

**CITY OF VERO BEACH, FLORIDA
DECEMBER 3, 2013 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Pastor Donald Medley of the First Church of God 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

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

B. Proclamations

1. Mayor Winger to present a Plaque to former Mayor Craig Fletcher and former Councilmember Tracy Carroll

Mayor Winger presented a plaque to Mr. Craig Fletcher for the time that he served as Mayor of the City of Vero Beach. He will make sure that Mrs. Carroll receives her plaque for her service as a Councilmember.

2. Holiday Rec Party – December 6, 2013

Vice Mayor Kramer read and presented the Proclamation.

3. Florida Power & Light (FPL) to give an update on the sale of the electric utilities

Mrs. Amy Brunjes, Representative from Florida Power and Light (FPL), gave an update on the process of the sale of the utilities. She noted that back in August FPL sent a letter to FMPA making an offer that would allow the City to exit from their contractual obligations with FMPA without negatively impacting FMPA or its members. Also, part of that offer was to provide additional opportunities for FPL and FMPA to work together for the mutual benefit of all. They did originally request a response from FMPA in

September, but because it is a very complex transaction and a difficult decision for FMPA they are continuing at this point to evaluate the proposal. However, she said that since September when they requested a response there have been a lot of questions answered and they have been providing information to FMPA as needed. She hoped to have a response very soon based on all of the information that they have provided. She assured everyone that FPL wants to complete this sale as soon as possible and they are committed to bringing lower electric rates to the City of Vero Beach as soon as possible. She said as soon as the response comes back from FMPA she will be back to give another update.

Mr. Winger asked, what is the time frame.

Mrs. Brunjes explained that based on the information they have provided to FMPA, that expect the response very soon.

Mr. Winger commented that they all want this deal to go through and move forward because this is costing them two million dollars a month. He asked Mrs. Brunjes if by any chance the arrangement with FMPA did not go forward, are there other options.

Mrs. Brunjes stated that FPL is very confident that the proposal given to FMPA is very fair to all parties involved. However, FPL is continuing to evaluate other solutions as they wait and are prepared to move forward with other alternatives if the current proposal does not work out. She feels that one way or another the sale will be completed.

C. Public Comment

- 1. Mr. Scott Stradley, Chairman of the Utilities Commission, to recommend to Council to ask the Legislature to request that the State amend the Florida Statute to allow a combined type septic/sewer system. He will also presenting the Utilities Commission Annual Report to the City Council.**

Mr. Scott Stradley, Chairman of the Utilities Commission, went over the Utilities Commission's annual report (please see attached). He then reported on a new hybrid system that the Water & Sewer Director is recommending. He said the Utilities Commission's recommendation to Council is to ask the Legislation that the Florida Statutes be amended to allow a combined type septic/sewer system.

- 2. Mr. Peter Gorry, Chairman of the Finance Commission, to recommend that the City move forward with the plan to implement septic tank replacement in the City of Vero Beach.**

Mr. Peter Gorry, Chairman of the Finance Commission, thanked Mr. Stradley and the Utilities Commission for all of their hard work. He will not be making the annual report for the Finance Commission at this time because of two replacements that will be made on the Finance Commission. He wanted the newly constituted Finance Commission to approve all of their goals and accomplishments. He mentioned that the Finance

Commission agreed with the recommendations made by the Utilities Commission concerning the combined type septic/sewer system. He said that the Finance Commission listened to the presentation made to them on this matter and recommends moving forward with the plan to implement the septic tank replacement in the City of Vero beach and requests that the State amend the Florida Statutes to allow this.

Mrs. Turner thanked the Finance Commission and the Utilities Commission for all the time that they have met and discussed this issue.

Mr. Winger reported that himself and Mrs. Graves will be making their appointments to the Finance Commission this month.

3. Mr. Ken Daige to speak about City owned Parks and land not protected in the City Charter.

Mr. Ken Daige read a prepared speech (please see attached).

4. Mrs. Vicky Gould and Ms. Robin Pelensky from Main Street Vero Beach (MSVB) requesting that Council approve \$1,000 from the City of Vero Beach's Tree and Beautification fund to help with the installation of irrigation to the hanging baskets and plants in the 14th Avenue block between 20th Place and 21st Street.

Ms. Robin Pelensky, Chairman of the Design Committee for Main Street Vero Beach (MSVB), and Mrs. Vicky Gould, President of MSVB, requested from Council that \$1,000 be approved for the installation of irrigation for the hanging baskets and plants in the 14th Avenue block between 20th Place and 21st Street. The money will come from the Tree and Beautification fund, which has been approved by the Tree and Beautification Commission.

Mrs. Vicky Gould passed out a brochure explaining the Baskets 2 Banners program. She said that every flower pot and hanging basket has been adopted and the nurseries are requiring that irrigation be provided in order for someone to adopt the pots.

It was the consensus of the City Council to allocate \$1,000 from the Tree and Beautification fund for irrigation for this project.

Mrs. Gould added that starting in December everyone will start noticing some beautiful things happening downtown.

Mrs. Turner thanked both Ms. Pelensky and Mrs. Gould for all of their hard work.

Mr. Jim Norconk, Jr. recalled that back in 1995 Riverside Café was pounding music into his house. In 1995, he asked the City Council to resolve that issue and he is at today's meeting to ask this Council to formally take action to resolve this issue. He said that it is interfering with his work, his sleep, prayer life, social life and well being, which is the

case of several of his neighbors. He again requested that Council take action on this and take care of this home invasion and public nuisance.

Mr. O'Connor explained that the Police Department has responded many times on noise complaints made and Riverside Café has been cited on numerous occasions. He said that Riverside Café has also done enclosures in order to mitigate the sound. He was not sure legally what the City can do beyond this.

Mr. Norconk asked Council to allow him to bring some music equipment near the Council Chambers when they were trying to conduct a meeting or near their offices or homes to see how they like this noise and then maybe they will come up with some sort of resolution.

Mr. David Curry, Police Chief, stated that the Police Department has cited Riverside Café four times this year.

Mr. Fletcher felt that they needed to make it more painful for Riverside Café so that they stop with the loud noise.

Mr. Wayne Coment, City Attorney, reported that they have changed the amount that can be cited and they are up to \$250.00 as being the most that can be charged.

Mr. Fletcher will put this item on the next Council agenda for further discussion. The point is that Riverside Café keeps doing this and is looking at it as just a cost of doing business. The City needs to make it painful enough so that this is a cost of business that they will stop.

Mr. O'Connor will provide Council on the amount of citations that have been issued up to this point.

Mr. Norconk wanted Council to understand that this is a constant nuisance, but he doesn't report it to the Police every time the noise occurs. He said he only makes a report once or twice a month. He said the reflections of the citations issued is not a reflection of the problem.

Mr. Brian Heady urged Council not to make it painful for any business in this community. He noted that Mr. Stradley talked about a proposed septic system not allowed by State law and not prohibited by State law and then Mr. Daige spoke about public land. He mentioned there was 15 acres of public land being sold by the School Board for a relatively small amount of money (\$715,000) and he has not heard a peep from the City Council on this. He urged the Council to be pro-active and instruct the Planning and Development Department that any development done on this property, that zero drainage/runoff not go in the surrounding neighborhoods. In October he presented a proposition to the City Council on how they could give immediate relief to utility ratepayers and he has not heard anything. He gave Mrs. Graves some backup material and he would like some public explanation as to why this plan will not work. He said by

having FPL take over their utilities it would save \$2 million dollars a month to the ratepayers. He could see no reason why the plan could not be implemented.

Mayor Winger noted that he talked to Mrs. Brunjes about the suggestion made by Mr. Heady and she said that FPL would rather stay on the course that they are moving in. He suggested to Mr. Heady that he talk to FPL.

Mr. Heady told Mayor Winger that FPL is not the one representing him that it was the City Council. It is not up to Mrs. Brunjes, it is up to this City Council to protect the ratepayers. The avenue he has suggested will work and they can start saving the ratepayers \$2 million dollars a month right away. He said right now they are spending a lot of money to pay for their transactional attorneys and they need to be concerned with the amount of money that is being wasted.

Mr. Lane Site, 636 Riomar Drive, commented that he has not heard mentioned at all in the discussion of septic tanks any applications for bio mediation. He felt it was something that Council should look into for a short term fix. He said there are many bio mediation products on the market. He said that you just take the product and pour it into the septic tank. It is used all over the world to remediate many different problems. He would be happy to email Council more information on this.

Mrs. Turner commented that she would be interested in getting more information on the product.

Mr. Site stated that as far as the dog park goes, he is in favor of holding this asset within the City Charter and the name McWilliams Park remain in place. He said as a youthful member of this community, he goes to the Riverside Café and enjoys it. He encouraged the City to work with the Riverside Cafe and make sure they stay in business.

Mr. Mark Mucher, 617 Indian Lilac Road, called to Council's attention the difference between the Finance Commission and the Utilities Commission on their discussions on the septic tank project. The Utilities Commission recommended getting the law modified and the Finance Commission said that they are recommending implementing the project. He doesn't know of any cost studies that have been done on this and the cost to get liquid out of the tanks and onto the streets. He said it is his understanding that the City would still have to provide sewer to all of the neighborhoods.

Mrs. Turner explained that the application of the system is limited and there are areas where it could be a viable solution.

Mr. Mucher said the way he heard it was that it was across the board.

Mayor Winger explained the idea with this project is that you directionally bore a two inch pipe under the street and this would cut the cost in half for having to install a normal sewer. He said that cities across the State need help with septic problems. He thinks this would be a good step to minimize the cost.

Mr. Mucher commented that this is the first time he has heard that the cost would be cut in half, but if you ever go to get sewer then you will be responsible for one hundred percent of the cost.

Mayor Winger continued by saying that they call this project the step system because every house would have a lift/step pump and the City would mandate that all the pumps be the same so that they can be maintained. He realizes that the pump takes electricity to run.

Mr. Mucher just wanted to point out that the Finance Commission, without any figures, is recommending moving full speed ahead.

Mr. Rob Bolton, Water and Sewer Director, explained that what is being proposed is that the existing subdivisions that have septic systems, the septic systems would remain in place and a pump chamber would be installed to intercept the fluid that normally goes into the drain and pump through the two-inch mains being installed in the neighborhoods, which would flow to the Waste Water Plant. He mentioned that with a gravity type system and this type of system the monthly cost is about the same. He said there are more repetitive things that have to be done with the pump station versus the gravity system, but after looking at both systems they are comparable.

Mr. Fletcher asked if this system would alleviate the pumping of the septic system every three to five years.

Mr. Bolton explained that the homeowner would still need to have their tanks pumped out, but they would only need to do it every five to eight years and the City would pay for it as a part of the maintenance program. The only thing the homeowner would pay for is the electric used for the pump, which would be about \$4.00 a year.

Mrs. Turner added that they still need to continue exploring options on how they can make their septic tanks safer for the Lagoon.

Mr. Kramer asked Mr. Bolton if this would allow the City to expand the reuse water system to other residences.

Mr. Bolton said there is a possibility.

Mr. Joseph Guffanti commented that in the beginning of the meeting he heard something about the three minute rule. He was concerned with people signing up to speak on the agenda and people who don't sign up. As far as the septic tanks go, he has been trying to get in contact with Dr. LaPointe and has not been able to reach him. He needs to find out to what extent the septic systems pollute the Indian River Lagoon. He said that before knowing this he recommended not doing a thing. The reason he is at today's meeting is to talk about parking meters and the idea of putting parking meters on the beach. He grew up in New Jersey and down the shore they have parking meters. He said one nice

feature he found in Vero Beach is that there were no parking meters. It is a totally insane notion that the City would consider putting parking meters on the beach and to put it off until March when it should be totally be put off forever. He then told the Councilmembers that any comments that he makes about them is on professional behavior, as their behavior as politician, and has nothing to do with their personal affairs.

Mr. Ray Nebble, 540 Date Palm Road, was at today's meeting to speak about Bob Summers Park. He said that this is the last remaining Park on the river and Vero Beach has always turned their back on the river. He said before they put that property into some type of reserve that Council should think about doing something similar to the Vision Plan and examine all of their riverfront properties so that the properties are being used for their highest and best use. He said in regards to the dog park, he agrees that there needs to be a dog park in Vero Beach, but they should find a suitable place that is convenient for people to go to and doesn't take up valuable space that they have on the river.

Mr. Christian Silva, 586 Azalea Lane, stated that they want people coming to Vero Beach to come to their Parks. He said at McWilliams Park people come there every day of the week. He said what the City wants is for people to come into the City and that space needs to be reserved for the people of Vero Beach. The most important thing to do is to get the Park land into the Charter.

Mr. Lyndon Burke, 516 Conn Way, showed his support for the dog park. He said that it is not just a place where grass grows and is probably the highest used Park in this City.

Ms. Dell Ross, Bethel Creek Drive, commented that she has lived in other States, including California, where they had beautiful parks for dogs and people. When she came to Vero Beach she did not know that Vero Beach had a bad reputation for dogs. Dogs are not welcome and there is no place to take them. She said that without the dog park, she will consider leaving Vero Beach after 13 years. She knows a lot of people in Vero Beach who value their animals and it is important to have a good reputation for the pet community.

At 11:00 a.m., Council took a ten- minute break.

Ms. Lyn Testler, Bethel Creek Drive, talked about the natural functions that dogs have and noted that they are not the only animals in reference to the animals that visit the dog park. There are birds, squirrels, etc.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – November 19, 2013**
- 2. Organizational Minutes – November 8, 2013**
- 3. Lease Agreement between the City of Vero Beach and The Honorable Debbie Mayfield for the Rental of City Hall Office Space**
- 4. Request to Change FS 381.0065/On-site Sewage Treatment and Disposal Systems**

5. **Utility Easement #2013-EG-0139 – Kansas City Colony, Lots 21-24**
6. **Article 32 – Salaries of the Collective Bargaining Agreement between City of Vero Beach and Coastal Florida Police Benevolent Association (Rank & File) – October 1, 2013 – September 30, 2015**
7. **Utility Easement #2013-EG-0140 and Bill of Sale of Utility Facilities – Vero Beach Elementary Chiller Road Easements**

Mrs. Turner pulled item 2D-6) off of the consent agenda.

Mr. Fletcher made a motion to approve all of the items on the consent agenda except for item 2D-6). Mr. Kramer seconded the motion and it passed unanimously.

**Item Pulled from the Consent Agenda
2D-6) – Article 32 – Salaries of the Collective Bargaining Agreement
Between City of Vero Beach and Coastal Florida Police Benevolent
Association (Rank & File) – October 1, 2013 – September 30, 2015**

Mrs. Turner believed that this item was important enough not to be hidden on the consent agenda and she wanted to have some open discussion on this item. She asked their outside attorney, Mr. Jason Odom, to present the proposal that they are voting on.

Mr. Jason Odom, Attorney for Gould Cooksey Fennell, reported that the City Labor Negotiation Team met with the Coastal Florida Police Benevolent Association (PBA) to negotiate a resolution on an impasse over wages, which is Article 32 to declare a bargaining agreement. The tentative agreement before Council today for their vote will be effective December 1, 2013. It calls for employees with three plus years of service as a certified police officer will increase one step on the step plan. Effective December 29, 2013 employees with two plus years of service as certified police officer will be given a two percent COLA increase, which does not increase the step plan and the step plan remains frozen. This plan was brought to the City negotiators by the PBA and their members in terms of what they wanted to have happen. The City negotiation team has approved it and brought it forth for approval. The net increase is 2.5%, which would amount to approximately \$64,000.

Mrs. Turner wanted to make it clear to the public that these are funds that will be coming from the unallocated budget funds, which were a result of the savings and cost cutting measures that the City went through. She said although they did not meet their goals, they were still the results of cost cutting. She said that this pay increase will cut into these funds as far as having funds to cover beach renourishment, etc.

Mr. O'Connor reported that there is a line item for dune replenishment, which is a small number and understand that with any major storm the City would have to find funds to cover the expense from another allocation. He clarified that the \$64,000 includes any overtime, Federal taxes, etc., so it is an all exclusive number that they feel comfortable with.

Mrs. Turner added that it has been four years since there has been any cost increases for the PBA.

Mayor Winger asked if passing this today would result in a final agreement.

Mr. Odom answered yes. He said that this resolves all the issues with the PBA.

Mrs. Turner noted that she still has concerns on the way that the PBA presented these wages. She said what they are continuing to do is increase the disparity of their incoming officers against other competing options and they chose not to give any of this increase to newly hired officers.

Mr. Odom commented that of course he was not part of the PBA negotiating side, but this was the proposal that PBA presented to the City and it met the City's parameters in terms of costs and what they were comfortable in bringing to Council for approval.

There was no one from the public wishing to be heard under the consent agenda.

Mr. Kramer made a motion to approve the agreement between PBA and the City of Vero Beach. Ms. Graves seconded the motion and it passed unanimously.

3. PUBLIC HEARINGS

- A) An Ordinance of the City of Vero Beach, Florida, amending Chapter 60, Appendix, Definitions, of the Code of the City of Vero Beach by Creating a Definition for Community Garden; Amending Chapter 64, Article I, Development Review, by Creating Section 64.14, "Community Gardens;" providing procedures and standards for regulating Community Gardens; amending pertinent Sections of Chapter 61, Residential Zoning Districts, Articles I, III, IV, and V, to Provide for Community Gardens as a principle use in Residential Zoning Districts; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning and Development Director**

Mayor Winger read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, recalled at the first public hearing on this Ordinance amending the City's Land Development Regulations to allow and regulate "Community Gardens" in residential zoning districts, the City Council directed staff to amend the draft ordinance to require that any storage shed must be located to the rear of the lot. He has revised the Ordinance that incorporates this requirement.

Ms. Graves asked that the proposed language be inserted for some type of solar lighting, which would deter vandalism: *"No exterior lighting is permitted, except for solar power lighting fixtures that are no higher than 1.5 feet above grade."*

Mr. McGarry had no problem including that language in the Ordinance.

Mayor Winger opened the public hearing at 11:22 a.m.

Mr. Michael Coudon, Environmentalist for the Mosquito Control District, reported that the Mosquito Control District supports the Community Garden and would approve the passing of the Ordinance.

Mayor Winger closed the public hearing at 11:23 a.m., with no one else wishing to be heard.

Ms. Graves made a motion to approve the Ordinance with the amendment. 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.

4. RESOLUTIONS

- A) A Resolution of the City Council of the City of Vero Beach, Florida, expressing support for Senate Bill 356 and House Bill 307 which Bills delete from Section 509.032(7), Florida Statutes, Restrictions Preventing Local Laws, Ordinances, or Regulations from Regulating the Use of Vacation Rentals based solely on their classification, use, or occupancy; urging the Florida Legislature to adopt the Legislation and Governor Rick Scott to Support and Approve the Legislation; Providing for an Effective Date. – Requested by Mayor Richard Winger**

Mayor Winger read the Resolution by title only.

Mayor Winger opened and closed the public hearing at 11:25 a.m., with no one wishing to be heard.

Mrs. Turner reported that this issue was also discussed at the Treasure Coast Regional League of Cities meeting and that many other communities along the Treasure Coast have struggled with this legislation and will also be sending letters/resolutions to support this.

Mayor Winger added that if Council passes this Resolution, he will present it to their Legislation when they meet on Thursday. He said under Florida law they have the possibility of home rule along with all of the 410 cities in the State of Florida. This means they have the ability to regulate their own affairs. He said that short term rentals in a residential district not only might be objected to by the neighbors, but may be an issue for their local hotel and restaurants. In this Resolution, the City Council believes that the State has moved beyond what they should do according to home rule and would like that to be known.

Mr. Kramer agreed that they need to continue to support the idea of home rule and reinforce it. He hopes that they can send a message to some of the other cities that they cannot lay down on the issue when the State comes and tramples over the home rule issue.

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

5. 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, Adopting Revised Recreation Fees for Riverside Racquet Complex Programs and Facilities; Adopting Recreation Fees for certain City Park Pavilions; and Providing for an Effective Date. – Requested by the Recreation Director

Mayor Winger read the Resolution by title only.

Mr. Rob Slezak, Recreation Director, reported that in the Resolution are the proposed tennis rates and new Park Pavilion rental rates for adoption in 2014. The adjustments are being made to offset costs. During the budget meetings, the public spoke on behalf of the tennis facility and most said they would be willing to pay more so that the facility can maintain its staff and programs. Then Exhibit B is the proposed fees for Pavilions located in the City parks. He said that this is an idea to generate revenue for the City. The rates that Council has before them are the rates that the Recreation Commission recommended.

Mrs. Turner clarified that this is revenue for the recreation programs.

Mayor Winger opened and closed the public hearing at 11:30 a.m., with no one wishing to be heard.

Mayor Winger stated that he would have to vote no on the Resolution if both Exhibit A and Exhibit B were parts of this Resolution. He was not in favor of raising revenue by renting City Pavilions. He said that some of these Pavilions were given to the City for the public to use. However, he was in favor of revising the recreation fees for the Tennis facility (Exhibit A).

Ms. Graves shared Mayor Winger's concerns. She said usually people using the Pavilions are celebrating children's birthdays or end of season parties for team sports, etc., and some of these rates would be more than they would spend on their entire party, including the food.

Mrs. Turner asked what the projected revenue is for Exhibit A and Exhibit B.

Mr. Slezak said for Exhibit A they are looking at between \$15,000 - \$20,000 and Exhibit B would be in the same ballpark around \$15,000 – \$20,000.

Mayor Winger made a motion to approve the Resolution and remove Exhibit B (fees for Pavilions). 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. Coment suggested having two Resolutions for Council to vote on. The first one will be for the Tennis rates and the other Resolution would be for the Pavilions. He will bring back two separate Resolutions for public hearings on January 7, 2014.

6. CITY CLERK'S MATTERS

A) Appointments to the High Speed Rail Commission

The City Council approved through a ballot vote to have Mr. Scott Stradley, Mrs. Penny Chandler, Mr. Don Croteau, Mr. Ken Daige, Mr. Kiernan Moylan and Mr. Brian Heady serve on the High Speed Rail Commission (voting ballots attached).

7. CITY MANAGER'S MATTERS

A) Request from Main Street Vero Beach Seeking the City's Support of a Special Act from the State for a Non-Profit Liquor Permit Exception

Mr. O'Connor received a request from Main Street Vero Beach for the City's support of a Bill being drawn up and approved by the State Legislature for a Special Act liquor permit exception so non-profits within specified boundaries may obtain up to fifteen permits annually, rather than the three currently allowed under Section 561.422 of the Florida Statutes.

Mr. Kramer made a motion to support this request. Ms. Graves seconded the motion and it passed unanimously.

Mayor Winger asked for an update on the old Diesel Plant.

Mr. O'Connor reported that yesterday the City filed their countersuit. He said that eviction notices were sent to the tenants a couple of weeks ago and then there was a suit filed by the tenants. There have been a couple of meetings with the tenants to try to work out some differences and they have not been successful.

Mr. Coment added the last proposition that the tenants brought to the City he, along with Mr. O'Connor and their outside attorney (Mr. Eugene O'Neil), did not feel that it was something that Council would agree with. Mr. O'Neil has presented to their tenants a position that he and Mr. O'Connor could support, but at this time there has not been any response.

Mayor Winger disclosed that he also was in attendance of the meeting held with their tenants and he concurs with the comments made by Mr. Coment.

Mrs. Turner stated that back on May 7th she put in a request and followed it up again in September in response to information on their nitrogen loading. The letter she received in September indicated that December 6th would be the date for Tasks 1 and 2, which was determining their current average annual loading rate for nutrients in the storm water outfalls, specifically nitrogen and phosphorus. She said in comparing those to an FDEP module, she wanted to confirm that they are on schedule to have these items delivered on December 6th.

Mr. O'Connor felt that they were on schedule and will get a report to Council.

Mr. Mucher asked for a brief explanation as to why they have hired outside counsel to handle the old Diesel Plant issue.

Mr. O'Connor explained that the City was looking for expertise in the land use field, as well as tenant/landlord disputes.

Mr. Coment added that with the cut in staffing that his office does not have the people to handle these kinds of cases anymore.

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

B. New Business

1) Replace Code Enforcement Board with a Magistrate – Requested by Mayor Richard Winger

Mayor Winger brought forward under New Business discussion of replacing the Code Enforcement Board with a Magistrate. He said that this is a streamline approach supported by staff. It has an increased cost that will be built into the Code Enforcement fines and fees.

Mr. McGarry reported that Special Magistrates are used in many communities throughout Florida. The Magistrate acts as an administrative judge. He acts on a case, hears the hearing and does the Order. It would help to have someone with land use and law experience. The fee that is generally paid to a Magistrate is around \$150.00 an hour and some costs the City would get back from administrative costs. He said the advantage of having a Magistrate is that the facts and conclusion of law are more consistent and it

eliminates the need for the City Attorney to be acting as legal counsel. He said there would need to be changes in the Code to allow this. There have been some problems with getting enough members to serve on the Code Enforcement Board to constitute a full Board. The disadvantage of having a Magistrate is that there are some out of pocket costs. Some communities do the hybrid approach. From staff's standpoint he would recommend doing the straight approach on this.

Mr. Coment briefly went through the backup material provided to Council on this matter. He said that he represents the Code Enforcement Board and advises the Code Enforcement officers from time to time. He said as for as code enforcement issues go they are handled by the Code Enforcement officers. He provided a breakdown of 20 different cities and whether they use a Magistrate or not. He said the cities handle the Magistrates in different ways. Some Magistrates are paid hourly and some are paid by a lump sum. He reminded Council that the City of Vero Beach adopted its own code enforcement procedures and opted out of Florida Statutes Chapter 162. They use a citation process that gets cases resolved quicker. He agreed with Mr. McGarry that by having a Magistrate cases would remain more consistent. The Magistrate understands due process and both parties are treated fairly. He may have to provide some guidance to the Magistrate when they first begin working for the City.

Mr. McGarry felt that if a high profile case came before the Code Enforcement Board that an attorney would be needed to represent staff because Mr. Coment represents the Board.

Mr. Coment noted that in three years there have only been three actual contested hearings. He said that he found out in corresponding with other cities that the fewer cases that the Magistrate has the more he is paid. One thing that can be done is to put out an RFP or advertise for a Magistrate at a certain rate and see who is interested at that rate.

Mrs. Turner wanted to make it clear that the final selection of the Magistrate would be done by the City Council. Her main concern with this is that it seems like they are being very reactive to one case. She is also concerned that if they are going to be covering the costs of this attorney that they may have to increase the fees for someone appealing a case and that citizen may not be able to afford to appeal their case. Mr. Coment explained that you cannot charge someone when they appeal a case. However, if someone loses after an appeal then the cost can be assessed against them. Mrs. Turner commented that they have had a Code Enforcement Board for many years and it has seemed to work well.

Mr. Fletcher agreed with the comments made by Mrs. Turner. He said that he likes the fact that the citizens that live and work in the City are the ones making the decision. He supported having the Code Enforcement Board remain in place.

Mr. Charlie Wilson commented that he knows that everyone wants to accomplish what is done in the most fair and efficient way. He does not know that he objects to having a Magistrate if the motive to have one is to increase efficiency. If the motive is revenge

then he would not be in favor of it. The problem that he sees is that they are removing the citizens again. They are going to the point where they are going strictly by the law. The Code Enforcement Board can have a little more leniency if someone appears before them then what a lawyer (Magistrate) could do because they will have to go strictly by the law. He asked when they started thinking about this and what happened to keep Vero – Vero. He wondered if they have really thought this through. He suggested having this looked at by the Charter Review Committee that they are talking about forming. This is not the time to be ugly and settle scores.

Mr. Ken Daige, 1846 21st Avenue, mentioned that the seats on the Code Enforcement Board are hard to fill and it is a hard job. In his neighborhood there have been some severe code violations over the years. If Council chooses not to move forward with having a Magistrate then they should help the Code Enforcement Board more with their mission and give them some clarification.

Mr. Scott Stradley stated that when he first looked at the backup on this item he thought this was a good idea, but then after listening to the discussion it seems that the Magistrate will not be a volunteer attorney handling the cases and because of the financial issues that the City has he would be in favor of keeping the Code Enforcement Board because there are no costs to the City.

Mayor Winger commented that he brought this matter forward because he feels that it is a better way in handling code enforcement issues and it is supported by staff. They are trying to do this because it will be more efficient and there will be no additional costs in doing this because it is part of the system. He also has real difficulty with the concept of overruling. They all have to remember that the City Council are merely legislatures and that the City is actually run by the Charter Officers and he rarely would want to overrule their opinion. He will stand by this request and vote in favor of it.

Mrs. Turner stated that they are talking about the items that this Code Enforcement Board reviews. She said that her husband volunteered on the Code Enforcement Board before she became a Councilmember. She said that many of the items that they discussed were personal to their citizens. She felt that by turning this job over to an attorney that they will be taking away the personal touch that the Board can give to a citizen. She said she is hearing that this will be an independent Magistrate. She said if this person is getting a paycheck from the City then his loyalty is from where his paycheck comes from. She would rather leave this in the hands of their citizens.

Ms. Graves asked in going forward with this, how would conflicts of interest be disclosed.

Mr. Coment explained that a Magistrate is under the same rules that the City Council is under so if they went with a Magistrate they probably would want to have an alternate Magistrate in case conflicts did come up.

Mr. Fletcher expressed that he was not in favor of putting this in the hands of an attorney.

Mr. Kramer agreed with Mr. Fletcher, but has some concerns after looking at the attendance of some of the Code Enforcement Board members and the fact that sometimes they cannot meet because they don't have a quorum.

Ms. Graves expressed that they do have a hybrid in place so they could get a Magistrate who could hear the cases if a meeting could not be held because of the lack of a quorum. This way they could continue moving forward.

Mrs. Turner said then they would have to pay a Magistrate a retainer fee and that would reflect the fees for an appeal to be heard.

Mr. Coment added that at many Code Enforcement Board meetings no one shows up representing the different cases.

Mr. Fletcher expressed that he served as a member on the Code Enforcement Board for four years and he would like to keep it the way that it is.

Mrs. Turner felt that one of the problems with attendance with the Code Enforcement Board is that they don't have regular meetings set up. She said that when her husband served on the Board he did not know when there was going to be a meeting.

Mr. Coment reported that the Code Enforcement Board meets on the second Wednesday of the month. The meetings are cancelled if there is not a quorum or no items to be discussed.

Mrs. Turner felt that the notice to the members could be improved.

Mr. McGarry added that the hybrid is in place, but he believed they would have to make a few changes to the Code. Mr. Coment agreed and said that when they originally put the Magistrate concept in the Code that it does say they would be volunteers and it does provide that they have to be residents of the City, which would probably need to be changed.

Mr. Coment commented that no one from the local Attorney's Bar has volunteered to serve as a Magistrate for the City.

Mr. O'Connor stated that if they are going to bifurcate then staff prefers to stay the way that they are. They have an option if something comes up that the Council could appoint a Magistrate at that particular time for that particular issue.

Mayor Winger would entertain one of two motions. One motion would be to approve the Magistrate and the second motion would be to table the matter and bring it back at a later date.

Mr. Fletcher made a motion to retain the system that they currently have. Mrs. Turner seconded the motion. On a roll call vote the motion died with Ms Graves voting no, Mr. Kramer no, and Mayor Winger no.

Mr. Kramer commented that he is not opposed to the current system, but he does see that there are some weaknesses in using it.

Ms. Graves made a motion to table the matter and bring it back and look at exploring the hybrid approach a little more. Mayor Winger seconded the motion.

Mr. Coment asked what Council would like staff to bring back.

Ms. Graves explained how a Magistrate would work if one needed to be called if they needed them.

Mr. Coment said the problem with that is in dealing with attorneys they need to be scheduled a head of time because most attorneys are busy. He said that they may not be able to get the attorney if they were on a standby basis.

Mr. Wilson asked how much of a fine are they talking about. He thought that most of the fines were \$50.00 or \$100.00. He was told that the fines vary. Mr. Wilson suggested using a dollar figure to go from using the Code Enforcement Board to using a Magistrate. He noted that the reason he attended the County Commission meeting today was to point out to them that they are charging \$18,000 to appeal a \$6,000 fee and he sees the City heading in the same direction.

Mr. Kramer noted that they have tabled this item and if the hybrid approach does not work then they will accept it and move on.

Mayor Winger suggested that Ms. Graves works with the City Attorney on exploring the hybrid concept and then bring their findings back to the Council.

Mr. Coment briefly went over how the Code Enforcement cases are handled and how a Magistrate would fit in. In having a hybrid system he will still be the attorney for the Code Enforcement Board and could also advise the Magistrate, but he could not help the prosecution.

The Clerk polled the Council on the motion and it passed 3-2 with Mr. Fletcher voting no, Ms. Graves voting yes, Mrs. Turner voting no, Mr. Kramer voting yes, and Mayor Winger voting yes. This matter will come back to the City Council at a future meeting.

At 12:22 p.m. the meeting adjourned for lunch and it reconvened at 1:30 p.m.

- 2) **Add the parcel of land upon which Bob Summers Park is located to Section 5.05 of the City Charter – Requested by Mayor Richard Winger**

3) Charter Review – Requested by Councilmember Pilar Turner

4) City Dog Park – Requested by Councilmember Pilar Turner

Mayor Winger explained that what he was asking for in this item was to add the parcel of land upon which Bob Summer's Park is located to Section 5.05 of the City Charter. The green space needs to be set aside as a Park to be used by all the public and be protected by the Charter as discussed at the November 19, 2013 meeting. He would like Council to direct that a Resolution be approved to place a referendum on the ballot in November to specifically add this parcel to Section 5.05 of the Charter. He noted that earlier in the meeting Mr. Daige was asking that additional items be placed in the Charter, which he has no problem with. He provided in his backup Section 5.05 of the City Charter and a copy of Ordinance 2006-33, which shows how this would have to be done. He noted that there were a couple of other items on the agenda that are somewhat related. He said that one of them is item 9A-3) Charter Review item requested by Councilmember Turner and City Dog Park discussion item 9A-4) requested by Councilmember Turner. He asked Mrs. Turner if she would like to discuss her items in combination with his.

Mrs. Turner agreed that they need to be heard together, but was a bit surprised when she saw his agenda item when at the last meeting it was discussed and she agreed to bringing this item back under her matters. She said if they are not going to consider having a special election then she would suggest that it be reviewed along with having a Charter Review and they look at an overall plan for their Parks.

Mrs. Turner read into the record her memo dealing with having a Charter Review (on file in the City Clerk's office).

Mayor Winger did not want to form a Charter Review Commission because of all of the things that the City has going on such as the selling of their utilities and the Lagoon issue. The only way that he would approve having a Charter Review Commission would be if it was for specific issues.

Mrs. Turner told the Mayor that is what she is suggesting. She feels that the Council should identify specific issues that need to be addressed. She provided Council with the minutes from the last Charter Review Commission and the establishment of that Commission and they provided the Commission with a deadline.

Mr. Kramer commented that because of the full plate that Council has right now he was not in favor of having a Charter Review Commission.

Mr. Fletcher stated that he was not in favor of having a Charter Review at this time.

Ms. Graves said if they had a Charter Review Commission that she would only want them to examine the Parks that they have had missing from being in the Charter. However, she thought that could be resolved in some other means.

It was the consensus of Council that there were enough items on their plate and they just needed to look at the Parks at this point. It was clear that the Council did not wish to have a Charter Review at this time.

Council went back to discussing item 9B-2), to add the parcel of land upon which Bob Summers Park is located to Section 5.05 of the City Charter. This will not be discussed in combination with Mrs. Turner's item that she put on the agenda (item 9D-4) City Dog Park).

Mayor Winger said that there are two matters here. Does Council just want to consider adding this parcel of land to the City Charter or do they want to also consider the different items that Mr. Daige brought up earlier in the meeting and have them also be in the Charter.

Mrs. Turner acknowledged that both McWilliams Park and Bob Summers Park are in the Charter. What they need to do is see a survey on what designated area is being requested. She also wanted to know a little more history of this particular land and why it was not included in the Charter when McWilliams Park and Bob Summers Park were included. She felt that they also needed to know the value of this land so that taxpayers are aware of what the parcel is worth and that it might be designated as Park land. Also, would they consider any development options? Is Council looking at having it just as a Park area or do they want it specifically protected as a dog park area. These are different areas that need to be looked at.

Mayor Winger explained that what he would like to do is add this plot of land deeded by the McWilliams to the Charter. Mrs. Turner was not sure that all of the land was deeded by the McWilliams and that needs to be clarified. Mayor Winger continued by saying that he wants to add this parcel of land to the Charter as being protected and used for recreational purposes.

Mr. Kramer asked if they wanted to take a vote on this and have staff start drafting some language. Mayor Winger said that he would like to do that.

Ms. Graves asked if they were going to address each piece of property individually or just have a list that the voters can vote on in the next general election.

Mr. Kramer said they need a consensus from Council that they want to have this item on the ballot and then develop the list of the other properties.

Mrs. Turner asked Mr. Coment if each of the parcels would have to be voted on independently to be incorporated into the Charter.

Mr. Coment explained that they could list all of the properties, however if someone finds one parcel that they don't want in the Charter then they would vote no, so none of them would go in the Charter. He suggested having all the properties listed as separate questions.

Mr. Fletcher instructed Mr. O'Connor to have Mr. David Gay, City Surveyor, put together a synopsis on this particular piece of property as to what specific property was anointed by the McWilliams. He did not think that this Park was a part of the original McWilliams grant.

Mr. O'Connor expressed that what staff will do is take the parcel of land that is now designated as the dog park and come back and tell Council how it was acquired.

Mrs. Turner wanted to also have a value of the land area as well. She didn't want them to go out and hire an appraiser she would like to just have a ballpark figure.

Mr. Winger asked that they also be provided with the other parcels listed in Mr. Daige's memo.

Mr. Coment referred to Mr. Daige's memo and explained that if the Heritage Center and the Community Center are within Pocahontas Park then they may already be protected. He will look into this.

Mrs. Turner noted that the Power Squadron is on Mr. Daige's list. She knows that they lease that building to the Power Squadron and she assumed that they also lease the land where the Heritage Center is.

Mr. Coment said that the Heritage Center is listed in the Charter as an exception that it can be leased for specific purposes. He said rather than producing a long list of things that they don't need, if a structure or facility is located in a Park he would not see a need of adding a particular structure to the list.

Mr. Fletcher also had a problem with all of these Pocket Parks being placed on the list. He said that some of these Parks are next to some active roadways and if they ever need to increase the size of those roadways they would not be able to if the land was in the Charter. He agreed that there were some of the properties that they needed to selectively approve, but not all of them.

Mrs. Turner suggested moving forward and request staff to come back with a study of these Park areas.

Mayor Winger said that he would put the matter back on the January Council agenda.

Mr. Kramer noted that there are a lot of people at today's meeting in support of the dog park area. He asked if it would be out of line to instruct staff to bring back some language to change the zoning of that area to designate it as Park zoning (Park 2).

Mrs. Turner stated that would be fine. However, she still wanted to see the value of the land so the public is informed that this piece of property could potentially be taken off of the tax rolls.

Mr. Jim Welles was at today's meeting representing the Vero Beach Dog Exercise Area, Inc., which is a newly formed non-profit corporation. He said that there have been significant contributions made to the corporation, both being cash and in-kind contributions. He has a petition signed by about 1,300 people who are all in favor of having this area dedicated as a dog park. He read a prepared statement.

Ms. Dell Ross, Bethel Creek Drive, commented that it scares her that Mrs. Turner mentioned more than once getting the value of this piece of property. She doesn't disagree with doing that. The reason she is here today is to ask the City Council to put the dog park in the Charter and keep it separate from others. She agreed that each parcel of land mentioned to go in the Charter needs to be considered separately. She has heard people say that dogs are not welcome in Vero Beach.

Ms. Lynn Kelzer, Bethel Creek Drive, was concerned that the parcel of land of the dog park area stay in the parameter of being a vote by the people. She doesn't feel that it should be valued as a piece of property up for sale.

Mr. John Wester could not believe that they have made this City such a slave to the dollar. He also does not agree with being charged to use a City Pavilion. He told Council that they are always after the "dog people." He asked Council to tell "the dog people" what they have in mind for the dog park. He expressed that Council seems to be so desperate for money.

Ms. Barbara Reeves, 2725 Country Club Drive, told Council that in looking ahead they must keep in mind that a lot of people have dogs and they must go somewhere. She said that dog owners are a community of friendly people.

Mrs. Turner went into her item entitled City Dog Park. She said that she has two dogs of her own and agreed this community is not dog friendly. She said in 1984 an Ordinance was passed banning dogs leashed and unleashed from all City Parks unless otherwise posted by the City Manager. She said that there are two dog exercise areas within the City, but no dog park and dogs are banned from the City beaches to protect the turtle nesting. Also, the City did pass a dog friendly dining Ordinance. She wanted Council to at least allow dogs in City Parks as long as they are leashed and request that staff recommend areas within the City which may be suitable for a dog park and identify the costs associated with having one.

Mayor Winger did not have a problem with allowing dogs in City Parks as long as they were leashed. However, he was not in agreement of removing the dog park.

Mr. Coment made it clear that what they were asking staff to do is prepare an Ordinance allowing leashed dogs in their Parks, excluding the beaches.

Ms. Graves was concerned that the dogs have their vaccination shots, etc.

Mr. Coment would have to bring back an Ordinance to Council removing the prohibition of having dogs leashed in City parks.

Mr. Daige cautioned Council that in their Parks there are children playing (referring to big dogs being allowed in the Parks and the children's safety). He referred to Piece of Pie Park.

Mayor Winger agreed that Piece of Pie Park was a small park and they might be better to have a list of the Parks that they would want this to apply to.

Mayor Winger asked Ms. Graves and Mr. Daige to work with Mr. Coment and come up with what Parks there could be a problem.

Mr. Coment said if Council wants to fine tune the list at first reading or at the public hearing that they could do so.

Mrs. Turner brought up they do not have a dog park, they have a dog exercise area and she would still like to see a proposal from staff on what it would take to have a dog park, the cost that would be involved, etc.

Ms. Mary McQueen, Ocean Drive, did not want to see the dog park land taken from them without first having a chance to vote on it.

Mayor Winger concluded this topic today by saying that at their January meeting they will have a proposed list of properties for Council to consider being included in the Charter. He said then separately they would have Mrs. Turner's proposal to allow dogs in City Parks as long as they are on leashes and subject to the dogs having their rabies shots, licensing, etc., and this will also come back in front of them. The last thing is changing the zoning from Commercial Marina to Parks.

Mr. Welles told Council that in the future he will be bringing a proposal to them for the dog park area. He said that hopefully it will meet Council's approval.

Mayor Winger told him that the first thing they need to do is rezone this area from Commercial Marina to Parks.

Mrs. Turner felt that they would need to consider what is the best use for that land and that would be to serve the needs of their citizens. They could have a beautiful boardwalk there and other services that would not just service the dog group, but all of the citizens of Vero Beach.

Mayor Winger agreed with Mrs. Turner's comments. He recalled that there was once a plan to have a boardwalk in that area.

Mrs. Turner added that they need a long term vision for this area.

Ms. Dell Ross felt that Council was discussing things that could be done, but would be expensive. She only wants a place to take her dog so her dog can exercise and to keep things simple.

5) Utility Commission Change – Requested by Councilmember Jay Kramer

Mr. Kramer explained that this item is to change the makeup of the Utilities Commission. He said that this came about in observing how the Finance Commission works and he is suggesting that each Councilmember have their own appointee to the Utilities Commission and Indian River Shores would still have their own appointee. He is trying to prevent Councilmembers from not having any representation on the Utilities Commission. He is asking the City Council to approve the idea of restructuring the Utilities Commission similar to how the Finance Commission is made up.

Mr. Fletcher did not have a problem with the way that the Utilities Commission is presently set up.

Mr. Kramer asked Mr. Fletcher if he was fine with the Mayor presenting a list of people he wants on the Commission and kicking everyone else off of the Commission. Mr. Fletcher answered no. Mr. Kramer told him that was the way that it was done the last time. Mr. Fletcher agreed the last time it was not well done. Mr. Kramer said that he is just trying to find a balance approach where just one person does not take over the whole situation. Mr. Fletcher agreed.

Ms. Graves was for the change if it allows each Councilmember to be represented.

Mrs. Turner wondered if they were getting to the point where each Commission is going to have their own Council representative on the Commission. She is a proponent that on some Commissions in making sure they have people on the Commissions who actually attend the meetings.

Mr. Scott Stradley, Chairman of the Utilities Commission, commented that he was interviewed by the City Council about three years ago and that there has been a sense of alienation with some of the Councilmembers to the Utilities Commission and it has been addressed several times by members of the Utilities Commission that they represent everyone. He thinks that if this is the direction that they need to go in order to get rid of those concerns then he is in favor of it. He did have some questions on the implementation of the new Utilities Commission. The first question would be how they deal with alternate members. He mentioned that with the Utilities Commission they have never had to cancel a meeting because they did not have a quorum and maybe that is because they have active alternate members on the Commission. He was told that the alternate members would be appointed at large by a vote of the Council. Mr. Stradley's next question was if this passes today would the Commission be dissolved immediately. He said that the Utilities Commission does not have a meeting scheduled for December, but if something came up that they needed to meet about that they could hold a special meeting. He wanted to know how this would work.

Mr. Kramer explained that they would have to have an Ordinance passed to approve this change so it would go to public hearing and could take some time. He anticipates that there probably would be some of the same members on the reconstituted Utilities Commission.

Mr. John Wester felt that the majority of the Utilities Commission should be City residents.

Mr. Kramer explained that with the reconstituted Commission at least five of the seven members will be City residents.

Mr. Stradley clarified for Mr. Wester that the Utilities Commission is just an Advisory Commission and they don't make any decisions.

Mr. Kramer made a motion to move this to first reading. Ms. Graves seconded the motion and it passed 3-2 with Mr. Fletcher and Mrs. Turner voting no and Mayor Winger voting yes.

6) Rescind Utility Rate Increase – Requested by Councilmember Jay Kramer

Mr. Kramer mentioned that in September there was an electrical utility rate increase in the amount of \$2.50 and he would like to have the Finance Commission look into possibly rescinding the electric utility rate increase. He said that there are several options that exist to lower the utility rates, such as burn out the fuel oil in the storage tanks at the utility plant to mitigate power cost fluctuations.

Mr. Winger passed out additional information (on file in the clerk's office). He said that the City has been tracking what they pay for outside power for a long time. The power rate increase was not justified and he would like them to lower the power bill understanding that they won't get the rates down to what FPL rates are.

Mrs. Turner referred to the material presented by Mr. Kramer, which stated that they could get lower utility rates by burning out the fuel oil in the storage tanks at the utility plant to mitigate power cost fluctuations. She talked to Mr. O'Connor about that suggestion. She did not think that burning out the tanks was the appropriate way to proceed.

Mr. Kramer explained that it could save money, but the better way to go is to sell the fuel on the open market.

Mr. O'Connor added that they have an RFP out for that because the City was recently cited by the State and told that they have to do inspections of the tanks and lines and part of their RFP is to change out some of that fuel oil for services rendered.

Mr. Kramer expressed that he does need to see how many days of cash that they have to ensure that they are at the right level.

Mr. O'Connor told him that the unencumbered number right now is six days. He said once they get through the month of January they will have their first quarter numbers with the rate increase. He agrees with having the Finance Commission review this.

Mrs. Turner asked Mr. O'Connor if they have received from OUC their fuel price projections for 2014.

Mr. O'Connor said that they have and OUC is projecting higher costs.

Mr. Kramer stated that after the Finance Commission reviews this item then he will bring it back to Council.

Mr. Charlie Wilson agreed that everyone wants lower rates. He asked Mr. Kramer if this proposed rate decrease will in any way move forward with a motive to defund their transactional attorneys. Mr. Kramer told him that if they meet the days of the needed cash then there is no reason for a rate increase. Mr. Wilson told him that is not the question he asked Mr. Kramer. Mr. Kramer told Mr. Wilson that the cost of the transactional attorneys was not part of the equation that he was using to do the calculations for the rate decrease. Mr. Wilson said that the rates can be lowered without defunding the attorneys and the reason that this is important is because some of the things that are taking place. He just left the County Commission meeting and one of the things that happened at the County Commission office is they decided to go forward to the Public Service Commission (PSC) in conjunction with Indian River Shores and to have the PSC reassign the utility territory outside the City of Vero Beach. He said that where this becomes a problem is that they are now put into a position with their current contract. He said if the County moves forward with an issue to separate the territory, along with Indian River Shores, and the City does some sort of counter action to this then they are placing themselves in a position of being in violation of the contract that currently exists. Mr. Kramer asked, how could they finish a contract if there is litigation pending that splits up the assets and why would the County be interfering with their sale between the City of Vero Beach and FPL. Mr. Wilson said because the County represents 66% of their customers. Mr. Kramer asked if there were 66% of the customers who wanted to stop the sale to FPL. Mr. Wilson commented that some people are giving up on its ability to take this to a conclusion. He said they now have to worry that FPL does not walk away from the deal and Council needs to do everything that they can to make sure that does not happen.

Mr. Ken Daige spoke on behalf of the utility customers and told Council that if there is anything that can be done in the future to lower the costs of their utilities that the citizens would appreciate that. He doesn't recall FPL ever saying that the City could not lower the cost of their utilities. He encouraged Council to go back and look at the record of the Utilities Commission meeting where discussion took place that included representation from Indian River Shores and the Moorings. He said that there is a lot of legal work that

has to be done before the matter goes to the PSC and there is quite a bit to do to approach the people at the PSC. He did not hear any Councilmember say they wanted to stop the FPL negotiations.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Richard Winger's Matters

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

Mayor Winger reported that he will be lobbying the Legislation at their meeting on Thursday about their concerns with septic tanks. He welcomed Santa Clause and did the lighting of the Christmas Tree in Downtown and he also had the pleasure of welcoming the Vero Man project, which he thinks will be a good thing for Vero Beach.

Mayor Winger stated that for the record he is opposed to paying for parking in any place in Vero Beach and hopes that the issue will go away before March.

B. Vice Mayor Jay Kramer's Matters

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

Mr. Kramer reported that he attended Downtown Friday and the Vero Man signing.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner has talked to some citizens concerning their special events committee. She said that they apparently have a committee with no clear mission statement, not under the regulations of the Sunshine Law and she was not sure who the committee reports to. She asked for some clarification.

Mr. Kramer explained that the Fundraising Committee is under the Sunshine Law and minutes are taken. He said if Council prefers that the Committee sunset then he will meet with the individuals privately and is fine with doing that. He said that the events can be planned outside of the Sunshine Law.

Mrs. Turner questioned if he handles it that way then how will different events be reviewed by Council. She said that when this was first suggested to Council she thought that it was going to be a subcommittee of the Recreation Commission.

Mr. Kramer had no problems with the Fundraising Committee being a subcommittee of the Recreation Commission. He said that everything that the Fundraising Committee has done is with Council approval.

Mayor Winger felt more comfortable with the Fundraising Committee being under the Recreation Commission.

Mr. Kramer stated that it will eventually be under the Recreation Commission.

Mrs. Turner stated that she felt that it should be under the Recreation Commission.

Mr. Kramer said then he will meet with the individuals privately for the next events.

Mrs. Turner reported on the Treasure Coast Regional League of Cities meeting. She attended the Tourist Development Council, and she will be attending an FMPA Board meeting on December 12th. Mrs. Turner welcomed the Blue Angels to the City as they get ready for their upcoming event. She encouraged the public to shop local and reminded everyone about the Holiday Party on Friday night at Royal Palm Pointe and the Oceanside Business Parade on Saturday night on Ocean Drive.

D. Councilmember Amelia Grave's Matters

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

Ms. Graves was looking forward to the chance to meet their State Legislators this Thursday.

E. Councilmember Craig Fletcher's Matters

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

Mr. Fletcher reported that he will be attending the Treasure Coast Regional Planning Council meeting on December 13th.

11. ADJOURNMENT

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

/tv