting representing the Airport Oversight Committee. She said that the Airport Oversight Committee raised the funds to bring Dr. Mielke here tonight. She reiterated what his background is. They want to see a community safe for kids and one which respects the environmental assets of this issue. She gave a Power Point presentation (attached to the original minutes). Ms. Lacata explained that her Committee wants to see an update of their Airport Master Plan in 2013 as promised. They want a lead free Airport and would like to see permanent voting representation for neighborhood residents on the Airport Commission. Anyone requesting more information can email [leadout4us@gmail.com](mailto:leadout4us@gmail.com).

**3. Debbie Avery of the Cultural Council to discuss the Bird Festival.**

Ms. Debbie Avery talked about the first annual bird festival and gave a packet of information to Council. She hoped that next year the City would consider being a sponsor. If there is any way they could find \$500 to sponsor the event the Cultural Council would appreciate it. She also said that there are a couple new items that the Cultural Council is working on, which is included the packet. She thanked Council for the opportunity to speak tonight.

**4. Humiston Park Landscape Material Replacement Request for Reimbursement – Stephen Mulvey/Ocean Park of Vero Beach**

Mr. Keith Pelan, Kimly-Horn & Associates, explained that Ocean Park of Vero Beach was asking for consideration to be reimbursed for their expenses in replacing some landscape material at Humiston Park. They approached City staff about this back in February and understood that the money owed would need to come from the Whitaker trust. He said that both parties feel that the costs is fair and when he talked to Mr. O’Connor about it he told him to put it on a future City Council meeting. He went through the list of trees that have to be replaced.

Mayor Turner understood that Mr. Falls has reviewed the documents and that there are funds in the Whitaker trust to pay for this.

Mr. O’Connor reported that there is money in the Whitaker trust and he would recommend that Council approve this request.

Mrs. Carroll asked if this falls under the guidelines of that trust. Mr. O’Connor told her that it did and that the City did oversee the invoices that came in for this project. Mrs. Carroll understood that if the City had gone out to bid for this project that the cost would have been higher. Mr. O’Connor did not know that as a fact, but agreed from the estimates they have seen that it would be higher.

Mr. Kramer made a motion to approve the request for reimbursement for replacement of plant material and tree grates at Humiston Park. Mrs. Carroll seconded the motion and it passed unanimously.

Mr. Pelan also noted that the developer of the project has entered into an agreement with the City that they will maintain the landscaping.

**5. Peter Gorry, Chairman of the Finance Commission, will present his financial model to Council to obtain future direction.**

Mr. Peter Gorry stated that all the information that they are going to see in his presentation is on-line. He went through his backup information (attached to the original minutes). He said according to the data that he has put together the models show that over the five years subsequent to the sale, the City will have approximately a negative \$2.9 million - \$30 million dollars cash flow each year and proceeds of \$36.8 million from the sale. The question is how the City achieves a balanced budget and a secure future. The interactive model is designed so various propositions can be tested. This work is preliminary and for discussion and does not represent finished numbers. The base year is the approved 2012-2013 budget. He said that revenue growth assumptions can be changed. Since the future of the local economy and interest rates is unknown, these estimates are subjective. The model focuses upon the rate FPL and the Vero Beach Electric differential only for the impact on the City of Vero Beach budget. The best solution to offset this gap may be some combination, all of which require policy decisions by the City Council. They are reduced services, raise taxes, do not increase taxes, but spend the entire proceeds from the sale on operations, use General Fund capital for City's annual debt expenses, pay off the unfunded pension liability for employees, other than Police, monetize unutilized assets, increase reserves, restructure the organization, review management compensation as City of Vero Beach contracts and review Enterprise Fund transfers to and from the General Fund. He went over the advantages and disadvantages of reducing services. The advantage is that a smaller City is achieved. The disadvantages are: The City is downgraded in functionality and appearance, large exit cost for laid off employees and the Parks, Recreation, Police, Lifeguards, etc., are being put at risk. He went over the advantages and disadvantages of raising taxes. The advantages are ad valorem taxes are very low in Vero Beach compared to peers, there will never be as good a time to increase when power rates go down and it improves the City of Vero Beach's financial position. The disadvantages are that tax increases are always difficult for Elected Officials and that individual customer net savings/costs from lower electrical rates versus tax increases vary significantly. To put off the decision to raise taxes and spend the entire sale proceeds for current operations has advantages and disadvantages. The advantages are that there will be no increase in taxes and it improves the City of Vero Beach and other customer's cash flow. The disadvantages are that sale proceeds will be exhausted in 10 to 12 years, and in liquidating the utilities the City is monetizing its most valuable asset. This solution makes the City's financial future that much more difficult. It depletes reserves in the General Fund. It has a negative impact on bond ratings and it eliminates expense

reduction opportunities in most other options. Mr. Gorry went over the advantages and disadvantages of paying the General Fund annual debt expenses in the budget. The advantage is that it potentially saves \$572,000 dollars annually in the General Fund and it reduces the sale proceeds. To fund the general employee pensions advantages are that it solves the unfunded \$19.7 million dollars in the pension fund, it allows a freeze on the defined benefit plan where the unfunded portion is at risk of escalating, it allows the start-up of a defined contribution plan where the City will not have an increasing City of Vero Beach future contribution requirement, it eliminates the 1% annual COLA. Some of the disadvantages are that it will permanently use monetized capital from the sale so it will not be available elsewhere, there may not be enough cash to fully pay the unfunded balance taking into account the actuarial gap, this approach is highly dependent on the FPL details. There are many details to be worked out. To pay the General Fund annual debt expenses in the budget has some advantages and disadvantages. The advantage is that it potentially saves \$572 K annually in the General Fund and the disadvantage is that it reduces sale proceeds. The advantages to fund the General employee pension plan includes that it solves the unfunded \$19.7 million dollars in the pension fund. It allows a freeze on the defined benefit plan where the unfunded portion is at risk of escalating, it allows the startup of a defined contribution plan where the City will not have an increasing City of Vero Beach contribution requirement, substantial short and long term savings and eliminates the 1% annual COLA. The disadvantages are that it will permanently use monetized capital from the sale so it will not be available elsewhere, there may not be enough cash to fully pay the unfunded balance taking into account the actuarial gap, this approach is highly dependent on the FPL details and that there are many details to be worked out as difficult in concept as the electric sale.

Mayor Turner listed her priorities (referring to page four of Mr. Gorry's document). She first wished to pursue #7 – Restructure the Organization; Review Management Compensation as City of Vero Beach Contracts, her second priority would be #6 – Monetize Unutilized Assets, Increase Reserves and her third priority would be #5 – Pay off the Unfunded Pension Liability for Employees – other than the Police.

Mr. Fletcher said that #5 – Pay off the Unfunded Pension Liability for Employees – Other than the Police, would be his first priority. He asked the Finance Commission to list what their priorities would be and bring them back to Council.

Mr. Gorry agreed with #5 as a first priority.

Mrs. Carroll commented that there are many properties owned by the City that are not being utilized (#6 – Monetize Unutilized Assets, Increase Reserves).

Mr. Gorry agreed with Mrs. Carroll. He said that some of these facilities and properties have to be maintained, mowed, air conditioned/heated, etc., all which costs the City money.

Mrs. Carroll felt that #1 – Reduced Services, should be their last priority.

Mr. Gorry stated that their assumption was not to reduce services.

Mr. Fletcher explained that there will be a blend of many things. He asked that the Finance Commission choose their blends and prioritize them.

Mr. Kramer added that there are some things that they could be doing now and not waiting for the sale of the utilities to FPL.

Mrs. Carroll felt that they may need to look outside the City for help in regards to their assets and putting a number on what they are worth.

Mr. Gorry expressed that some property that the City owns is not in the City. Also, the City is required to lease at fair market value at the Airport.

Mr. O'Connor explained that they have to be careful with their investments. He said that they have a nine hole golf course that they paid eight-million dollars for and on today's market it may be worth \$800,000. He said that there might be some challenges on some of these assets that they have acquired.

Mrs. Carroll agreed that selling something for a low price may not be necessarily the best thing to do.

Mr. O'Connor agreed that hiring a firm to market the property may need to be looked at.

Mr. Gorry showed on the doc cam staffing in the General Fund from FY 06/07 to FY 12/12 and noted that in FY 06/07 there were 548 employees and in FY 12/12 there are 430 employees. This shows that there have been some restructuring of City Departments.

Mr. Winger told Mr. Gorry that he has given them a lot to consider, but they can see that there will be life after the utilities has been sold. He asked Council what direction they want to give Mr. Gorry in moving forward.

Mayor Turner noted she gave Mr. Gorry what her priorities are.

Mr. Gorry explained what the Finance Commission will do is have each member assigned a priority to work on and then they will report back to the Council and then the Finance Commission can move forward.

Mr. J. Rock Tonkel knows that there will be benefits for County residents once the utilities are sold. He knows that Council will be able to demonstrate that this would result in a viable City and livable place that it has always been and it will not damage the City by selling the utilities. He feels that they will save money by virtue of the sale. He said that the Hospital will save \$500,000 and the same could be said for the School Board. When they reviewed the MOU, the contracts that have been referenced in the MOU will not change from the intent of what is reflected in the MOU and the public will have the opportunity to review them. This is the most transparent transaction that he has

ever seen. He doesn't think that there are any surprises and hopes that nothing comes to the result in having to resort to the courts. He said that FPL was the only party who responded to go into negotiations with the City. There was a process and invitation gone out to other utilities. He said that the City of Vero Beach can't compete successfully with FPL in this market place.

Ms. Nancy Heinrich asked who could give her a list of the leases that the City has that only pay \$1.00 a year. Mr. O'Connor told her that he could provide her with that list. She felt that Mr. Mielke's comments should be taken seriously. The reason that she was here tonight was to inform Council that on August 31<sup>st</sup> the President signed a Proclamation declaring it National Childhood Obesity Month. President O'Bama encouraged the country to address this problem. She is involved in a 501-C-3 organization that helps children live healthy and is looking for some property to grow some gardens. She was happy to hear that there are some possibilities. She presented to the Mayor a new book dedicated to girls and women. Mayor Turner took the book and said that she would pass it along to the other Councilmembers once she has finished reading it. Ms. Heinrich gave her website address, which is [growinghealthykids.com](http://growinghealthykids.com).

Mr. Glenn Heran asked to speak on the proposed referendum to be discussed later on in the meeting. He gave some history of City elections that occurred in 2009, 2010, and 2011. In light of these three elections the public was telling them to sell the utilities and it is time to do what the voters have asked them to do. There are 13,000 residents in the City and while they do not come to the meetings and speak, they can vote. He believes the referendum is nothing more than a delay tactic. The electors have another opportunity this November to vote who they want into office. He stated that the referendum as proposed is flawed. It has no interest in 60% of the customers who are part of the system, but have no say. He told Council to do what they have been elected to do and sell to FPL.

Mr. Winger was willing to take up the issue of the referendum now instead of waiting until the end of the meeting. Mayor Turner said that they would take the matter up later on in the meeting.

#### **D. Adoption of Consent Agenda**

- 1. Regular City Council Minutes – September 4, 2012**
- 2. Special Call City Council Minutes – September 4, 2012**
- 3. Monthly Capital Projects' Status Reports**
- 4. Utility Easement #2012-EG-0104 and #2012-EG-0105 – Vero Beach Sports Village**
- 5. The Veterans Memorial Island Sanctuary Advisory Committee would like permission from the City Council to expend funds from the Veterans Memorial Island Account of up to \$5,000.00 to replace and add cenotaph markers on the Island.**

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

### **3. PUBLIC HEARINGS**

- A) A Resolution of the City of Vero Beach, Florida, Establishing Rates and Fees for the Collection and Disposal of Solid Waste and Recyclable Material and Sale of Items Used for Collection Purposes; Repealing Resolution 2009-28; Providing for Conflict and Severability; Providing for an Effective Date – Requested by the Public Work’s Department**

The City Clerk read the Resolution by title only.

Mr. O’Connor reported that adding 0.25 to the commercial rates would satisfy their needs and help them to meet their capital demands in the future and still keep them as one of the lowest commercial haulers in this area.

Mayor Turner opened and closed the public hearing at 9:21 p.m., with no one wishing to be heard.

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

### **4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING**

- A) A Resolution of the City Council of the City of Vero Beach, Florida, Establishing a Special Assessment Lien against that certain real property described as Unit A, Westside Professional Building, A Condominium, recorded in O.R. Book 892, Page 614, as amended by Amendment recorded in O.R. Book 894, Page 298, and having a street address of 1956 41<sup>st</sup> Avenue, Suite A, in the City of Vero Beach, Indian River County, Florida, for services rendered and expenses incurred by the City of Vero Beach benefiting said real property. – Requested by the City Attorney**

The City Clerk read the Resolution by title only.

Mr. Coment reported that this Resolution establishes a special assessment lien for costs and expenses incurred by the City for the removal of driveway culvert headwalls at 1956 41<sup>st</sup> Avenue, Suite A. The owner of the property has been sent notice of the proposed adoption of the lien Resolution and he would recommend approval so that the City can secure the recovery of the public funds expended and costs incurred. He said that there are three other owners of the property and all have paid except for one owner being Mr. T. Keith Grove. Mr. Coment asked if Mr. Grove or his representative was present for the meeting and wished to speak. Neither party was at the meeting tonight. Mr. Coment continued by saying that he received a letter from Mr. Grove’s attorney, Mr. Buck

Vocelle, who was disputing this. Mr. Coment sent a letter back to Mr. Vocelle explaining the situation. He again asked Council to adopt the Resolution.

Mr. Kramer asked how much money they were talking about. He was told \$2,476.64.

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

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

None

**6. CITY CLERK'S MATTERS**

**A) Appointments to Commission/Boards**

**Historic Preservation Commission**

There is an alternate position open on the Historic Preservation Commission. Mrs. Bernice O'Brien has submitted her application to serve on this Commission.

Mr. Fletcher made a motion to appoint Mrs. Bernice O'Brien as an alternate member on the Historic Preservation Commission. Mr. Kramer seconded the motion and it passed unanimously.

**TREE AND BEAUTIFICATION COMMISSION**

There is an alternate position open on the Tree and Beautification Commission. Ms. Marilyn Black Dussault has submitted her application to serve on this Commission.

Mr. Fletcher made a motion to appoint Ms. Marilyn Black Dussault to the Tree and Beautification Commission. Mr. Kramer seconded the motion and it passed unanimously.

**B) November 6, 2012 City Council Meeting**

After a brief discussion, Mr. Kramer made a motion to cancel the November 6, 2012 City Council meeting because it falls on Election Day. Mayor Turner seconded the motion and it passed unanimously.

The Council will hold their Organizational meeting on November 9<sup>th</sup> and their next regular City Council meeting will be on November 20<sup>th</sup>.

**7. CITY MANAGER'S MATTERS**

**A) Award of Bid #290-12 – Overhead Lineworkers Contract**

Mr. Fletcher made a motion to authorize the City Manager to Award the Bid for the Overhead Lineworkers contract to Power Secure. Mayor Turner seconded the motion.

Mrs. Carroll asked if the bid pricing was in line with what was budgeted.

Mr. O'Connor said that it is.

The motion passed unanimously.

**B) Request to Transmit Letter to FMPA – Termination of the All-Requirements Power Supply Project Contract**

Mr. O'Connor stated that this was a request to transmit a letter to FMPA for the termination of the All Requirements power supply project contract. The letter needs to be sent before September 30<sup>th</sup> and they are asking for a waiver of the three year period.

Mayor Turner noted that this was essentially just a house-cleaning item. She said that they exited themselves from the financial obligations of this three years ago. But, since they were still involved with FMPA at that time they did not proceed with this letter.

Mr. O'Connor told Mayor Turner she was correct. He said three years ago they did not think this was necessary because they still had a seat on the FMPA Board. However, when this transaction takes place they will no longer have that seat on the Board.

Mayor Turner made a motion that they approve and transmit this letter to FMPA. Mrs. Carroll seconded the motion and it passed unanimously.

**C) COVB Bid #200-12 – Unit #2 Turbine Inspection  
COVB Bid #200-12 – Unit #5 Major Turbine Generator Overhaul**

Mr. O'Connor reported that this would be the overhaul of Units #2 and #5. They have received the low bid, which they are recommending for \$3.2 million dollars. The project is one in which when they open the turbines up. He said that they are overdue having this work done so there may be other issues that they will be facing. He said so what they have done in their memo is made Council aware that the budgeted number was around \$4.3 million dollars. He said they are not saying they are going to pay that amount, but making Council aware that there probably will be change orders in this contract. They have a 45 day window to make these improvements in order to satisfy the regional pool system and that these change orders would come under the City Manager's authorization. He will bring those change orders back to the City Council after the fact to make them aware of what they have done.

Mayor Turner asked Mr. O'Connor to explain the significance of this 45 day window and where it comes from.

Mr. O'Connor explained that they are part of the regional pool system and they could possibly be called on, but in this process they have given the City permission to go off-line in order to get this work accomplished.

Mrs. Carroll asked Mr. O'Connor what happens if a large defect is found, how would that affect this 45 day window.

Mr. O'Connor explained that they would submit that information to the power pool and felt that there would be no penalty imposed because of a defect. Also, the contractor takes the responsibility that he has the equipment on site in order to complete the project.

Mr. Fletcher made it clear that only two contractors turned in a bid for this project. He said that there are not many bidders out there anymore to repair these things. If this program is kept going for another 20 years then a point will come very soon when nobody will bid on these things and then they really are going to be in trouble.

Mrs. Carroll understood from some of the comments that she has heard from both Mr. Fletcher and Mr. O'Connor that their system is aging and it will only require more and more capital funding over the years if they choose not to sell the system.

Mr. Fletcher expressed how much this was costing, which was over \$3 million dollars to do this work.

Mr. O'Connor commented that all electric utilities are very capital extensive.

Mr. Kramer added that in all the options that he has seen in talking to other engineers, they can get rid of the Power Plant. He said that it is nonsense if the sale does not go through that they are going to keep the Power Plant for another twenty years. He said you pay the cost to upgrade the lines. He said that OUC has no interest in keeping the Power Plant there. All they are trying to do is keep within the regulations to make sure that power is available and they are operating within the constraints of the transmission. He said once this transmission is upgraded, then the Power Plant is gone.

Mr. O'Connor stated that Mr. Kramer's information was accurate and there is a line that comes up from the South, but to improve that transmission could be an expense. If they do stay in the business long-term they may want to reevaluate the need for the City being in the power generation business.

Mr. Kramer said that the City does not need to be in power generation business at all.

Mayor Turner made a motion to allow Mr. O'Connor to award the inspection and the general overhaul for \$3.3 million dollars and the latitude to go to the \$1 million dollars for change orders in the 45 day time period.

Mr. O'Connor explained that this contract would be awarded to the Wood Group who is very experienced in this business.

Mrs. Carroll seconded the motion and it passed unanimously.

At this time, Council took a five-minute break.

## **8. CITY ATTORNEY'S MATTERS**

None

## **9. CITY COUNCIL MATTERS**

### **A. Old Business**

#### **1. A vote to direct the City Attorney to draft a referendum Ordinance and bring it back to the City Council. – Requested by Councilmember Richard Winger**

Mr. Winger went over a slide presentation on what will the City be and will the City exist at all if the utilities are sold (please see attached). He said that the people of the City of Vero Beach own the utilities, which comes down to \$18,000 dollars per City resident is invested in the utilities. He told Council that there are going to be two lawsuits and they are going to cost a lot more than twenty thousand dollars to defend them. He said that these lawsuits have already been drafted and they are going to occur. He said one of them is predicated that they talked about "the lease" and if the documents that he is referring to tonight there are copies of referendums from 1976, the City Attorney's memo on the referendum, and the flaws he saw in it. He said that the referendum passed by 63% approval, but a judge might say it was a referendum that was badly worded. Another thing pointed out by their City Attorney is that when you deal with a piece of land you cannot ignore the structures that are permanently affixed to that piece of land. This had to be dealt with in the referendum so that is another cause. He finished talking about the lawsuits by saying that he knows there are going to be challenges. On one of the slides the question was asked, what will the City be. Mr. Winger said that sadly he thinks that there are those that would prefer that the City not exist at all, and he will fight for this City with his last breath. He knew that his suggestion of having a referendum will probably be debated and once that is done he will be making a motion to bring a referendum to Council.

Mayor Turner believed that each member of this Council would not be serving if they didn't have a deep love and dedication to the City of Vero Beach.

Mrs. Carroll commented that Mr. Winger stated that there were two lawsuits waiting to happen. She asked him to elaborate on that.

Mr. Winger said there have been people on the street who have told him about these lawsuits.

Mrs. Carroll asked what are these lawsuits alluding to and what factor of the work of this City Council is impacted.

Mr. Winger stated that it was his understanding that it was not a challenge of this City Council, but a challenge of the referendum passed by the last City Council.

Mrs. Carroll noted that she had the dates of the City Council meetings when the referendum was discussed (she gave all of those dates). She recalled that numerous times during those meetings she turned to their Acting City Attorney and asked him if he felt that the referendum placed on the ballot has met all the legal requirements and he gave an answer of yes that the referendum meets the legal requirements of the Code and Charter of the City and now Mr. Winger is alluding to the fact that there may be lawsuits. She believed that was something that their City Attorney should be discussing and not Mr. Winger because he is not an attorney. She asked for Mr. Coment's comments on this.

Mr. Coment recalled that in the referendum Council decided to just ask the question about leasing the land. He did say at the time, based on research as to the adoption of that Charter provision it talked strongly about the land and what would happen to the land if the Power Plant was removed. His response at that time was that it was defensible as presented. He said of course there is no guarantee when you go to court because you are putting the decision in someone else's hands. The other question had to do with whether or not an actual lease was required and in 1976 there was an actual sales document and addendums that were available to the public and there was a provision in the Charter at that time that stated that you just could not sell the electric system. So what they did was amend the Charter to allow that the electric utility system could be sold to FPL under the terms of the agreement and addendums. He said that referendum did pass. The question now is that he is hearing now is that there was no actual lease voted on when they held the referendum and he said that was not required.

Mrs. Carroll said that the word lease could be used as a noun or a verb. The content just mentioned by Mr. Coment was utilizing all four of those words as verbs and that is what they passed and what the people voted on (the verb to create/craft the document that was the lease as a verb and not as a lease as a physical noun).

Mr. Winger read the wording of the referendum and the fact is when you say the lease, it cannot be a verb. He felt that they were talking too much about the issue. Either they vote for it or against it.

Mayor Turner agreed that they have an obligation to show to the voters that the City can survive with the sale of the electric utility. However, in Mr. Winger's document he wants them to lay out a five year plan and any five year plan will have to be modified on an annual basis as the voters vote for their Elected Officials. If they have a legal obligation

to have a referendum then they will have one. Her issue with the document presented by Mr. Winger is that it is tied to the MOU, which is an unbinding document. She made a motion to table the discussion of a referendum until they have a sales agreement that would bind the City.

Mr. Winger explained that it was modified to make it contingent upon having a final purchase and sales agreement. He was not asking that this particular Ordinance, which he wrote, be passed. He made a motion that this City Council agrees on the concept that there will be a referendum and they pass it to the City Attorney for proper wording. He said that such things as a five year business plan, or other details that this City Council discusses those issues and come up with what they would like to see in any referendum. The point is to give the people a voice in this.

Mrs. Carroll recalled that two and a half years ago she approached the dais as the Chair of a Political Committee in this community called Operation Clean Sweep. When she approached this dais, long before she chose to run for City Council, she asked the sitting City Council for the capability of placing on the ballot a referendum for the sale of the utilities if a price could be negotiated that was financially beneficial to the City. At that time the Council was made up of four Councilmembers who were against any sale. The City Council refused to entertain any concept of approaching FPL for the sale of the utilities. So she chose to run for election and was the top vote getter two years in a row to sit on this dais. The City of Vero Beach voters were telling her what her goals were and what she was planning to do was in line with what the voters wanted. She proposed if they move forward that they consider doing what the County is currently doing and that is sending out a survey. The reason the County was mailing out a survey was because of the cost that would be saved if they chose to put the item on the ballot. Another thing that they have to take into consideration is that there are 7,200 households within the City of Vero Beach and within those 7,200 households there are approximately 10,000 voters. She said that there are 30,000 meters that are part of the City of Vero Beach electrical system. She spoke to their Planning and Development Director who told her that there are approximately 3,000 business tax receipts within the City and most of those are businesses. She said to tell the businesses that they have no say in what is going on within their City and if the business owner lives outside the City she feels is wrong. If they did a survey to everyone who has meters within their entire electrical system it would be a better and more accurate way to access this.

Mayor Turner commented that was an interesting option. She expressed having a one issue election that the voter turnout would be low.

Mr. Winger explained that this referendum calls for an election on March 13<sup>th</sup> which would piggyback with the election that Indian River Shores was having. He said that the date of the election does not make a difference.

Mrs. Carroll was curious about having this on the ballot with the election that occurs in Indian River Shores.

Mr. Winger told her that it would be around \$20,000 to do that, which would make the election a little cheaper.

Mrs. Carroll still felt that was a lot of money and an addition to the electric bills of a one page survey would be much less expensive than to hold a referendum.

Mr. Winger said it would not be a one page survey because they would have to put together a package answering the public's questions. He brought up the survey that the County was sending out and the money involved.

Mrs. Carroll asked Mr. Coment how long could a referendum be. Mr. Coment answered up to 75 words.

The two motions on the floor were not seconded.

Mr. Winger made a motion to direct this to the City Attorney for his perusal. Mr. Fletcher seconded the motion.

Mr. Charlie Wilson reminded Council what they were elected to do. When he was elected to Council in 2009 he knew exactly what he was sent to do and that was to move the sale of the electric forward. The question that comes up concerning the referendum is, are they required to have a vote. He said if they are required to have a vote then let's have one. If they are not required to have a vote then why should they vote? He said apparently the purpose of the referendum, if it is not for legal requirements, is for a poll. He believes that the people have spoken clearly about what they want. If they really want to have a poll then have an election and have the ballot say if you would like to sell the electric Plant vote for Pilar Turner, Craig Fletcher and Dan Stump. If you want to kill the electric sale then vote for Jay Kramer and Nick Thomas.

Mr. Kramer objected to the last sentence just made by Mr. Wilson. He said what he wants to see is a competitive process. He has no problem with selling the utility system to FPL pending a competitive process. He asked Mr. Wilson to stop campaigning from the dais.

Mr. Wilson continued by saying are the people going to know why they are voting. The issue becomes why they should vote. Then the next question would be "who should vote." He said that the City of Vero Beach is the owner of the Plant, but a large portion was paid by revenue bonds and paid by the ratepayers over a number of years. The question then is when should they vote and how many times do they have to vote. The whole idea of a referendum is not for a legal binding agreement. If you don't sell this Plant there will be lawsuits. If you feel you want to have a referendum then let everyone vote, which would be a nonbinding referendum. There is no legal advantage to having a vote. What he would recommend, if anything, would be to turn this over to the City Clerk and the City Attorney and everyone that owns an electric meter be able to vote. However, he expressed that he doesn't believe that they need a vote.

Mr. Bill Curtis, 3410 Buckinghammock Trail, told Council that he would like see them sell the utilities to FPL. He doesn't believe that they have to have another referendum. He said lets move on and do what the community wants them to do. He reiterated to kill the idea of the referendum and move ahead with what they know is right.

Mr. Brian Carmen stated that the Indian River Neighborhood Association has not taken a position on the sale of the electric system. As it comes to the issue of the referendum, it would deal with the terms of the sale and the future of the City of Vero Beach. The referendum is not about whether you sell the utilities or not, it is about the terms of the sale.

Mrs. Carroll recalled that she asked Mr. Carmen this question at their last meeting and his answer was that every single member of the IRNA did not vote on whether or not to endorse this. She asked Mr. Carmen if that was correct or was it just the Board of Directors, which were representatives of the entire Association. Her point was even though Mr. Carmen is saying that the IRNA is in favor of this, that an election was not held for all the members to vote to see if the total membership wanted this to happen. She explained that Council is here because they were elected to represent the people and if they choose not to have every member of the City vote then they would be doing the same thing that Mr. Carmen has done.

Mr. Carmen told Mrs. Carroll that he was the spokesman for the IRNA and when he told them that the IRNA supports this referendum how it came about is not their concern.

Mr. Ken Daige, 1846 21<sup>st</sup> Avenue, said that the residents of the City have the right to know the outcome of this sale and how it is going to impact them. He has listened tonight to people who spoke, the model shown, and he wants to know if his services are going to be reduced and how much more are they going to be reduced. The residents have a right to know how much their taxes are going to be raised and what services are going to be taken away from them. He didn't see any harm in having a referendum.

Mrs. Honey Minuse, 27 Starfish Drive, stated that her comments were hers alone and she was here because she loves her City. She supports the referendum because the people of their City have a right to say what happens to the biggest asset that they own. She applauds Mr. Winger for bringing this forward to develop a strategy using the proceeds of the sale. The problem lies that there was not a plan in place before it was decided to sell the Plant. There are a lot of people in the community concerned about this because they don't know the ramifications of the sale. They are also concerned about the rate hikes that FPL is seeking approval for from the PSC. She expressed that there still are a lot of questions that need to be answered. They want the numbers to tell them what they need to know.

Mayor Turner explained that before raising rates FPL has to go before the PSC.

Mrs. Minuse was proud that in the City they don't experience long power outages.

Mayor Turner noted that it was getting close to 11:00 p.m. She asked Council if they wished to extend their meeting past 11:00 p.m.

Mr. Winger called the question on his motion. The motion failed 3-2 with Mr. Winger voting yes, Mr. Kramer yes, Mrs. Carroll no, Mr. Fletcher no, and Mayor Turner no.

**B. New Business**

**1. Council approval of vacation carry-over for City Attorney – Requested by Mayor Pilar Turner**

Mayor Turner received a request for the City Attorney to carry over some of his vacation time. She said that she did not have an issue with the request, but she did not feel, as Mayor, that she had the authority to do this.

Mr. Fletcher made a motion to give the Mayor authority to approve this request. Mr. Winger seconded the motion.

Mr. Coment stated that he would modify the policy to say that Charter Officers' vacation carryovers will be approved by the Mayor.

The motion passed unanimously.

**2. Determine strategy to utilize the proceeds of the sale of the utilities – Requested by Councilmember Richard Winger**

Mr. Winger reported that his request was to bring Mr. Rocky Joyner in to work with their Finance Director and Finance Commission Chairman on determining the strategy to utilize the proceeds of the sale of the utilities.

Mrs. Carroll did not feel comfortable approving this without some cost analysis and also wondered if this needed to go out to bid.

Mr. Winger expressed that Mr. Joyner is under retainer except for his travel expenses.

Mr. O'Connor clarified that by saying that they do pay Mr. Joyner for his services, but it is minimal.

Mayor Turner felt that Mr. Joyner may not be the best representative for them.

Mrs. Carroll agreed with the idea and asked that more suggestions be brought to the Council.

Because of the late hour Council dispensed with giving their Committee reports.

**10. INDIVIDUAL COUNCILMEMBERS' MATTERS**

- A. Mayor Pilar Turner's Matters**
  - 1. Correspondence**
  - 2. Committee Reports**
  - 3. Comments**
  
- B. Vice Mayor Craig Fletcher's Matters**
  - 1. Correspondence**
  - 2. Committee Reports**
  - 3. Comments**
  
- C. Councilmember Tracy Carroll's Matters**
  - 1. Correspondence**
  - 2. Committee Reports**
  - 3. Comments**
  
- D. Councilmember Jay Kramer's Matters**
  - 1. Correspondence**
  - 2. Committee Reports**
  - 3. Comments**
  
- E. Councilmember Richard Winger's Matters**
  - 1. Correspondence**
  - 2. Committee Reports**
  - 3. Comments**

**11. ADJOURNMENT**

Tonight's meeting adjourned at 10:53 p.m.

/tv