

CITY OF VERO BEACH, FLORIDA
APRIL 15, 2014 6:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

The invocation was given by Bishop Charles Hauber of The Church of Jesus Christ of Latter Day Saints 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

There was a moment of silence for former Mayor Warren Winchester.

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

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

B. Proclamations/Presentations

1. FAU Center for Autism and Related Disabilities Month – April 2014

Mr. Kramer read and presented the Proclamation.

2. A Day of Service – April 26, 2014

Mrs. Turner read and presented the Proclamation.

3. Mr. Ross Cotherman of Rehmann to present the Comprehensive Annual Financial Report.

Mr. Ross Cotherman of Rehmann was at tonight's meeting to present the Comprehensive Annual Financial Report (CAFR). He referred to page 9 and announced that in 2012 the City received the Certificate of Achievement for Excellence in Financial Reporting, which they have received for many years. He noted that on page 13 they have changed the format of their report giving it some new clarity standards and it is being done in a more organized fashion. On page 15 it shows where his firm has signed off that the report is an integral part of an audit performed in accordance with *Government Auditing*

Standards in considering the City's internal control over financial reporting and compliance. Page 17 covered the Management's Discussion and Analysis and what has happened over the year. On page 29, it reflected the basic financial statement and on page 30 there are some additional comments. He recalled last year when he presented the CAFR that Mr. Kramer came up with some suggested formatting, which they have done to make the report more reader friendly. There are footnotes that start on page 50 and he especially pointed out the footnotes outlined on Page 77, where the release of settlement reserves is described in detail. He explained that in 2002 the City entered into a structured settlement agreement with an injured party and now the City's obligations ended upon the claimant's death. On page 81, the report outlines the annual pension costs and questions relating to the pension activities. Mr. Cotherman referred to page 87 and briefly went over the schedule that summarized the unfunded actuarial accrued liability for the City's OPEB.

Mrs. Turner asked Mr. Cotherman to give those numbers to the public. She said there was a considerable increase.

Mr. Cotherman stated that the City's liability is for \$55 million dollars. He said that the City chose to pay as you go, which is an acceptable format. On page 159, is the independent auditors' report on the schedule of expenditures of Federal Awards and State Financial Assistance. He said that the grants and assistance received have been mostly at the Airport and everything is in compliance.

Mrs. Turner referred to the OPEB and commented that she expected the trend of increased disclosures to continue.

C. Public Comment

Mrs. Amy Brunjes, from Florida Power and Light (FPL), thanked Mayor Winger for getting a meeting arranged with Florida Municipal Power Agency (FMPA) that was held on April 2nd. She said that FPL received a copy of the minutes from that meeting and it appears that a lot of items were covered. After reviewing the minutes of that meeting there were some concerns that FPL has. She said that FPL's Vice-President, Mr. Sam Forrest, has been working on this project to overcome some of the obstacles and concerns. He spoke to the FMPA President on Friday to express some of his concerns and asked him to meet and discuss those concerns. Mr. Forrest also sent a letter to the Mayor thanking him in his efforts to move this process forward. She read the letter into the record (please see attached).

Mayor Winger felt that it was a useful letter. He felt that there were a number of things potentially covered at the meeting held on April 2nd that represent real progress. He said having dialogue going is useful. He mentioned that last Friday a video was done concerning the meeting that he had with FMPA and questions were answered by himself, Mr. O'Connor, and Mr. Coment, which he felt would be useful if the video was made available on the City's website.

Mrs. Brunjes hoped that the next step would be that all parties involved would be meeting together.

Mayor Winger told Mrs. Brunjes that Mr. O'Connor will keep her updated on any meetings. He brought the video up again that was done last Friday where a lot of questions were answered. He asked Council unless they have an objection he would like to have the video made public (displayed on the City's website). He noted that the video starts out with all three of them (Mayor Winger, Mr. O'Connor and Mr. Coment) saying that they want the sale to move forward.

Mrs. Turner referred to the minutes that they received from the April 2, 2014 meeting. She did not see any signature on the minutes and asked who prepared them.

Mr. Jim O'Connor, City Manager, reported that the Assistant Counsel for FMPA prepared the minutes after conversations were held by the Mayor, himself, and Mr. Coment. He said after the conversation took place the minutes were printed.

Mrs. Turner asked if the Mayor, Mr. O'Connor, and Mr. Coment agreed that the minutes reflect the discussion that took place at the meeting. None of them had any problems with the minutes.

Mrs. Turner noted that there were three (3) attorneys representing FMPA at this meeting, but the City was not allowed to have their Transactional Attorney present for the meeting.

Mr. O'Connor explained that FMPA requested that their Transactional Attorney not be present for the meeting. FMPA agreed that the City Attorney could be present at the meeting.

Mrs. Turner asked who removed the \$52 million dollars proposal. She said it was clear that FMPA feels that is not a viable option.

Mr. O'Connor expressed that he had conversations with FPL before the meeting and it was clear that there was no reason to spend the whole meeting discussing the \$52 million dollars so the proposal was taken off the table. He said that FMPA made it clear that they were not interested in taking power at any price.

Mrs. Turner noted that in the meeting the Mayor quoted that the end of the year deadline for closing the transaction was not imperative. She asked if a timeline was discussed at the April 2nd meeting.

Mayor Winger stated that no time line was discussed. In the meetings that he had sat in with FPL the question of the timeline for January 15, 2015 came up and earlier in the year he had taken a position that the closing needed to be done by then. When he was talking to FPL and the question came up what happens if the deal cannot be accomplished by then he said that it was not imperative and what is important is to accomplish the deal. He said obviously the City would like to see the matter done by that

date, but in large negotiations like this one in his professional opinion it would probably be difficult to meet that timeline.

Mrs. Turner felt the problem was that they are actually moving backwards. She referred to a letter of May 3, 2013, sent by an FMPA Attorney who was questioning the All Requirements Project and trying to determine whatever withdrawal cost there might still be. The only things noted in this letter were the Taylor Swaps, and a possible environmental liability. Now she sees in the minutes from the April 2nd meeting that all of sudden there are other potential projects coming up that in the past three (3) years have never been mentioned. She said some of things brought up were the Cane Island Unit 3, Stanton Unit A, the Oleander CT5 Power Purchase Agreement, the KUA TARP contracts, Treasure Coast Energy Center Unit 1, and Cane Island Unit 4. She noted that these are all new items that have never been discussed and yet FMPA is still saying they are willing to work with the City and move forward. She said that FMPA has said that they want to keep to the letter of their contracts and she would ask them to do just that. The Swaps were clearly identified as to be handled in debt portion within the contract. So their liability for pulling out of the All Requirements Project would be based on CROD (contract rate of delivery) at that time. She said the City has not taken any power from the All Requirements Project since 2009, nor are they receiving any power now. So clearly their liability would be zero. If FMPA wants to follow their contracts on one issue and not others, she is having a difficult time with that.

Mayor Winger made it clear that there were no negotiations done at the meeting that was held on April 2nd. He asked FMPA to meet with FPL and start talking again. He mentioned the new items brought up are all items for negotiation.

Mrs. Turner felt that the door was open and they were trying to negotiate with FMPA. This is just a further delay stall tactic. She was encouraged to read in the minutes that FMPA has said that they will proceed in a transparent manner assessing these stranded costs. She is anxious for the participants of the All Requirements Project, as well as other participants of FMPA projects, to see a transparent process and to see that they will all be treated fairly and equitably as well.

Mr. O'Connor expressed that what he tried to bring out in the meeting was to quantify the issues and then they will be able to move on to the financial aspect of the deal. They will need to address the contingent liability that no one is able to quantify. The risk will be OUC under contract so hopefully the City will be able to convince FMPA that is a major backstop.

Mrs. Brunjes added that is what Mr. Forrest refers to in his letter when he says that this demand of the FPL guarantee would put FMPA in a far superior position then they are here with Vero Beach. She said that FPL would be waiting to hear from the Mayor and City Manager on when a meeting date has been set to sit around the table and resolve all issues that have been identified.

Mayor Winger commented that he did not know the \$52 million dollar proposal was off the table until he got in the car to go to the April 2nd meeting and was told by the City Manager.

Mr. Mike Stark referred to the City owned Post Office located downtown and asked why the City can't put doors on the building for handicap people.

Mr. O'Connor explained that under the lease that the City has with the Post Office they have use of that building. He assumed they (Post Office) were required to meet all ADA requirements.

Mrs. Turner asked Mr. O'Connor to review the lease and see what requirements there are.

Mr. John Wester gave a recap of the progress being made on the dog park. He said that two (2) new signs have been put up. They are in the process of constructing a website. They have a facebook page and have collected so far over four (4) years reserve for the maintenance of the park. He said on Friday his Organization will be reviewing their final plans before going to the different City Boards.

Mr. O'Connor explained that the Organization will have to go before the Planning and Zoning Board for their site plan review. They also will go back to the Recreation Commission and the Marine Commission.

Ms. Graves asked Mr. O'Connor if he is looking at doing something with Bob Summers Park.

Mr. O'Connor explained that the lights and fencing are still there and he does not know when these things are going to be removed. The City is also looking at utilizing the restrooms at this facility through the grant process and could possibly use this location as a pilot project for the step septic tank system that they have been discussing.

Mr. Jay Jockem, a local contractor, wanted the gentleman who spoke earlier in the meeting to know that he is doing work on the Post Office located on US1 and they have handicap doors if he (Mr. Stark) wants to go to that Post Office.

Mr. Charles Wilson thanked Mrs. Brunjes for her report. He said the information coming from FMPA indicates that FPL is our ally and FMPA is our captor. He said that he was asked by a Reporter to write a story about what actually happened and how can he prove that the Indian River Neighborhood Association (IRNA) is anti-sale and what is behind the different things that they are facing. He said that he wrote the story.

Mayor Winger said that he was not interested in Mr. Wilson tackling an outside group. He did not feel that was the business of City Council.

Mr. Wilson did not know that the Mayor had the authority to decide what people say and what they don't say. He continued by saying there is a situation in the City and part of it

has come up because of a public records request that has been released by the City Clerk. He said this is not a personal attack on someone it is simply in the public records.

Mayor Winger reviewed the information that the Clerk received. He told Mr. Wilson if he would like to say something that the City is doing or is not doing that is fine, but attacking an outside group is not the business of the City.

Mr. Wilson stated the fact is a member of IRNA was appointed to the Utilities Commission, which makes this City business. He said that a member of the Utilities Commission has had over 100 independent telephone calls between FMPA and themselves and did not reveal that to the Commission.

Mayor Winger felt that this had gone on long enough. He saw the public records that were given to the City Clerk. The person Mr. Wilson is attacking is not at tonight's meeting and this is not part of the business of this Council.

Mr. Wilson stated that he did not want to be disrespectful, but there is something called appealing the decision of the Chair. This Council does not follow Roberts Rules of Order and goes by the decision of the Chair that is concurred by the rest of the Council. He said if the rest of the Council does not want to hear information then that is fine, but they would be setting a complete precedent that they would be trying to edit what they don't want to hear. He said this is the first time in the history of this City Council this has happened. What he is being told is that he cannot present information that the Mayor does not even know what it is. He just does not want to hear it. Mayor Winger told Mr. Wilson if it was information regarding the City then he can present it. Mr. Wilson continued by saying that there is a series of documents that show that IRNA has a great influence over particular individuals. He said that Mayor Winger has said that he has someone he listens to that is his advisor on legal affairs and that person is Mr. George Christopher. It just happens that Mr. Christopher is one of the Directors of the IRNA. In his (Mr. Wilson's) public records request he found that there were numerous telephone calls (totaling over 100) made from Mr. Christopher to the FMPA. There was a memo where the legal staff of FMPA directly contacts Mr. Christopher without going through the City Clerk. The last memo that they sent Mr. Christopher was a request from Mr. Christopher with the FMPA recommended attorneys. These attorneys could sue for malpractice the attorney hired by the City of Vero Beach.

Mayor Winger asked Mr. Coment what he thought about this "train of events."

Mrs. Turner said that she has not seen the memo, but felt it was appalling. She then brought up the meeting that was held with FMPA where they had three attorneys present for the meeting, but the City was not allowed to bring their Transactional Attorney who has found some "holes" in their contracts so FMPA doesn't want to deal with them anymore. So now FMPA wants to tell us who they will negotiate with.

The City Clerk read into the record the memo consisting of the list of the attorney firms (please see attached).

Mr. Kramer felt that those attorneys dealt with malpractice claims and had nothing to do with FMPA.

Mr. Wilson wanted to ask a question. Mayor Winger called for the Bailiff to remove Mr. Wilson from the podium because he was tired of his witch hunts. Mr. Wilson provided the Clerk with his prepared speech (please see attached).

Mr. Wilson commented that he spoke to the Mayor during a break at the March Council meeting and he told the Mayor that it will be an interesting election in November and the Mayor replied that it would be and "we have a good slate of candidates." He asked Mayor Winger who is "we." He said is it the ratepayers, or taxpayers of friends of IRNA.

Mayor Winger stated that he has no association with the IRNA.

Mr. Brian Heady stated that it was interesting how the microphone went out in Mr. Wilson's presentation (there was trouble with the microphone located at the podium for tonight's meeting). He referred to the last Council meeting and said that no Councilmember should feel like they are being bullied. He admired Councilmember Graves for standing up for herself at that meeting. Everyone is allowed to have freedom of speech and people should be able to come to the podium and say what they want to say. He thanked Mrs. Turner for her leadership in putting the brakes on public funding. He cautioned Council in knowing that All Aboard Florida have legal rights and should be allowed to pursue their legal rights uninterrupted. He agreed that they needed to stop the public funding. Things said at the podium sometimes makes news and what people say at this podium spread around. Mr. Schumann has gone over the top as referring to some people speaking at the podium as using tactics. Mr. Heady recalled at a recent Council meeting that a citizen came to the podium and opposed who the Mayor wanted to bring with him to an FMPA meeting. He said that the Mayor made an instant decision at that meeting and turned to the gentleman in the audience and told him he could not go to the FMPA meeting. He told the Mayor that he didn't care who he took to the meeting and that he was entitled to bring whoever he wanted. It was unfortunate that the Mayor did not have the same kind of backbone that Councilmember Graves had. He said that Councilmember Graves showed leadership. He has heard the Mayor say there is a problem with citizen input. He told the Mayor that there is no problem with citizen input, it is the restrictions that are imposed. He said if they look at the meetings since Mayor Winger has been Mayor there have been some problems occurring from people that talk at the podium. He remembered when Mr. Fletcher was Mayor he used some of the same tactics that Mayor Winger uses. Mr. Heady invited Mayor Winger to come on his television show and talk about some of the current issues. He said the meeting will be taped and it will go out over the air.

Mayor Winger accepted Mr. Heady's invitation to appear on his television show. He asked Mr. Heady what his position on the railroad situation was. He had some problems with the project being financed by Federal loans and how disruptive it will be to the community. He told Mr. Heady he did not understand what his stance on this topic was.

Mr. Heady explained what we have here is a private company that has come to town stating that they want to put a high speed rail system in with private money. After doing some research, the public finds out that is not the case and what All Aboard Florida (AAF) is trying to do is get public money to upgrade the rail and put in a second rail including putting in safety gates. It seems to him that there are laws on the books that say if the private entity wants to utilize the rights that they currently have that they can do that, but they have to do it in a safe way. He said so let AAF put in the safety gates in at their expense. He did not think the commuter rail was going to be as noisy as the freight rails. He thought that it was an exaggeration to say that the community was going to be destroyed if this was to happen. Personally he did not think how the whole rail project was viable. He said that the one thing they all need to do is say “no” to public funding. He said that in order to allow this to happen the speed limits for trains would have to be changed. He told Council that if they don’t want to see this happen, then don’t change the law.

Mayor Winger referred to the letter that was sent out some time ago signed by himself and Mr. Daige and noted that Senator Negrón and Congressman Murphy have changed their positions regarding this matter.

Mr. Heady agreed that the officials have listened to the opposition loud and clear. He cautioned the Council, as well as the High Speed Rail Commission, that they have to be very cautious in stopping the rail. It was not their job to prevent someone from using the rights they have on their own property. However, if the railroad does come through this town they must obey the City’s noise Ordinance, obey the current speed limits and that they put in appropriate safety gates.

At 7:26 p.m., Council took a break and the meeting reconvened at 7:40 p.m.

Mr. George Christopher, 945 Painted Bunting Lane, stated that he had not planned on attending tonight’s meeting because he did not think that he had anything to add. However, after listening to the meeting at home he started hearing blatant lies from Mr. Charlie Wilson. He said there is a deal on the table that will result in lowering their rates if it can be accomplished and everyone in their right mind is for it. He has never opposed the sale and has been very critical of the process. He said the IRNA has been in existence for ten (10) years and it is an Organization made up of citizens who are concerned with the well being of the County and the municipalities in this County. He does not know an organization that has done more on the Lagoon than the IRNA. The IRNA is focusing on the rail issue and are exchanging ideas and have taken a position with the intent on serving the County and the City. This is the kind of organization that does not deserve to be demeaned by the likes of Mr. Wilson. The IRNA is headed up by an Executive Director, Mr. Dan Lamson, who is a wonderful young man. He said there is no need for attacks. Mr. Christopher said it is a blatant lie that he made a hundred telephone calls to FMPA. His records show three (3) calls. He thought one of the calls was for one-minute and the other two calls were for two-minutes. He made it clear that he has made calls to FMPA and he has talked to Mr. Fred Bryant. His purpose was to explore some path

moving forward. The Council determined the path of trying to back FMPA down and it didn't seem to him to be working so he was calling to ask FMPA about the problems and what was acceptable to them. The documents that he produced, 90% of them were emails from the Transactional Attorneys and the other 5% were letters that FMPA produced two or three years ago. There were responses to a request that he made when he asked for the names of lawyers who were versed in electric utility law and he also asked for the names of litigation lawyers. He received three (3) emails with recommendations of lawyers. These recommendations came from an outside counsel to FMPA. He made it clear that he did not want names of attorneys who had ever done work for FMPA and that information he has shared with no one other than Mr. Wilson. Mr. Wilson is the first person to whom he shared that information. He received it and stored it for a rainy day. He did not think that he did anything inappropriate or wrong. He is acting as a citizen of Vero Beach who is concerned about the City of Vero Beach. He is tired of being personally attacked. He reiterated that he did not have the time to make one-hundred calls, but did make a few more calls and calls that anyone could have made. At no time when he called FMPA did they talk about the path moving forward.

Mrs. Turner told Mr. Christopher that she is well aware of IRNA and the work that they do. She said that when running for office she was supported by IRNA and had no problems with their stance. She asked him why he asked for the names of the lawyers.

Mr. Christopher explained that he likes to have information. However, he said that he has not used any of the information.

Mrs. Turner did not think that Mr. Christopher addressed her question. She asked why he called FMPA asking for names of lawyers.

Mr. Christopher explained that FMPA was not the only organization that he called asking for a list of names of lawyers.

Mrs. Turner asked Mr. Christopher why he would think the City would be looking for an attorney.

Mr. Christopher asked Mrs. Turner if she was serious. Mrs. Turner told Mr. Christopher it was a serious question. Mr. Christopher again said "you got to be serious." He said he couldn't answer that question if you (Mrs. Turner) can't.

Mr. Christopher told the Mayor that if there was anything else that he could address he would be happy to do so.

Mayor Winger recalled there was the claim of the one-hundred telephone calls and the documents requesting the names of attorneys, which he said he was not aware of until this evening.

Ms. Rosemarie Wilson mentioned that she joined IRNA early on and was disappointed with their conduct and is no longer affiliated with them. She felt that Mr. Christopher

should be removed from the Utilities Commission because of his unethical behavior in dealing with FMPA. She said that the City has a Transactional Attorney and she doesn't understand what Mr. Christopher is trying to do.

Mrs. Honey Minuse took exception at how IRNA has been attacked and mentioned what good work they do. She watched the County Commission meeting today and observed that County Commissioner Tim Zorc is going to hold a protest at the next FMPA meeting. She did not feel that getting people to go to that meeting with the information that they are being given is right. She said that the City has contracts, which is making the sale difficult and it is not all FMPA's fault. They are in the same position when this sale first started years ago. The second problem is the negative behavior and the constant attacks, which is getting old and tired and gets them nowhere and continues to create ill-will. It will worsen the relationships they have with FMPA and set them back. She felt that the City Council needs to have an agreeable representation on FMPA and work towards a solution. She said that with respect to Mrs. Turner, her approach has not worked and is not acceptable to FMPA. She asked Council to consider her suggestion. She also felt that Commissioner Zorc's approach will further hurt their position with FMPA. She thanked Mayor Winger for referencing the video that was made. She said the more people that watch the video will observe the facts. She agreed with posting the video on the City's website.

Mr. Mark Mucher commented that it used to be clear the pro sale utilities people and the anti sale utilities people. But what he hears now is people say they are for the sale, but are really looking out for the interest of FMPA.

Mr. Steven George stated that he is new to the City and very confused. He said that one reason he moved here was to be with his parents who are both ill. He asked who owns the Vero Beach utility assets.

Mayor Winger told Mr. George the City of Vero Beach owns the assets.

Mr. George commented that his parents own some property in Vero Beach and when he goes to sell their home he will negotiate a price for it, which he said is probably what should be done in this matter. The City should look at the terms the ratepayers want and then negotiate. He keeps hearing about additional issues that are on the table and off the table.

Mayor Winger explained in the example of using a piece of property, if you own a piece of property that has a mortgage on it, you must satisfy the people that you have the mortgage with.

Mr. O'Connor went into a lengthy discussion on the history of selling the utilities to FPL and the different contracts that the City has entered into.

Mr. George agreed that this is a very complicated issue and there is a lot of energy being expended on it.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – April 1, 2014**
- 2. Utility Easement 2014-EG-0145 – Harbor Trade Centre Condominium**
- 3. Utility Easement 2010-EG-0071 – Code MT Vero Beach Fl, LLC**

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

3. PUBLIC HEARINGS

A) ORDINANCES/RESOLUTIONS

- 1. A Resolution of the City Council of the City of Vero Beach, Florida; Repealing the previously Adopted Water and Sewer Rate Structure and Charges for Services in the Unincorporated areas located within the City's Water and Sewer Utility Service Area; Adopting an amended Water and Sewer Rate Structure and Charges for such Unincorporated Areas; Providing for an Effective Date. – Requested by the City Council**

Mayor Winger read the Resolution by title only.

Mr. O'Connor commented that this is the rate structure requested by Indian River County.

Mayor Winger opened and closed the public hearing at 8:20 p.m., with no one wishing to be heard.

Mr. Fletcher made a motion to adopt the Resolution. Mr. Kramer seconded the motion.

Mrs. Turner asked if the City has heard from the South Beach Homeowner's Association concerning this Resolution.

Mr. O'Connor said they have not. He said all of his discussions have taken place with the County and the County representatives. He has met with the President of the South Beach Homeowner's Association on at least two different occasions and that is when there was a perception that the City was twenty-percent higher than the County rates.

Mrs. Turner requested to see the cost differential because for the South Beach customers if they convert to County rates there will be a 4.3% increase in revenue.

Mr. O'Connor stated that the GIS study said it would be a 2.1% increase in revenue.

Mrs. Turner explained on the mainland there will be a slight decrease in revenue by changing these rates. She asked with these rates would they still be including the 6% franchise fee or the 10% municipal surcharge.

Mr. O'Connor explained that the City dropped the municipal surcharge, but they do include the fee in lieu of a franchise fee because it is in the County rate structure. This is in line with what they are doing in Indian River Shores.

Mr. Coment clarified that the County imposes a 6% surcharge fee.

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.

2. **An Ordinance of the City of Vero Beach, Florida, Amending the Code of the City of Vero Beach, Chapter 58, Article II, Division 4, Police Officer's Retirement Fund, by Amending Section 58-98 Relating to Compensation and Section 58-108 Relating to Credited Service to provide compliance with the current Collective Bargaining Agreement; Providing for Conflict and Severability; Providing for Codification; Providing for an Effective Date. – Requested by the Police Pension Board**

Mayor Winger read the Ordinance by title only.

Mr. O'Connor reported that passage of this Ordinance is to be in conformance with the contract that they have with the Police Union as it stands now and this will be in conformance with State law.

Mayor Winger opened and closed the public hearing at 8:25 p.m., with no one wishing to be heard.

Mr. Fletcher made a motion to approve the Ordinance. 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.

B) RESOLUTIONS

- 1) **A Resolution of the City Council of the City of Vero Beach, Florida, requesting any and all involved Governmental Units and Public Agencies to require All Aboard Florida and Florida East Coast Industries to pay all costs associated with the All Aboard Florida Project and its impacts on Local Communities, and that any Governmental Financial Assistance to be provided to the All Aboard Florida Project, if any, be only by Secured Loans at no less than Market Interest Rates; Providing for an Effective Date. – Requested by the City Council**

Mayor Winger read the Resolution by title only.

Mr. O'Connor stated that this Resolution was prepared at the request of Council. He took the County's similar Resolution and elaborated it when creating this Resolution.

Mr. O'Connor reported that since this Resolution was drawn up there has been another coalition group that has been assembled that would like to have some input on the railroad project.

Mr. Ken Daige, Chairman of the High Speed Rail Commission, asked that in the Resolution the following be included: the County has asked for an additional comment time of an additional 180 days in which the EIS would be open for public comments. He asked Council to include in their Resolution that a hearing is held in Indian River County and that the Resolution is sent to all of the different parties involved. He has an on-going list that he would make available.

Mrs. Turner agreed with extending their EIS time and asking for a local forum. She requested that this Resolution be amended and brought back at their next meeting.

Mr. Daige said that it would be very powerful if those things were included in this Resolution so that other cities and counties can see what the City of Vero Beach is doing.

Mrs. Turner felt that there was some sort of urgency to go ahead and pass a Resolution.

Mr. Daige felt that they had to be granted the extra time on the EIS and his question is who grants them this extra time. He felt that it was important to pass this Resolution so that it can start making an impact. He said the sooner they get this done the better.

Mrs. Turner asked Mr. Coment if they could make these amendments to the Resolution and still pass it this evening.

Mr. Coment felt that the Resolution should be brought back at their next meeting with these changes made.

Ms. Graves did not think waiting until their next meeting and having all of these different things included in the Resolution would be a bad idea.

The Resolution will be brought back at the next Council meeting.

Mayor Winger opened the public hearing at 8:31 p.m.

Mr. Dan Lamson, Director of the IRNA, encouraged Council to add the items that were requested by Mr. Daige to the Resolution. He said that Sebastian recently passed a strong Resolution, which Council might want to look at. He said this is a very fast moving issue and IRNA is keeping an eye on it and if they hear something they will report to Council on it. He thanked Council for taking these steps.

Mrs. Turner asked that the Resolution be modified to include in the EIS, extension for a 120-day review and a local hearing. She will continue to work with Mrs. Lyon on this.

Ms. Graves added that the newly formed coalition will give them a place to have all of the same Resolutions in line and their voices all heard on this (strength in numbers).

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

5. CITY CLERK'S MATTERS

A) Annual Reports from City Commission/Boards

Mrs. Vock presented Council with the annual reports from the different Commission and Boards. She said that the reports were presented to Council in February and there were no changes except for the new Utilities Commission and High Speed Rail Commission who have included their goals for this year.

6. CITY MANAGER'S MATTERS

A) Review of City Properties for Charter Protection

Mr. O'Connor reported that before them they have a list of City properties for Charter protection. He has been working with Ms. Graves and Mr. Daige in reviewing these properties. If Council is in agreement with these properties then an Ordinance will be prepared and this will need to go on as a referendum item to amend the Charter on the November ballot. They are also redefining the naming of their Parks and that will be done by a Resolution.

Mr. Daige identified another piece of property that he would like included for Charter protection. He said the property is across from the Theater Guild that the City owns (map of the area was provided to Council).

Mr. O'Connor stated that staff has no problem with including that piece of property as mentioned by Mr. Daige.

Mr. Coment said that he would bring back an Ordinance that would need two (2) public hearings identifying the properties to be specified in the Charter.

Ms. Graves asked if they have to officially adopt the names before they are adopted in the Charter.

Mr. Coment agreed that they probably want to do the Resolution first identifying the boundaries of the particular Parks before an Ordinance is done putting the Parks in the Charter.

Mr. Mark Mucher felt that the last item they just added that was brought up by Mr. Daige seems like they are adding surplus property. He asked when cleaning up this Charter requirement for Parks that they look at the Charter amendment for the sewer Park land. He said that when it was brought forward and put on the ballot the minutes only reflect the discussion that took place had to do with the required referendum if there was a change of use. He hoped staff would take the opportunity to clean that up.

Mr. O'Connor told Council if they have any comments about any of these City properties being included in the Charter to please let him know. This item was on the agenda tonight for informational purposes and staff will proceed with drafting the Ordinance.

B) Discussion of Outside Counsel in Dealing with FMPA Negotiations

Mr. O'Connor expressed that he would like to be able to extend the contract that the City presently has with Mr. Schef Wright, the attorney they have been using in Tallahassee. He (Mr. Wright) has experience in utilities and has had interaction with some of the cities involved in the All Requirements Project and has been on the other side of the table with FPL. Mr. O'Connor spoke to the FPL Attorney who told him that he respects Mr. Wright as an attorney. Mr. Wright has also worked closely with the Florida League of Cities and one of the things that they will eventually have to do is get the different cities to sign the waivers and he reiterated that Mr. Wright has had a lot of interaction with most of the cities. Mr. O'Connor felt that Mr. Wright could add some credibility with what they are doing in the process of trying to sell the utilities.

Mayor Winger asked Mr. O'Connor how much does Mr. Wright charge.

Mr. O'Connor said he charges \$225.00 an hour. The City would utilize him in the efforts to review all of the contracts. He said Mr. Igoe's firm will still be in place, but Mr. Wright would take the process and try to get to the contract negotiations towards issues that have to be addressed. He expressed that Mr. Igoe is aware of what staff is proposing.

Mr. Wilson asked Mr. O'Connor if Mr. Igoe has weighed in on the selection of attorneys to assist him. He asked if Mr. Igoe has requested this or is this request from FMPA to move the legal team the City has in place aside so that FMPA can work with someone that is friendlier to them.

Mr. O'Connor stated that FMPA has not recommended this attorney. However, they have made it clear that they have some issues with the City's Transactional Attorneys. He felt it was time to find a solution to the problem. Mr. Igoe is aware of his recommendation and did have advance notice and knew the concept he was envisioning that Mr. Wright would be giving reports to Mr. Igoe.

Mr. Wilson asked if Mr. Wright has represented FMPA and FMPA cities in the past against FPL.

Mr. Coment stated that Mr. Wright's main client is the Retail Federation of Florida. He is a former Public Service Commission (PSC) attorney and is very versed in power purchase agreements and these kinds of contracts. In their negotiations they have been missing someone that is knowledgeable in utilities. He said if anyone can work out what needs to be in these waivers that FMPA is going to require, Mr. Wright is the person that can do it. Also, as far as working out a new updated assignment for Vero Beach, to assign its contracts to OUC Mr. Wright is very capable in that regard. He explained the agreements as they stand are not acceptable to FMPA because they (FMPA) were not consulted in what needed to be in those agreements.

Mr. Wilson explained that he was not actually questioning someone's capabilities, but very curious about their motives. He felt that they needed to recognize in public that they were doing this in part to appease the FMPA and get past some of their objections. He mentioned that he has the list of the phone calls provided by Mr. Christopher and it is very much redacted and if Mr. Christopher says that he made three (3) calls instead of one-hundred calls then he will take him at his word. Mr. Christopher did say that he has made a number of other calls to FMPA and he (Mr. Wilson) did not know if it had to do with this attorney or not. They have established that calls have been made. Mr. Wilson continued by saying he predicted at some point FMPA was going to want to move aside their Transactional Attorney. He has complete faith in what the City Manager is doing and if he says that this is necessary to move the sale forward then he is going to believe him.

Mr. O'Connor explained that Mr. Wright has represented the City for many years with other issues, so he is not a new name to the City of Vero Beach.

Mr. Wilson stressed that the problem is they do not know what his position is on some of the issues. He was wondering if Mr. Wright would be advocating for the City. He said if they are going to have another attorney working for the City they need to know what he stands for.

Mr. Mark Mucher recalled that there were interviews when the Transactional Attorney was selected so that might be a good idea to do with this selection. He finds it hard to believe that there is not a conflict of interest if Mr. Wright has worked for cities belonging to FMPA. He had some concerns with having to pay both Mr. Igoe and Mr. Wright.

Mr. O'Connor commented that Mr. Wright would be happy to come and speak with the Council. Mr. Wright has represented cities in the FMPA and is looking at that as being a benefit.

Mrs. Turner would like to review Mr. Wright's resume. She also sees a potential conflict with his career being in support of municipal power and the City is clearly trying to make a break from being a municipal electric company. She wanted to see a clear scope of what Mr. Wright would be involved with and she wanted to see a budget.

Ms. Graves commented that every meeting they hear from the public that they want to get this deal done at any cost. Now when they have the possibility of moving forward they are panicking. She asked do they do this at any cost and get someone that FMPA is willing to work with to move them forward.

Mrs. Turner objected to Ms. Graves comments that she was not being concerned with costs because she has always been concerned with costs.

Mr. Kramer said it is up to the Council, but if they want the deal to go south then they keep the Transactional Attorneys that they have.

Mr. Fletcher stated that he would support the City Manager on this and move forward.

Mr. George asked what issues FMPA has with their Transactional Attorney. He thought that this documentation was important so the new attorney fits the requirements so this issue doesn't come up again.

Mr. O'Connor explained it is an issue in that FMPA has chosen not to meet with their Transactional Attorney. In order to get to another meeting they need to find an option and this is the option. Their Transactional Attorney also agrees that this is a viable option.

Mr. George sees this as another potential area where they are going to have vague requirements that are not able to be met.

Mr. Wilson could see the reason they were doing this is because FMPA won't work with their Transactional Attorney and they need to move forward. He asked are they getting an attorney that represents the City or represents FMPA. He expressed the reason this is being done is because FMPA is demanding it and he believed it was another delaying tactic.

Mr. Scott Stradley was concerned when FMPA would not allow their Transactional Attorney to be present for the meeting that took place on April 2nd. He finds it troubling that the City allows someone they are negotiating with to dictate who they can and cannot bring to represent them. The comment was made that FMPA does not want to work with their Transactional Attorney. He said if the City has a problem with the job the Transactional Attorney has done then it is our problem and we need to deal with it. But, to have someone (FMPA) that they are negotiating with state who the City can or cannot bring as their representative is unbelievable. He was disappointed that the City has succeeded to that.

Mr. Fletcher made a motion to support the City Manager's position. Ms. Graves seconded the motion.

The Clerk polled the Council and the motion passed 4-1 with Mrs. Turner voting no.

Mr. O'Connor said that he would provide Mr. Wright's resume to the City Council.

Mayor Winger felt that it was a valid request to have Mr. Wright come and talk to them.

C) Request to amend Prohibited Hours of Sale, Service and Consumption of Alcoholic Beverages from 1:00 a.m. to 2:00 a.m.

Mr. O'Connor reported that there has been a request to amend the language in the Ordinance to allow alcoholic beverages to be served until 2:00 a.m. instead of 1:00 a.m., which is what is in the Code at the present time.

Mr. Fletcher wanted to leave it the way it is.

Mr. Kramer commented that it probably would be better to change the time rather than having people drive to Ft. Pierce where alcohol is served later than Vero Beach.

Mr. Fletcher reiterated that he would not be in support of doing that.

Mrs. Turner asked that Chief Curry be present to address this when an Ordinance is brought to Council requesting this change.

D) Establishment of Audit Committee

Mr. O'Connor reported that the Council must establish an Audit Committee to establish factors to be used for an auditor selection. He said that members of the Audit Committee should consist of at least three (3) Finance Commission members.

Mrs. Turner recalled when she was a member of the Finance Commission that they did not have an Audit Committee. She said the selection was made by the Finance Commission.

Ms. Cindy Lawson, Finance Director, stated that according to Florida Statutes an Audit Committee must be selected that is separate from the Finance Commission. Their meetings would be held in the open and according to the Sunshine Law.

Council was in favor of bringing back a Resolution to establish the Audit Committee.

7. CITY ATTORNEY'S MATTERS

None

8. CITY COUNCIL MATTERS

A. Old Business

B. New Business

9. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Richard Winger's Matters

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

Mayor Winger noted that he would be out of town for the next two weeks.

B. Vice Mayor Jay Kramer's Matters

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

Mr. Kramer reported on the Hibiscus Festival and what a wonderful event it was. He brought up the letter they received from the Art Club saying that they were donating \$850 to the Recreation Department. He thanked the Art Club for doing that. Mr. Kramer attended the Easter Egg Hunt, talked to students at Storm Grove Elementary and also attended the dedication of the shade that was given by the Buggy Bunch and is now located at Humiston Park.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner reported that she spoke to students at Storm Grove Elementary, thanked the Buggy Bunch for the great addition (playground shade) that they gave to the City, she attended the United Way celebration at the Country Club, and the Sunup Arc groundbreaking for a new bed facility that will house six people. She also attended the Hibiscus Festival and reminded everyone that an Arbor Day Tree will be planted at Charles Park on Friday, April 25th at 10:00 a.m. Also, on April 26th there will be the annual Day of Service held and tickets are available for Taste of Vero, which takes place on Ocean Drive.

D. Councilmember Amelia Graves' Matters

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

Ms. Graves reported that she spoke to students at Storm Grove Elementary and was a judge for Miss Hibiscus.

E. Councilmember Craig Fletcher's Matters

- 1. Correspondence**

2. **Committee Reports**
3. **Comments**

10. ADJOURNMENT

Tonight's meeting adjourned at 9:12 p.m.

/tv