

CITY OF VERO BEACH, FLORIDA
APRIL 1, 2014 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

The invocation was given by Bishop John Miller of Christ Church of Vero Beach followed by the Pledge of Allegiance to the flag.

1. CALL TO ORDER

A. Roll Call

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

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

Mr. Wayne Coment, City Attorney, requested that an item be added under the City Manager's Matters entitled "Amendment to Leases – Special Provisions."

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

B. Proclamations

1. Guardian Ad Litem Month – April 2014

Mayor Winger read the Proclamation.

2. Child Abuse Prevention Month – April 2014

Mrs. Turner read and presented the Proclamation.

3. Aviation Appreciation Month – April 2014

Mr. Fletcher read and presented the Proclamation to the Airport Director.

4. National Telecommunicators' Week – April 13-19, 2014

Mr. Kramer read and presented the proclamation.

C. Public Comment

A) Mrs. Helene Caseltine, Indian River Chamber of Commerce, to discuss the Enterprise Zone Annual Report.

Mrs. Helene Caseltine, Economic Development Director for the Chamber of Commerce, gave a Power Point presentation (attached to the original minutes), which covered the annual report for the Enterprise Zone.

Mr. Chris Russell, Chairman of the Enterprise Zone Committee, gave a brief update of where they, as a Committee, are headed this year.

B) Mr. Scott Stradley, Utilities Commission Chairman, to provide Council with a report on the Utilities Commission meetings of March 19, 2014 and March 31, 2014.

Mr. Scott Stradley, Utilities Commission Chairman, reported that the new Utilities Commission has had two (2) meetings and yesterday at their meeting they readopted the goals that the old Utilities Commission presented to Council.

Mayor Winger requested that the goals be given to the City Clerk so that she can make copies for the Council to make sure that the Council is in agreement with their goals.

Mr. Stradley stated that on March 19th the Utilities Commission had a joint meeting with the Finance Commission and they looked at various ways to lower utility rates. Mr. Peter Gorry, Chairman of the Finance Commission, had a long list of items that he had hoped that they would get to. Some of the bigger items were covered. Mr. Stradley said for every one million dollars in savings that the City can pull out of this budget they will be able to save about one percent on the utility rates. He estimated this to be around \$1.45 and Mr. Kramer's estimation was \$1.60. He said for discussion purposes they will use the round figure of \$1.50. The first two issues that both Commissions looked at were refinancing the City's current debt. Mr. Craig Dunlap, the City's Financial Advisor, was at the meeting and he went over things in detail with the Commissions. As he talked it became clear that with the long term bonds they were so close in actually paying them off that it did not make sense to refinance the bonds. A motion was made that they do not recommend refinancing the Series 2003A bond and the motion passed unanimously. Then the Commission discussed the Series 2008 and a motion was made that staff pursue studying the requirements to defease through cash Series 2008 and pay it off at the earliest convenient quarterly payment date and the motion passed unanimously.

Mayor Winger told Mr. Stradley that this item will be discussed later on in the meeting to ratify the decision of the Utility and Finance Commission.

Mr. Stradley continued by saying that the Commissions then engaged in a long discussion on financing capital assets and what the benefits would be. He mentioned that there has been a policy on financing minor capital assets through their cash flow. They have not financed anything since 1992. He believes in 1992 that was when the City repowered

Units 2 and 5 into a combined cycle generating unit. He said what the City accounts for in their capital budget are assets that need to be maintained in the system and not assets they need in order to make major improvements. He said even the work the City did on Units 2 and 5 last year was more like a major tune up of a car than an overhaul. The current budgeted capital expense of about \$3.5 million is for things like transformers, etc. The current policy matches the cost of current operation to current rates, and by having a five (5) year forward looking at the capital budget it also has a rate smoothing effect. The Utility Commission made a motion that they maintain the current historic prudent policy of saving for repairs and maintenance and stabilizing rates through a prudent capital program. The reality of their situation is that the approximate 65% of their current rates are driven by their cost of power, and this is so high because they are required to purchase power at rates well above market. While the Commissions continue to look at ways to optimize the Electric Utility and look for every dollar they can save, the savings will only be marginal and therefore the only way to get lower rates is to pay someone to take over the FMPA contracts. The Utilities Commission made a motion at their meeting that they continue to pursue a path to come out from underneath these entitlement contracts and the best path that they (Utility Commission) can see at this point in time is the sale to Florida Power and Light (FPL). The motion passed 6-1. The member that voted no is at today's meeting and may want to explain his reasoning for casting a no vote.

Mr. Jim O'Connor, City Manager, explained the meaning of having a S.W.A.T. Analysis. It measures the strengths, weaknesses, and opportunities there are, as well as what threats there may be.

Mrs. Turner thanked the Commissions for serving the City of Vero Beach and the time that they devote on different matters.

Mayor Winger commented that he did not disagree with any of the comments made by Mr. Stradley, but added that not only were the FMPA contracts an extreme disadvantage to market place, but the OUC contract that was signed in 2008 that went into effect in 2010, is also at a competitive disadvantage.

Mayor Winger moved to Public Comment on the agenda. He asked that speakers keep their comments to three minutes if they can and no longer than five minutes. If they want to speak on a matter he asked that the public only speak on it once. However, as things come up on the agenda the public is welcome to speak on those things.

Mr. Brian Heady commented that time constraints was disturbing to him. If the elected body is doing their job, then part of their job is to listen to the public. He reported that the Mayor and Chair of the High Speed Rail Commission (HSRC) sent out a letter and the first sentence of the letter reads "The City of Vero Beach supports the efforts of All Aboard Florida to construct and operate high-speed rail passenger service between Miami and Orlando utilizing the Florida East Coast Railway (FECR) tracks along the East Coast of Florida" and then on the second page it reads the only options that they have is to implement quiet zones. He thought that the City Council appointed this Commission to

bring back a recommendation and to date that Commission has not brought back a recommendation because they are still putting facts together. He said there are other answers than taxpayers having to pay for quiet zones. He felt that if All Aboard Florida wants to come up the East Coast with a high speed rail then they should have to pay for it. He did not agree with the letter sent out by the Mayor and thought that it was counterproductive to benefit the community at large.

Mr. Jerry Weick, Vice Mayor of Indian River Shores, read a letter into the record (please see attached). He said as a City utilities ratepayer it is a no brainer that everyone wants lower electric rates. His biggest concern is the future and the unknown with Florida Municipal Power Agency (FMPA). He said in the past, FMPA has made financial decisions that were not the best decisions made. In the beginning, the City of Vero Beach, entered into these contracts with FMPA and it seemed like a good idea at the time. But sometimes things don't always go as planned. They (FMPA) recently made an offer to FPL that they would accept in letting the City of Vero Beach out of these contracts for \$52 million. Then FPL came back and said they would come up with \$26 million and the ratepayers could pay over the next four years the other \$26 million interest free. However, now they (FMPA) seem to have changed their mind and they want more. He said anytime someone makes a deal then changes their mind it is bad business. He realizes it will be expensive to get out of these agreements, but paying this off for the next three or four years will bring their electric rates down and by having FPL rates it will be lower. He realizes the difficulty the City has in reducing rates when they have to purchase power.

Mrs. Turner asked Mayor Winger in the interest of transparency to please turn off his cell phone.

Mrs. Penny Chandler, President of Indian River County Chamber of Commerce, read a prepared statement (please see attached).

Mrs. Phyllis Frey spoke on the Council voting no to Seven-50 and she went over some other entities that have also voted out of Seven-50.

Mr. Charlie Wilson appreciated the Enterprise Zone presentation made earlier in the meeting. He is happy that the Indian River County Chamber of Commerce is speaking up about being in favor of selling Vero electric to FPL. He mentioned that yesterday was the last day of him being the President of the Vero Beach Chamber of Commerce. He said that they have hired a new Executive Director, who will take over that position. He said in Mr. Stradley's presentation one of the things that he forgot to mention about yesterday's meeting is that they learned that Mr. George Christopher, who is a member of that Committee, has been in direct conversation with FMPA. Mr. Christopher admitted yesterday that he had access to documents that other members of the Commission did not have. He apologized that yesterday he was said that there may have been some Sunshine Law violations that have occurred and he meant to say Public Record violations. He formally wanted to file a complaint concerning these public records. He said that most of the other Utility Commission members stated they have not had ex-parte conversations

with FMPA and Mr. Christopher admitted that he had. Mr. Wilson said one or more members of the Utilities Commission failed to answer the question even though the question was posed to each person. He put on record that he formally requests the documents, conversations, or records of conversations between Mr. Christopher and someone at FMPA, particularly the bond counsels. Mr. Christopher made reference to conversations that he had with bond counsels that no other member from the Commission had access to. Mr. Wilson mentioned that two weeks ago they found out that the Mayor had off the record invited Mr. Christopher to accompany him to a meeting with FMPA and now they find out that Mr. Christopher is apparently “carrying water” for the FMPA. Mayor Winger told Mr. Wilson that was not correct. Mr. Wilson said that Mr. Christopher has documents that came directly from FMPA and admitted came in while he was on the Commission.

Mayor Winger asked the Clerk her method into acquiring any documents that Mr. Christopher might have. She said that Mr. Christopher would need to give her copies of those documents. Mayor Winger said that Mr. Christopher did turn over a whole ream of documents in the meeting, which he said came from FMPA.

Mr. Wilson commented that they will need to determine what information that Mr. Christopher received before he came on the Commission and whatever information he received after he was appointed to the Commission. He pointed out that a public records request does not have to be in writing and can be done in public and verbally, which is what he has just done. He said the real question here is the transparency and the trust of their Elected Officials. He asked the Mayor when he meets with FMPA, whose message is he carrying. Will he be carrying George Christopher’s message, who is a member of the Indian River Neighborhood Association and his legal advisor.

Mayor Winger recalled that at the Utilities Commission meeting held yesterday that Mr. Wilson said that Mr. Christopher was a fine lawyer. He said that Mr. Wilson misstated that and said that Mr. Christopher is a brilliant lawyer. He said that Mr. Christopher is a personal friend of his and he has been for a long time. He brought forward a lot of information to the Utilities Commission yesterday for the benefit of the Utilities Commission regarding the various contracts. There is nothing in the law that prohibits an individual whether on a Commission or not on a Commission to gain information. He told Mr. Wilson that he does not always agree with Mr. Christopher on different things, but he has a brilliant legal mind and he honors that.

Mr. Wilson agreed with the Mayor that Mr. Christopher was a brilliant lawyer and brilliant enough to be able to manipulate the situation. He said the problem is the public keeps asking why this utility deal is not getting completed and the Mayor is being advised by the “chief” anti-sale person.

Mayor Winger told Mr. Wilson that he is being advised by a number of people. He noted that yesterday Mr. Wilson used the term “political theater.” He told Mr. Wilson that he was using “political theater” now. He said “political theater” is not going to resolve this. He asked Mr. Wilson if he trusts Mr. Coment, and does he trust Mr. O’Connor. There

will be three people present at the meeting and these are the people that will be present. He again asked Mr. Wilson if he trusts Mr. O'Connor. Mr. Wilson asked what difference does it make. He said the problem is he was not asked to attend the meeting, and the Press was not invited.

Mayor Winger brought up the meeting tomorrow and said that he does not expect to accomplish a lot.

Mr. Wilson understood like at yesterday's meeting the Utilities Commission did not want him to continue to talk and he understands that the Mayor doesn't want him to continue to talk today. He said the fact is the City knows that they need to be out of the electric business. They have narrowed it down to three groups of people opposing the sale. They are the public employees who do not want to see pension reform, the people who benefit from other people paying their bills and the last group is liberal democrats. He said the question is not whether they should be out of the electric business and out of the FMPA contracts, it is how do they get out. They have found the reason they cannot move forward is because of FMPA and there is no number (dollar figure) that is appropriate for the FMPA because they are in so much debt and so much trouble that they cannot lose any of their assets, which includes the City of Vero Beach. He urged the Mayor to represent the public when he attends the meeting tomorrow.

Mr. Joseph Guffanti felt the meeting that is taking place tomorrow should be recorded. He said that the public has the right to know what is being said. He suggested inviting Mr. Charlie Wilson to the meeting. He then talked about the High Speed Railroad. He noted that in the Resolution passed by the City (Resolution 2014-05) it addresses eleven concerns, which are all negative concerns except for the first sentence where it starts off by saying that the City of Vero Beach supports the efforts of All Aboard Florida to construct and operate a high-speed passenger rail system between Miami and Orlando along Florida East Coast Railway tracks and the All Aboard Florida project. This Resolution passed 5-0. He had some concerns with supporting a system that was detrimental to the City of Vero Beach. He then brought up a letter that was sent to Senator Negron (on file in the Clerk's office) that was signed by the Mayor and the Chair of the HSRC.

Mayor Winger commented that he thought that they would all agree they would be better off not having these high speed rail trains coming through their City.

Dr. Stephen Faherty, reiterated what Mr. Stradley had brought up earlier that in order to reduce their rates by 1% there will need to be a \$1 million dollar reduction in costs. He brought up the meeting tomorrow that the Mayor and staff would be attending. He said that this was a very important meeting and the contracts that they have been dealing with have no ending point. FMPA needs to know that they are representing 61% of the ratepayers. He said if nothing positive comes out of the meeting then FMPA should start looking at lowering their rates.

Mayor Wilson stated that they all believe the sale should be concluded and rates need to be lower.

Ms. Eleanor Walton, stated that she is a City resident. She mentioned the charts provided by Mr. Glenn Heran when they first started talking about selling the utilities and the money that they would save and now they are hearing that an additional \$26 million dollars will be charged to the utility customers in order to sell the utilities.

Mrs. Turner explained that even with the \$26 million dollars, the ratepayers will be getting lower electric rates than they are now. She said right now Ms. Walton is paying 32% more than FPL. She said in order to recover this \$26 million dollars the ratepayers will see a reduction in their rates and it will only be for a three year period until the \$26 million dollars has been recovered. This will not be money coming out of her pocket. In fact she will benefit because her rates will be lower.

Ms. Walton heard Mrs. Turner say 32%. She said that she has heard as low as 18%.

Mrs. Turner could understand why Ms. Walton could be confused. She said in January when she made a presentation she used the Vero Beach electric rates versus FPL as published in the Florida Electric Municipal Association (FMPA). As of January there was a 32% difference for residential rates and on the average for business customers there was a 42% differential.

Ms. Walton commented that she read in the newspaper that right now FPL is asking for an increase. She was told that was correct. She said okay so FPL is raising their rates, and if this goes through they will be charging the ratepayers a surcharge for four years and then in four years time they will be ready for another increase, so this 30% will keep going lower.

Mr. Kramer told Ms. Walton to also keep in mind that there will be a property tax increase that will happen eventually.

Ms. Walton said that she has lived in the City of Vero Beach for over 60 years and it concerns her that people who have only been here for a couple of years try to force Council into doing things. She has watched these meetings for years and can remember a particular person being escorted out of the Chambers by a Police Officer. She asked how come when Mr. Charlie Wilson gets up to speak and is so rude, he can't be escorted out of the Chambers. She felt what the Council had to put up with was very abusive. She said everyone has a difference of opinion, but you can disagree nicely. She brought up that she keeps hearing people say that most of the voters voted in favor of the sale to FPL. She said the first time they voted most of the City voters did not understand what they were voting for and the results were approximately 60% for and 40% against. She also heard only 30% of the voters turned out to vote so no one knows how the other 70% feel. She noted that it seems like everything she hears is being blamed on FMPA. She asked if that is true.

Mayor Winger explained that the City has a 20-year contract with OUC and it is disadvantageous as to the rates. He is receiving many calls about people taking abusive roles and it is hard to deal with. He agreed that there needed to be more of a civil dialogue.

Ms. Walton told the Mayor that she hoped things go well at the meeting tomorrow.

Mr. Glenn Heran wished the Mayor well tomorrow with the negotiations and dealing with the FMPA bureaucracy. He said at the next Taxpayer's Association meeting they will be having a discussion about the Vero Beach electric utility system and FMPA. He is pleased that the public is now starting to talk about FMPA and asking questions. He said if they paid the \$26 million dollars off in one year then the ratepayers would be able to have FPL rates after that forever. If some reason the FMPA bureaucracy and their member cities put up a fight in doing this then they need to be reminded that in the world of accounting there is "substance over form." He said after 30-years of being a part of FMPA the City of Vero Beach has significant ownership, cash, and generation assets. He said FMPA is saying the City will need to pay a \$52 million dollar penalty to get out, but don't forget they are being stripped of all of their assets that they have helped build over the years. He does not see them mitigating their damages by selling off those assets and using the proceeds to pay off the debt. He went back to substance over form. He said the form might be that they have these legal contracts until 2066, but the substance is they own cash, expense, and generation assets. These things are being stripped from them and then on top of it they are being asked to pay a penalty. He asked Mayor Winger to be strong with bureaucracy tomorrow because that is who they are dealing with, the FMPA bureaucracy.

Mr. O'Connor explained his expectations from tomorrow's meeting would be to have an agreement that they can bring the parties back together around the table and try to make sure all those involved in this process are included in those discussions. This would be his number one goal.

Mr. J. Rock Tonkel, resident of Grand Harbor and member of the Utilities Commission, commented that at yesterday's Utility Commission meeting they talked about Mr. Stradley, Chairman of the Utilities Commission, accompanying the Mayor to the FMPA meeting. Mr. Stradley refused the invitation because of his prior business commitments. He thought that the idea was valid, but that was before he read today's newspaper article about having the Press attend the meeting. He urged the Mayor to think about having a public representative from the Press reporting on the tenor and substance of the meeting. If that is not done then have the meeting recorded and put it in the public documents for consumption and interpretation by the public. Mr. Tonkel stated that he was the dissenting vote at the Utilities Commission meeting with respect to the Resolution supporting finding a way out of the entitlements and the cost and what he thought was a very weak reference in being tied to FPL. What he was suggesting is that their only reference point should be the partnership with FPL and that is the only reason he voted against the motion. Mayor Winger has said publically that he does not have high expectations for tomorrow's meeting. He said personally after having been involved in a

number of negotiations, he would have preferred that the Mayor alerted the public that he has definitive expectations and that he is there to seek a resolution to a problem that is confronting them in terms of getting out of these agreements. He trusts both Mr. O'Connor and Mr. Coment, but said they are employees and sensitive to their relationship to the City Council and he thinks that another public member attending the meeting would allow for the fairness in reporting required under these circumstances. He hoped the Mayor would consider inviting the media and if not at least recording the meeting.

Mayor Winger commented that when Mr. Tonkel said that he did not have great expectations, what he is looking for is a path. He reviewed the Utilities Commission meeting that occurred yesterday and he thinks what came out of that meeting is the three major hurdles as of this point after three years have not been faced with FMPA. He said they are in no position tomorrow to deal with those particular hurdles. There is a situation where they have received letters from FMPA and FPL and quite frankly they are not on the same "track." He said if the two parties are not on the same track then there will be difficulties in precluding this. He expressed they will not be doing any negotiating tomorrow and what they want to do is get the train back on the track. He said when they come back from the meeting, at the appropriate time after talking to their Transactional Attorney and FPL they (Mayor, City Manager, and City Attorney) will give their best ideas on how they should move forward.

Mr. Tonkel expressed what he was trying to do was restore any lost faith that the public has in the City Council. He is not trying to be argumentative. He just thinks the fact remains that the train is on the side track and the public needs to have a sense of direction that it is going to be brought back to the main track.

Mr. Herb Whittall, 19 Park Avenue, stated that he is really upset with Mr. Wilson's attack over the last couple of days. He is a member of the IRNA and he knows Mr. Christopher. Mr. Whittall was invited to attend the Taxpayer's Association meeting and talk against the sale of the utilities to FPL. He said that he was in favor of the sale and he has never heard the IRNA say that they were not in favor of the sale. He also has never heard Mr. Christopher say that he was against the sale.

Mr. Ken Daige, Chairman of High Speed Rail Commission, mentioned in the letter that was sent to Senator Negron it mentions the very serious concerns that the City has with the High Speed Rail. He also mentioned the additional freight trains that are being discussed. The letter sent to Senator Negron was in the event this happens they need to request funding. There are a lot of concerns from the public that live on the west side of the tracks about getting to the hospital in case of an emergency. The business owners that reside in the downtown area have some serious concerns with this project. The railroad issues come under the Federal guidelines and are very difficult to fight. The HSRC is working very hard on this. He will be talking to Congressman Posey to find out how he can help in the future. He said even if the City wanted to have quiet zones there is no money to do them. A few weeks ago he spoke to the Treasure Coast Regional Planning Counsel (TCRPC) and suggested that they recommend extending public

comment time an additional 45 days for the Environmental Impact Study. They (TCRPC) did include it in their recommendations, but it has not been granted yet. This request is also being asked at the County Commission meeting today. The HSRC will probably be coming to the City Council and making the same request for an extension of days be given and that the City Council send out a letter. He thanked the City Council for the job they are doing. He also mentioned that they are the first City to put together a High Speed Rail Commission.

Mr. Daniel Masten stated that he hoped the sale of the utilities will go through. He prayed that Mayor Winger would walk into the FMPA meeting tomorrow and say let Vero Beach go.

Mayor Winger recalled the five page letter that he wrote, which included that he felt the best option for the people in Vero Beach was to sell the electric company to FPL and use the working capital to defease the pension obligations that have been built up over the years.

At 11:16 a.m., Council took a ten-minute break and the meeting reconvened at 11:30 a.m.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – March 18, 2014**
- 2. Utility Easement #2013-EG-0132-Harbor Point Shopping Plaza – 5270 US 1**

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

3. PUBLIC HEARINGS

A) ORDINANCES

Quasi-Judicial

- 1. An Ordinance of the City of Vero Beach, Florida, requested by Roger Lightle, amending the Official Zoning Map by changing the Zoning District Designation of RM-13, High-Density Multiple-Family Residential District, to POI, Professional Office and Institutional District, for property located at 915 East Causeway Boulevard, Lot 8, Block 4, Pelican Cove II Subdivision, containing 0.34 of an acre, more or less; Providing for an Effective Date. – Requested by the Applicant**

Mayor Winger read the Ordinance by title only. He explained that this is a quasi-judicial hearing and he will be conducting the hearing as so.

Mrs. Turner disclosed that she spoke to the applicant's attorney, Mr. Bruce Barkett. She said in reviewing the minutes from the Planning and Zoning Board meeting when this was heard she had a question concerning one of his comments.

The City Clerk swore in Mr. Tim McGarry, Planning Development Director.

Mr. Kramer asked Mrs. Turner what question she asked Mr. Barkett.

Mr. Bruce Barkett, Attorney for the Applicant, stated that Mrs. Turner reviewed the minutes from the Planning and Zoning Board meeting and asked him why the neighboring properties were not included in this rezoning. He explained to her that it was costly for them to apply and there was no advantage for them to do it because they were already grandfathered in.

Mr. McGarry reported that the property owner is requesting to rezone approximately 0.34 of an acre of land from RM-13, Multiple Family Residential to POI, Professional Office and Institutional Zoning District. The subject property is located at 915 East Causeway Boulevard (north side of the street – approximately 120 feet from the intersection of Club Drive and East Causeway Boulevard). He showed on the doc cam where the property is located. A survey of properties located north and south along the East Causeway Boulevard roadway corridor indicates the existing land uses include a mix of 30% non-residential and 70% residential uses. The subject property is vacant and an undeveloped parcel along the East Causeway Boulevard roadway corridor. The property has road frontage on two streets including Marigold Lane to the north and East Causeway Boulevard to the south. Mr. McGarry felt that the applicant's response for justifying the need for this rezoning was justified. The applicant feels a zoning change is necessary to insure that adjacent properties are compatible with each other. He feels that the change in the zoning designation is consistent with the Comprehensive Plan and Zoning District Standards and Criteria. Even though the properties to the north of this property are zoned R-1A, single-family residential, the proposed change would be considered compatible with the uses in the area due to the existing encroachment (grandfathered uses) of the vested in perpetuity professional offices to the west, south, and east. He mentioned that the traffic impact analysis concludes acceptable levels of service will be maintained. Staff and the Planning and Zoning Board recommend approval of the Ordinance. Staff report presented by Mr. McGarry will be part of the record.

Mr. Fletcher asked if a study for the level of service was done on the Causeway.

Mr. McGarry told him that there was a study done.

Mrs. Turner thanked Mr. McGarry for addressing some of her earlier questions dealing with spot zoning and in looking at the whole area.

Mr. Kramer asked if when they have zoning changes such as this one, are notices sent out to the neighbors.

Mr. McGarry explained that every property owner within 500 feet is provided a notice and they also post a notice on the property itself.

Mr. Kramer asked Mr. McGarry if he received anything back from any of the neighbors.

Mr. McGarry recalled only receiving one telephone call from someone living at the neighboring condo who had some questions, which were answered.

Mr. Bruce Barkett thanked Mr. McGarry and his staff for working with them on this matter. He said at the Planning and Zoning Board meeting there were two neighbors who had questions and one of them had to do with sending notices out to the neighbors, which was done. The other gentleman after hearing that this has to go through a site plan review was in support of the application.

Mayor Winger opened and closed the public hearing at 11:44 a.m., with no one else wishing to be heard.

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

B) RESOLUTIONS

1. A Resolution of the City Council of the City of Vero Beach, Florida, repealing Resolution No. 2012-07 relating to Dog Exercise and Walking Activities on certain City-owned land adjacent to Bob Summers Ballpark; Providing for an Effective Date. – Requested by the City Council

Mayor Winger read the Resolution by title only.

Mr. Coment reported that this Resolution would repeal Resolution No. 2012-07 relating to dog exercise and walking activities on City-owned property adjacent to Bob Summers ballfield. He said in light of the lease authorized by Council and which became effective on March 15, 2014 with The Friends of the Vero Beach Dog Exercise Area, Inc., Resolution No. 2012-17 is no longer needed to authorize the subject activities.

Ms. Graves asked Mr. Coment what would happen if down the road this organization walked away from the lease. She asked would another Resolution have to be passed. Mr. Coment answered yes.

Mayor Winger opened and closed the public hearing at 11:46 a.m., with no one wishing to be heard.

Mrs. Turner made a motion to approve the Resolution. 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.

2. A Resolution of the City Council of the City of Vero Beach, Florida, granting to Shark Bait International, Inc. a concession license for Rental of Umbrellas and Chairs at South Beach Park; Providing for an Effective Date. – Requested by the Recreation Director

Mayor Winger read the Resolution by title only.

Mr. O'Connor reported that the Recreation Commission has reviewed this matter, which would allow Shark Bait International to enter into a license with the City for the rental of beach umbrellas and chairs at South Beach Park. The number of each item of merchandise available for rental will be coordinated with the City's Recreation Director and approved by the City Manager. The Vendor (Shark Bait International) shall limit the display and use of its merchandise to that area of the beach located north of the lifeguard stand. In addition to the percentage license fee the Vendor agrees to provide to the City access to their ATV for use by City lifeguards during the hours of 9:00 a.m. to 5:00 p.m. daily or as otherwise coordinated with and approved by the City's Recreation Director. The Vendor will be responsible for any and all expenses for the ATV.

Mayor Winger opened and closed the public hearing at 11:48 a.m., with no one wishing to be heard.

A short discussion took place of where the beach umbrellas and chairs would be allowed.

Mr. Fletcher questioned the liability in approving this lease.

Mr. Coment explained that the Vendor shall procure and maintain at all times comprehensive and commercial general liability insurance against personal injury and property damage, with a company authorized to do business in the State of Florida, covering any and all claims for damages to persons and property as a result of or arising in any manner out of the Vendor's operations, use of City property, and operation of the Vendor's ATV. Such insurance shall have limits of coverage not less than \$2,000,000 per occurrence combined single limit for bodily injury liability and property damage liability.

Mr. Scott Caviness, Vice President of Shark Bait International, stated that this is the same insurance that he is required to have for the two resorts where he offers this same service. He said that the endorsement from his insurance company should have been sent over to the City yesterday.

Mr. Kramer made a motion to approve the Resolution. 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.

3. A Resolution Authorizing the City of Vero Beach, Florida, to enter into a Supplemental Joint Participation Agreement with the State of Florida,

Department of Transportation for access road improvements (FDOT #431038-1-94-01). – Requested by the Airport Director

Mayor Winger read the Resolution by title only.

Mr. O'Connor reported that this Supplemental Joint Participation Agreement is between the City and the Department of Transportation to complete the access road improvements to Airport Drive and to construct a replacement bridge across the main relief canal to complete the southern entrance to the Airport. The Airport requested additional funding using FDOT Aviation dollars for the road and bridge repair to reduce the financial impact to the City. The project will be managed by the Public Work's Department with input from the Airport. Staff recommends approval of the Resolution and acceptance of the Supplemental Joint Participation Agreement.

Mayor Winger opened and closed the public hearing at 11:52 a.m., with no one wishing to be heard.

Mrs. Turner complimented both City departments in working together to accomplish getting this bridge over the main relief canal.

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

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

- A) 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 City Council**

Mayor Winger read the Resolution by title only.

Mr. O'Connor reported that in passing this Resolution it is addressing one of the major concerns of the County Commission in their discussions up to this point regarding the franchise agreements. He said one thing that kept coming up at every meeting was that the County wanted the residents and customers in the unincorporated areas to have the same rates and charges that the County has. He said this is their attempt to address that concern.

Mayor Winger opened and closed the public hearing at 11:54 a.m., with no one wishing to be heard.

Mrs. Turner asked Mr. O'Connor by doing this was it imposing any additional costs on the City in implementing this rate change.

Mr. O'Connor answered no because they already have the rate structure in place with Indian River Shores. He said it would cost less than \$1,000 to place these customers under that same rate structure.

Mr. Kramer made a motion to set the public hearing for this Ordinance to be heard on April 15, 2014. 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) 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 Resolution 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 11:55 a.m., with no one wishing to be heard.

Mr. Fletcher made a motion to set the public hearing for this Ordinance to be heard on April 15, 2014. Mr. Kramer seconded the motion and it passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

5. CITY CLERK'S MATTERS

Mrs. Turner brought up the newspaper article that appeared in the Press Journal on Friday, March 21, 2014 that mentions that the City of Vero Beach leads the Treasure Coast in transparency in providing information on their website. The highest score was given to the City of Jacksonville. She suggested looking at Jacksonville's website to see if there was something they were doing that our City was not.

6. CITY MANAGER'S MATTERS

1. Add on Item – Amendment to Leases – Special Provisions

Mr. Coment explained that one of their largest tenants at the Airport wants to amend his lease because he is getting a private equity firm to underwrite the lease. He said that this

tenant has five (5) leases with the City at the Airport and two (2) of those leases are of a more recent version of their leases, which they call Attachment "B". He would ask Council to approve an amendment for these two (2) leases, which will make it consistent with the other leases that the tenant has and they can use this private equity lender to refinance their mortgage.

Mr. O'Connor added that the risk is very small and what the City is doing is allowing the tenant to have the flexibility of a private equity partner.

Mr. Fletcher asked what would happen if someone has some work done and they fail to pay their contractor.

Mr. Coment explained that the only thing the tenant would have is a leasehold interest, which is the right to possess the property. If someone leasing property at the Airport would default on their mortgage, the mortgagee steps in and takes possession of the property.

Mayor Winger asked for public comments on this matter. No one wished to be heard.

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

Mr. O'Connor notified the Council that the City CAFR they recently received is on the City's website.

7. CITY ATTORNEY'S MATTERS

Mr. Fletcher asked Mr. Coment why Mr. Barkett did not need to be sworn in when he testified this morning. He thought that if an attorney was testifying to fact they needed to be sworn in.

Mr. Coment said that his position has always been that if you are going to testify as a fact witness then you need to be sworn in. He said if you are making argument and presenting your case then you don't need to be sworn in.

Mrs. Turner asked Mr. Coment to give an update on some of the active legislative bills.

Mr. Coment reported that bills 813 and 861 are pretty much dead. The two local bills 1287 and 1289 are assigned to committee and not calendared yet. If they are never put on an agenda then they die. He said House Bill 1055, which deals with the septic tank step plan looks positive in passing. Mr. O'Connor talked to Representative Mayfield about clarification on a couple of issues. The City has no problem when a septic tank needs to be pumped out that it is done by a certified septic tank firm. However, when they started talking about drain fields being inspected the City felt that this would drive up the cost and was not necessary to have in the Bill. With Senate Bill 356 and House Bill 307 for

vacation rentals they are still being discussed and the City's case on this matter is still in appellant court.

8. CITY COUNCIL MATTERS

A. Old Business

1. Nitrogen Loading of Indian River Lagoon – Requested by Councilmember Pilar Turner

Mrs. Turner reported on the nitrogen loading of the Indian River Lagoon. She said that it has been a long process, but they finally have completed the task. She said the City's Public Work's Department reviewed the total maximum daily load (TMDL) for nitrogen and phosphorus, which was established by the Florida Department of Environmental Protection (FDEP) and represents the maximum amount of that nutrient the water body can safely and sustainably assimilate without any ill effects. The City had approximately 11% subsurface area of sub-basin B draining into the Lagoon. The City used that to try to quantify the amounts. Under FDEP regulations the City still needed a reduction of 3,200 lbs per year of nitrogen and with phosphorus they were under those limits. She still had some questions on the PLSM model. It is a different modeling technique indicating significant deviation. She felt the progress under their model was superior. The City has implemented several projects to reduce their loadings, which consisted of the injection well and reducing their nitrogen and phosphorus to zero on their projects. The City installed Type II baffle boxes, reducing 19% of total nitrogen and 15.5% for total phosphorus. At Humiston Park the City installed an up to date type of baffle box in reducing the nutrients in that area by 90%. Mrs. Turner mentioned the credits that can be given for education outreach. She said through this whole exercise they need to focus on what additional requirements are required by the City of Vero Beach. They are looking at about 960 pounds of nitrogen to be removed. That is assuming they receive credits on the Waste Water Treatment area, if they do not then they would need to reduce it by 14,000 pounds per year. She wanted everyone to realize that the City has gone through their system and looked at targets they are being given for nitrogen and phosphorus levels, taken those projects to see how much they have been able to reduce that loading and are trying to quantify what they do have remaining. Now, they need to prepare a project list to address continuing to reduce the nitrogen loading, prioritize that list, review each of the projects and determine the pound of nitrogen removed. Mrs. Turner requested with Council's support that this be their next step. It was the consensus of Council that it made a lot of sense to them that would be the next step. Mrs. Turner commended the Public Work's Department in working on this project.

Ms. Graves wanted to make sure that staff had the resources to do this study.

Mr. Monte Falls, Public Work's Director, stated that this has been a time consuming project, but the major points of the report do show that they are on the right path. He will talk to Council about upcoming projects as they move through the budget session. He

said most of the major outfalls have been done with the exception of the Lateral E canal. He briefly went over some smaller projects that they are presently working on.

B. New Business

1. Refunding Electric Debt 2008 – Requested by Mayor Richard Winger

Mayor Winger was in favor of endorsing the recommendations of the Utilities and Finance Commission, which was that the City should pay off the approximate \$3 million dollars in debt with cash.

Mr. Kramer made a motion to approve that the City pay off the approximate \$3 million dollars in debt with cash. Mr. Fletcher seconded the motion and it passed unanimously.

2. Community Rail Coalition – Requested by Councilmember Amelia Graves

Ms. Graves commented that she has been contacted by a group of citizens to see if the City of Vero Beach wants to have a liaison sitting on the Community Rail Coalition. She said that Sebastian City Councilmember Andrea Coy sits on the Coalition as Sebastian's liaison.

Mr. O'Connor felt that it would be appropriate to have someone from the City Council serving as the liaison on this Coalition.

Ms. Graves volunteered to serve as the liaison with Mayor Winger being her backup if she is unable to attend a meeting.

Mrs. Turner felt that it was time for the City to derail All Aboard Florida. She said the only action that they can do is try to stop the funding. She said no private passenger railroad has ever been sustaining much less profitable. She was concerned about the wording that was sent to Senator Negron (first sentence). She would like to have a Resolution stating that the City of Vero Beach opposes All Aboard Florida. She does not want to see any Federal or State funding used for this project. She made a motion that a Resolution be done. Mayor Winger seconded the motion.

Mr. Kramer did not think that they should oppose All Aboard Florida, but oppose the public funding of All Aboard Florida. He said if they are going to do this as a private agency, which they are not, then it would be okay. He did not want to see public funding used for the project.

Mrs. Turner recalled that initially it was brought forward that this project was being done by a private enterprise. It is clear now All Aboard Florida is looking for a guarantee of loans. They were looking into TIGER loans that apply only to passenger trains and it is a continuous burden that is going to fall on the taxpayers.

Mrs. Turner called the question. Her motion is to oppose public support of the program. She reiterated the City is opposed to All Aboard Florida and do not want to see any State or Federal funds used to fund their project.

Ms. Graves was opposed to the public funding, but was not opposed to a private business doing something, but doing it without public funds.

Mrs. Turner suggested sending letters to Governor Scott and to the Federal Rail Administration. She suggested their website address be put up on the City's website. Their website address is: www.fra.gov .

Mr. Fletcher suggested that Mrs. Turner draft a letter for the Mayor's signature.

Mayor Winger had no problem with Mrs. Turner and Mr. Coment drafting a letter.

Mrs. Turner mentioned that there was a motion on the floor and if Council approves they will bring a Resolution on this matter to their next meeting.

Mr. Coment suggested that Mrs. Turner give him some information that she wants included in the Resolution and he will take it from there.

Mayor Winger commented that it was a problem for All Aboard Florida to be asking the Federal/State to fund this project and then beyond that the people of Vero Beach get no benefits from this. He said that Fortress Capital has \$58 billion dollars worth of assets and they own a lot of land in downtown Miami, Ft. Lauderdale and West Palm Beach. He commented that there may be other reasons other than just a railroad to have this done.

It was the consensus of the Council to bring back a Resolution. A motion was not necessary.

9. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Richard Winger's Matters

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

Mayor Winger commented that he would like to see the objectives of their Commissions to make sure that Council is in agreement.

B. Vice Mayor Jay Kramer's Matters

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

Mr. Kramer reminded everyone to attend the Downtown Art Stroll that takes place on Friday night.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner stated that she was concerned to find out that FMEA is circulating blog articles to their Board members regarding the sale of Vero Beach Electric. She hoped that at the FMPA Board meeting to be held on April 17th that there would be information provided to the Board members to make sure that they are getting a full view of the situation.

Mrs. Turner commented that as she was preparing to speak to the Storm Grove Middle School civics class one of the topics that was being asked to speak on was the duties of a Councilmember. She said as she started to put some things down in writing she discovered that the most important thing is community leadership. She said that they (City Council) are not here just to review staff recommendations, but to identify needs and prepare solutions. She said resolving their electric issue is the most critical issue facing their community. Their residential rates are 32% higher than FPL and their commercial rates are averaging 42% higher. She said this equates to \$20 million dollars being lost each year in this community. She said their economic viability as a City depends on the positive resolution of this issue. She asked Council to step up, be leaders and that they move this sale forward together.

Mrs. Turner commended the Indian River Council Chamber on their new mobile app. She congratulated the Vero Beach Theater Guild on their groundbreaking ceremony. She noted that on April 15th there will be a ballgame held at the Historic Dodgertown facilities. Also on April 12th the City will be holding their 55th Annual Easter Egg Hunt at Mulligans beginning at 10:00 a.m.

D. Councilmember Amelia Graves' Matters

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

Ms. Graves reported that she attended the Planning and Zoning Board workshop that was held at the Community Church. She also attended the Charter School event and reminded everyone that the Hibiscus Festival would be April 12th and 13th.

E. Councilmember Craig Fletcher's Matters

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

Mr. Fletcher reported on the Treasure Coast Regional Planning Council meeting that he recently attended.

Mr. O'Connor reported that Mrs. Lynne George will be retiring and he has hired a new Human Resource Director that will begin working with the City in the next few weeks.

10. ADJOURNMENT

Today's meeting adjourned at 12:28 p.m.

/tv