

**CITY OF VERO BEACH, FLORIDA
DECEMBER 6, 2011 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

1. CALL TO ORDER

A. Roll Call

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

B. Invocation

Dr. Earl Morgan of the First Christian Church gave the invocation.

C. Pledge of Allegiance

The audience and the Council joined in the Pledge of Allegiance to the flag.

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

Mr. Fletcher made a motion to approve the agenda as presented. Mrs. Carroll seconded the motion and it passed unanimously.

B. Proclamations

Mayor Turner presented Councilmember Kramer with a plaque thanking him for recently serving as Mayor of the City of Vero Beach.

C. Public Comment

Mr. Tony McKinnis, 787 Dahlia Lane, thanked the Council for their service to the City. He brought up alarm fees and mentioned that earlier this summer there was an increase in the alarm fees and the Police Chief had said that the premise for the increase was to stay in line with what the County charges for alarm permits. The new fee charged was adopted, but what was not adopted was in the event that no false alarms occur within a 365 day period the fee is waived. He said this is the way that the County runs their alarm program, as well as the City of Sebastian. He said that if there is no alarm call within the 365 day period and they are charging a permit fee then they are essentially charging a tax for which zero service has been rendered. H requested that the City take a look at this

and then if they want to stay in line with the County, then if there is no service rendered then the fee should not be charged.

Mr. James O'Connor, City Manager, stated that he would look into this and have a report back to Council at their January 3rd meeting.

Mrs. Carroll asked Mr. O'Connor to provide to them a spread sheet covering what the other municipalities are charging for their first year and how they determine not to charge and what they do if they have not charged for a couple of years and all of a sudden someone has a false alarm.

Mr. O'Connor stated that he will look at the three different cities in the County.

Mr. Paul Dritenbas, Vero Beach Sunrise Rotary Club, requested Council's permission to sell beer and wine at their first Florida Craft Brew and Wingfest event to be held at Royal Palm Pointe. They have all the other necessary permits in place.

Mrs. Carroll asked Mr. Dritenbas what is the date for the event.

Mr. Dritenbas said that it would be January 25, 2012 from 1:00 p.m. to 5:00 p.m.

Mayor Turner felt that this was an exciting use for the Royal Palm Pointe area.

Mr. Dritenbas hopes that the event is so successful that they will be able to make it an annual event.

Mrs. Carroll asked if the merchants were in agreement with the event.

Mr. Dritenbas explained that the Royal Palm Pointe Association, as well as the Vero Isles Association, have no objections to the event taking place.

Mr. O'Connor complimented the Rotary Club for doing so much work ahead of time. He said that it should be a good event and some of the restaurants located at Royal Palm Pointe will be participating.

Mr. Fletcher made a motion to approve the request. He was informed that this item is on the consent agenda for approval.

D. Adoption of Consent Agenda

Mrs. Carroll made a motion to pull item 2D-6) off of the consent agenda.

Mrs. Carroll made a motion to approve the remaining items on the consent agenda. Mr. Kramer seconded the motion and it passed unanimously.

1. Regular City Council Minutes – November 15, 2011

2. **Organizational Minutes – November 14, 2011**
3. **Commercial/Office Lease Agreement between the City of Vero Beach and Flightline Group, Inc., d/b/a Southeast Piper**
4. **Temporary License to Use City Property #2011-LA-0193 – City Dodgertown Property**
5. **Proposed Commercial Truck Traffic Restriction – Residential Neighborhood – Central Beach – Item Moved to 3-B) on the agenda**
6. **Changes to Electric Rate**

Mrs. Carroll noticed that all the customers who get electricity from the City of Vero Beach will be seeing an increase of 6.1% in their overall bill. She asked Mr. O'Connor to explain why this is occurring and why the City is forced to raise their utility bills. She said that an average bill will now go from \$114.43 to \$121.43.

Mr. O'Connor stated that the primary reason is based on their fuel cost coming from their suppliers and those fuel costs have to be passed on.

Mrs. Carroll was looking at the chart provided to them in their backup material and said that their rates would now be back up to where they were in April 2010. Mr. O'Connor said that is correct. Mrs. Carroll continued by saying that this increased funding that will be coming to the City will not necessarily be used to apply to the General Fund. Mr. O'Connor said that none of this money will go to the General Fund. It is all costs to pay for fuel (it is a pass-thru).

Mr. Winger wanted to know where this is projected to go.

Mr. O'Connor felt that costs would continue to rise with coal and some of that is due to that the Stanton Plants are relatively new. However, right now coal is not the favorite fuel choice and gas continues to hover around a very low mark so gas is the fuel of choice right now. In their particular situation their suppliers are heavily reliant on coal.

Mr. Winger said so what they see is what they have. Mr. O'Connor said that is true. However, there is speculation that coal may become a fuel choice sometime when the economy rebounds and they have it as a demand for energy.

Mr. Winger then asked where this puts the City versus FPL percentage wise. Mr. O'Connor felt that the number was close to 22% high.

Mrs. Carroll wanted it made clear to the public that this is a result to the contract that the City signed with FMPA and OUC, which stated that if the prices of the raw materials rise they would then have their prices rise simultaneously.

Mr. O'Connor added that the City has been absorbing some of these costs with some revenue that they had, but they cannot offer that with this increase. He said that this is a pass-thru. Their fuel costs are direct costs to the City and the base rate is where they would have any transfers related to the General Fund.

Mrs. Carroll asked what the ramifications would be if the City chose not to raise these prices to their customers.

Mr. O'Connor stated that they would run out of cash in a hurry and any transfers to the General Fund would be completely depleted and if you took it for the long term then they could go into bankruptcy.

Mr. Winger felt that what he was hearing from Mr. O'Connor was that they have no choice.

Mr. O'Connor told him that is correct. This is a cost of the commodity that they are selling.

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

7. **First Annual Florida Craft Brew and Wingfest**
8. **Joint Participation Agreement – Amendment No. 1 – FDOT FM No. 428609-1-78-01 – Dredging of Vero Isles Canal**
9. **Vero Isles Dredging Project – COVB Public Works Project No. 2006-30**

The remainder of these items were approved under the consent agenda.

3. PUBLIC HEARINGS

- A) **An Ordinance of the City of Vero Beach, Florida, amending Section 62.64, Permitted Uses, Chapter 62, Article V, C-1M Marina District of the City of Vero Beach Land Development Regulations; Providing for Regulations Governing the Dry Land Storage of Watercraft and Trailers and the Minor Repair and Routine Maintenance of Watercraft; providing for Minor Edits and Reorganization of Text; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning and Development Director**

The City Clerk read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, reported that this Ordinance deals with outside storage for kayaks and also brings regulations in line for other area Marinas.

Mrs. Carroll asked if there are written leases required from individuals who want to store their kayaks at the Marina.

Mr. O'Connor answered no, but they do have leases for boats being stored at the Marina.

Mrs. Carroll recalled that at the large boat storage at the Marina, that a written lease and proof of insurance is required. She wondered if they should also have something in writing for people storing their kayaks at the Marina.

Mr. Tim Grabenbauer, Marina Director, said that he spoke with the City Attorney's office and they are working on an agreement.

Mrs. Carroll expressed how important this is to have.

Mayor Turner opened and closed the public hearing at 9:50 a.m., with no one wishing to be heard.

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

B) A Resolution of the City Council of the City of Vero Beach, Florida, prohibiting the use of certain residential streets within the subdivision areas known as Briggs Tierney Subdivision, Orange Park Estates Subdivision Unit No 1, River Oaks Estates Units 1-4, Town and Beach Estates Subdivision, Vero Beach Estates, Wood Haven Manor, and Walter Kitching's Subdivision; by Commercial Motor Vehicles; Providing for Implementation and Enforcement; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by Public Works Department

The City Clerk read the Resolution by title only.

Mr. O'Connor noted that the tabulation showing the truck and vehicle counts is a part of their backup material and is on their website.

Mayor Turner opened the public hearing at 9:52 a.m.

Mr. Doug McKinnis, Dahlia Lane, did not want to see commercial vehicle traffic in residential areas unless it was a delivery truck. The big trucks need to stay on the main arteries. He complimented Mr. Bill Messersmith, Assistant Public Work's Director, on how great it has been to work with him on this matter.

Mayor Turner closed the public hearing at 9:53 a.m., with no one else wishing to be heard.

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

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

A) A Resolution of the City Council of the City of Vero Beach, Florida supporting the Adoption by the Florida Legislature of a Ban on Texting while Driving; Providing an Effective Date – Requested by the Treasure Coast League of Cities

The City Clerk read the Resolution by title only.

Mr. Fletcher explained that the Treasure Coast League of Cities are in support of this Resolution to ban texting while driving. They are asking the municipalities on the Treasure Coast to pass this Ordinance saying that they support the adoption by the Florida Legislature of a ban on texting while driving. He was not sure how many municipalities have already passed this Resolution, but felt that it is a real important safety issue and they need to take a strong stand on this by encouraging the Legislature to pass it.

Mrs. Carroll commented that they were not requesting that the City Police Department start ticketing people on this.

Mr. O'Connor answered no. He said the only thing that this Resolution does is encourage the State to pass this requirement.

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

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

A) A Resolution of the City Council of the City of Vero Beach, Florida, relating to Water and Wastewater Utility Service; Establishing a Water and Wastewater Utility Readiness-To-Serve Charge; Providing Definitions; Providing for an Initial Billing Register; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Water and Sewer Director

The City Clerk read the Resolution by title only.

Mr. O'Connor explained that this is in congruence with the optimization study and is something that the optimization study pointed out. It represents between \$200,000–\$250,000 in revenue.

Mr. Winger asked if this is the same optimization charge that the County has.

Mr. O'Connor explained that it is not the same rate, but it is the same structure.

Mr. Rob Bolton, Water and Sewer Director, reported that this is a fee that would be charged to vacant lot owners where they have signed permits and allocated capacity at their Plant, but the property owner has not built anything on their property. The charge was built around what the City's costs are for carrying that capacity and their costs for maintenance on the lines. That is why the charge is lower than the typical monthly bill. He went over how the County is structured. He said that once the developer signs their agreement and the lines are constructed the County starts immediately billing them with their base bill. He believes the water rate difference is \$2.00 a month and the sewer rate will be roughly \$1.26. The City's charge is \$9.77 and the County's rate is \$7.76 so this would be \$2.01 difference. With sewer the City is \$15.83 and the County is \$14.58, so we would be \$1.25 more than what the County charges.

Mrs. Carroll made it clear that they were trying to charge 20% more than what the County charges.

Mr. Bolton explained that the rate was developed when the consultants from GAI looked at the cost. He does not know how the County developed their rates back in 1999.

Mayor Turner felt that it might behoove them to get that information (the County rates and how they developed them). If they (the City) are going to initiate a new charge they need to be able to justify it.

Mr. Winger was in favor of this, but would prefer, when this comes back for a public hearing, to have the information based upon having the same rate as the County.

Mr. O'Connor stated that staff will go back and adjust the rate and look at where the County's rate was developed and then look at theirs and try to be competitive in that area.

Mrs. Carroll asked Mr. Bolton to go through the process in how he determined what the rates would be. She asked did he start with how much he wanted to earn or did he start with what the costs are to the City right now for the upkeep of the unused capacity and then got down to the 951 impacted property owners throughout the City and throughout the Shores and South County who will all of a sudden start getting these bills and wonder why they are being charged for water and waste water capacity for their empty lot that is using no services.

Mr. Bolton explained that he did not perform this study. The study was performed by GAI. He said that what they looked at was the debt service as outlined in the study. They went through the entire County data base of all the properties that would be connected or could connect with lines in front of them and established a billing register and rechecked every single one of them to make sure that it was a buildable lot or it may have been an existing lot that there was a house on and the house was torn down and they stopped paying their bill and discontinued service. So now they have moved the paying of those lines to the existing customers.

Mrs. Carroll commented that the reason they were talking about this today is because of the GAI optimization study. This portion of the optimization study looked at increasing revenues to the Water and Sewer Department. However, the Water and Sewer budget for next year does not have this increase of \$254,000 in it. So when this \$254,000 hits the Water and Sewer's budget, theoretically next year there will be increased income from everyone who owns a vacant lot. She asked Mr. Bolton how this extra money will affect his budget going forward in the future.

Mr. Bolton explained that the money could be used for whatever the Council decides to use it for. He reminded them that when they voted for the Optimization study that this is one of the first things that Council wanted to get moving. He said that he is responding to Council's wishes at the time that they approved the Optimization study.

Mr. Winger commented that part of the Optimization study that he is in favor of is moving the Sewer Plant off of the lagoon and building an efficient Plant. The whole idea of the Optimization study was to accumulate these funds and be able to move the Sewer Plant sooner. Another goal was to have the City and County's bills essentially the same.

Mayor Turner was in favor of going forward with this Resolution. She does have some concerns with the rates not being comparable with the County rates and how this is going to be "rolled out" to the property owners. She recalled that the Resolution states that this will be effective in April.

Mr. Bolton was hoping to fast track this and have it effective in April depending on their billing system. They are working on what hurdles they have to go through hoping to meet the April 1st deadline.

Mrs. Carroll noted that when she discussed this matter with Mr. O'Connor he had mentioned that this was primarily residential. After looking at the backup material she sees a large number of multi-family residential and businesses that will be affected. She also sees various corporations throughout their community that also will be affected. She wondered if they have looked at the percentage of foreclosures there are and how that will be impacted. She said that there are a lot of foreclosed lots within their community.

Mr. Bolton stated that right now they do not have any data on the foreclosed properties. This was prepared off of the tax records.

Mr. O'Connor explained that foreclosure would have no real bearing on this because when they place a lien on the property and it is transferred to someone else other than the mortgage holder then it would be due at that point.

Mrs. Carroll made it clear that this includes all residential lots within the territory that have City water and sewer would be impacted on this new charge of roughly \$25.00 a month.

Mr. Kramer asked Mr. Bolton if, in his opinion for the last couple of years has the ratepayers been subsidized for maintenance and debt service. Mr. Bolton answered yes.

Mr. Fletcher made a motion to approve the Resolution on first reading and set the public hearing for January 3, 2012. Mr. Winger seconded the motion and it passed 4-1 with Mr. Winger voting yes, Mr. Kramer yes, Mrs. Carroll no, Mr. Fletcher yes and Mayor Turner yes.

B) An Ordinance of the City of Vero Beach, Florida, pertaining to Environmental Regulation; Amending the Code of the City of Vero Beach, Chapter 38, "Environment," by Providing for Creation of Article V, "Florida-Friendly Fertilizer Use;" Providing for Conflict and Severability; Providing for an Effective Date. – Requested by Mayor Turner

The City Clerk read the Ordinance by title only.

Mr. McGarry reported that when they first heard this Ordinance there were certain concerns brought up by commercial applicators regarding the blackout period for prohibiting fertilizers (nitrogen and phosphorus). He met with some of these people who had these concerns and came to a conclusion that the blackout period was their major concern so they have revised the Ordinance to eliminate the blackout period, but there still would be blackouts during rain events. Also the complete prohibition against phosphorus under almost every condition has been eliminated. They looked at the permit application and recommend that the Ordinance go into effect immediately, however the period for the applicators to get their permits from the City has been extended to the end of December 2011. They extended the date for the commercial applicators and they have to be registered by the end of December. He said that they also dropped the permit fee.

Mayor Turner commented that according to St. John's Water Management District the Indian River lagoon generates almost 800 million dollars of revenue into the community and it is a critical asset to this community to protect the lagoon. She participated in the meeting that Mr. McGarry held and was happy that there were so many interesting people that came forward to discuss this. She has had telephone conversations with Mayors in Sarasota, Naples, Longboat Key and Venice who have a stricter Ordinance then this one and she asked them what their success has been. She said that this will be one important step that they can take as a community in moving forward to protect the lagoon.

Mr. Winger asked Mayor Turner if they answered the concerns of the three golf course managers who came to their meeting when this was first discussed.

Mayor Turner said that these golf course managers attended the meeting and they were wonderful in providing information and technical support and are happy with the way that the Ordinance now reads.

Mr. Winger was worried about people like him who fertilize their own lawn.

Mayor Turner made it clear that there is no problem with people fertilizing their lawns they just need to keep it away from the water line (buffer zone). She said also not to fertilize when there is a lot of rain and read the instructions of how much fertilizer should be used.

Mrs. Carroll recalled that at the last meeting when this was discussed there was a member from the corporate fertilizer industry who stated that different things were required if they create an Ordinance that was stronger than what was passed by the Florida Legislature. She asked if this Ordinance was following their guidelines.

Mayor Turner answered yes, it is following their guidelines.

Mr. McGarry expressed that there is a difference in the time to get the permits, but he does not see that as a problem because most of the applicators are already trained.

Mrs. Carroll stated that under the definitions it states that an institutional applicator is any person other than a private non-commercial fertilizer applicator who shall include owners, managers, and employees of schools, parks, religious institutions, multi-family projects, and any residential properties maintained by condominiums. She said after reading this that a maintenance worker at a school could be putting the fertilizer down and only one person within the entire school district would need to be trained.

Mr. McGarry pointed out that this is an education process and is not something that you can just enforce. He said in the case of the schools, if they have one person trained then that person will be able to train other people within the school system.

Mrs. Carroll's other concern was condominiums. She said that each condominium would have to have someone trained. Mr. McGarry answered yes. The cost for training would be \$50.00 for a six hour on-line training course. The certification would last at least a year. Mr. McGarry would find out if there is a renewal fee.

Mayor Turner made a motion to approve this Ordinance on first reading and set the public hearing for January 3, 2012. Mr. Kramer seconded the motion and it passed 5-0 with Mr. Winger voting yes, Mr. Kramer yes, Mrs. Carroll yes, Mr. Fletcher yes, and Mayor Turner yes.

6. CITY CLERK'S MATTERS

A) Committee Appointments 2011-2012

Council agreed on the Committee Appointments for 2011-2012 (please see attached).

B) Opening on the Airport Commission

After filling out a ranking form (on file in the City Clerk's office) Mr. Gary L. Emerey was selected by a 3-2 vote to serve as an alternate member on the Airport Commission.

C) Finance Commission Appointments

Mr. Peter Gory, Finance Commission member, noted that with the 60% turnover on the Finance Commission it may be important to have a meeting set up soon so that they can continue working on their annual report as requested by Council.

The Finance Commission appointments are as follows:

Mr. Glen Brovont – Mayor Pilar Turner
Mr. Scott McCracken – Vice Mayor Craig Fletcher
Mrs. Kathryn Barton – Councilmember Tracy Carroll
Mr. Peter Gorry – Councilmember Jay Kramer
Mr. William Teston – Councilmember Richard Winger

After filling out a ranking form for the two alternate positions open on the Commission, Mr. Raymond Darling was selected by a 4-1 vote and Mr. Cliff Norris was selected by a 4-1 vote (ranking forms on file in the City Clerk's office).

The City Clerk reported that the December 20th Council meeting has been cancelled as it has always been a tradition to cancel the second meeting in December because of the holidays.

7. CITY MANAGER'S MATTERS

A) Update on Response to Indian River Shores regarding Water, Sewer and Reuse

Mr. O'Connor recalled that they received a letter from Indian River Shores asking them to respond with the offer on water, sewer, and reuse rates. He is putting that together and will have it for Council consideration on January 3rd. It is due to the Town of Indian River Shores no later than January 23rd, which is the date that they will be voting on it. It appears that they are competitive with their water and sewer rates since they have given Indian River Shores two options. He said that the reuse is the challenge. They are looking at having a three tier rate structure that would apply in the City, as well as within the entire service district. Again, this will be presented to Council for their consideration at their January 3rd meeting.

Mrs. Carroll commented that there has been questions from the community from the residents of Vero Beach who would like to have reuse water available to them, especially properties that do not have the capabilities of drilling wells for irrigation. She asked how will their decision to continue to supply and perhaps increase supply of reuse water to Indian River Shores through contract negotiations effect the possibility of their own residents at some point in the future having reuse water made available to them.

Mr. O'Connor explained that once they make the investment, which would cost around \$250,000, reuse water could be made available. The problem they have and some of the issues facing the residents inside the City is building infrastructure to serve those lots and someone would have to pay that cost.

Mrs. Carroll asked what would that cost run.

Mr. O'Connor said it would depend on where you are in relations to the main trunk line of the reuse water line. As it stands now, the residents, or group of residents, are required to run the lines in order to get the service to those lots.

Mrs. Carroll commented that after hearing what Mr. O'Connor just said then a neighborhood would need to pay at some time a portion or the totality of bringing reuse water into their neighborhood.

Mr. O'Connor said that is correct, but capacity should not be an issue.

B) Update of FPL

Mr. O'Connor gave an update on FPL. He said that they are moving along with this very complex process. Their transactional attorneys have scheduled meetings with FPL to start hammering out at least a preliminary proposal or contract. They hope to have some document before the end of the year. There are meetings that will be taking place next week. Mr. O'Connor made it clear that they do not have a contract nor do they have a lease agreement. He said that discussions with FMPA and OUC are taking place. It appears that they will have to come up with some type of proposal and their transactional attorneys are working on that. The transactional attorneys have hired an engineering firm that specializes in putting values on these types of power supply agreements. He said that due diligence is still taking place and different things are being addressed. Overall progress is being made and he feels that they are building the momentum to continue moving forward. It is his hope to have the document by December 31st and not something that they would need to have a Special Call meeting to meet about.

Mrs. Carroll thanked Mr. O'Connor for all the work being done by him and their transactional attorneys. Her concern is that they do have a Letter of Intent (LOI) that expires December 31st and she would hate for anyone to make a legal challenge that it would expire before a contract came in. She made a motion to extend the LOI for three months until March 31st. Mr. Fletcher seconded the motion.

Mayor Turner noted that as a Council they were slow in hiring a transactional attorney and she knows that they have just recently started evaluating the OUC and FMPA contracts. She felt that it was important that they get a value on those entitlements as they move forward.

Mr. Winger expressed his commitment to selling to FPL, but he does not see the need to extending the exclusive. He did not think that it made any difference one way or the other.

Mr. Kramer added that the only thing that could possibly happen is if someone came in with a better deal. He said if everyone is pretty confident that this is the best deal, he does not see a need to extend it.

The motion passed 3-2 with Mr. Kramer and Mr. Winger voting no.

Mrs. Carroll again thanked Mr. O'Connor on the job he has been doing. She said that he has been doing an incredible job and has stepped up to the plate.

Mr. O'Connor complimented the well and dedicated people who work for the City and how they all work together.

Mr. Wayne Coment, Acting City Attorney, recalled that the last time they extended the LOI they had an addendum to the letter. He did not think that FPL would have a problem extending this for three months. He will work on the extension and have the Mayor sign it.

8. CITY ATTORNEY'S MATTERS

A) Legal opinion regarding asset ownership – Indian River Shores

Mr. Coment brought up that there have been questions on the ownership of the assets in Indian River Shores at the end of the franchise. When GAI did their evaluation they only valued the system at a certain date and not at the end of the franchise. He said that Mr. Bolton has done a lot of historical work about the system so a lot of that work has already been done. If Council wants them to move forward in giving a legal opinion regarding asset ownership then it can be done in-house, but he would suggest doing what the County did and supply the history and documents to an outside attorney. He has not been able to get an estimate as to what the cost would be, but from his part it would be a substantial project in doing all the research and then rendering an opinion. He said that with everything else going on in his office, he could probably get this completed in a month's time. An outside attorney would have costs, but the difference is that it would be an independent opinion. He was just looking for some direction from Council on this.

Mrs. Carroll mentioned that if their staff rendered an opinion or if they paid an attorney to write an opinion, if this did come down to litigation, at some point that opinion that we paid for would still seem to be bias as opposed to an arbitrator or mediator. From this standpoint she could see no benefit. She asked would it be possible at this point to hire an impartial mediator to take a look at the data.

Mr. Coment explained that at this point the issue is not with Indian River Shores. They are trying to make a decision as to who to go with as their service provider. The real

issue is if Indian River County was to take over the service area and the important issue of the right to serve. He said that no matter who owns the assets at the end of the franchise they do have a territorial agreement with Indian River County that states that is their territory and they cannot serve it without the City's permission.

Mayor Turner explained that her concerns were more fundamental. She said that in the contract that they have proposed to Indian River Shores it requires the City to purchase these assets. The assets were valued by GAI based on replacement costs new and obviously are not new at this time. This is where her concern is now. She wants to make sure that the City is getting a good deal out of this.

Mr. Coment explained that with the issue of the 10% surcharge they expect that to go away no matter what. He said whether the City is getting the assets or they are keeping them.

Mr. Winger added that this deal is predicated that the 10% surcharge is going to go away and anything that Indian River Shores happens to own goes to the City.

Mr. O'Connor explained that this is coming down to the pricing of the utilities. The 10% surcharge really is a policy decision because by law they are allowed to charge it and also by law they don't have to charge it.

Mayor Turner stated that if they (Indian River Shores) agreed to go with County rates then they would be paying cheaper rates than the City's rates.

Mr. O'Connor said in some cases that is correct.

Mayor Turner continued by saying that they have proposed two contracts to Indian River Shores and one of them is offering them the County rates. She asked if they were in some way subsidizing this community by offering them lower rates than what some of their City residents receive.

Mr. O'Connor went over a rate structure that they could come up with and if they choose to they could also apply it to the citizens of Vero Beach.

Council agreed that at this time, unless Indian River Shores chooses to go with the County that this matter be tabled and brought back if they need to discuss it further.

At this time Council took a ten-minute break.

Mr. Bill Teston, Finance Commission member, commented that there were two things that Council discussed this morning and he wanted to ask them to include some of his comments for consideration. He first brought up the Resolution relating to Water and Wastewater Utility Service. He asked why wouldn't they consider instead of "banking" the money that is going to be earned by doing this include in the analysis to assist the existing customers who are paying rates.

Mayor Turner added that they also could consider paying down the debt.

Mr. Teston then brought up the rate increase for the City electric. He knows that they are passing on the cost. He said one of the things that he would also like to see financially is to ask the question if they hold the line on the cost of 6.2% where is it going to come from. They are now talking about divesting themselves of this utility and they are going to address this question as to where are they going to generate the revenue or are they going to live without the additional revenue. All he is saying now is when they take into consideration rate increases that they take a look at the money being collected and how they can hold the line on the costs as opposed to passing the costs on.

9. CITY COUNCIL MATTERS

A. Old Business

1. Status of Requests for Proposals – Requested by Mayor Turner

B. New Business

Mayor Turner asked Mr. O'Connor to give an update on the status of the RFP for healthcare, pension reform, and City financial services.

Mr. O'Connor reported that he has a meeting on December 9th to talk with Florida League of Cities to discuss their health insurance and property insurance coverage. This may be an option to self-insurance and the need for a company such as Gehring Company. They are also looking into the Florida Retirement System to replace their pension program. In the initial look there would be some upfront costs, but the overall costs could be lower. They would like to set up a workshop and hear a presentation from Segal in the near future. If they chose these types of options then an RFP may not be necessary since the services they presently have would not be necessary. On the health care coverage, when the City chose to go self-insured the number of employees helped in building a critical mass where while in a downsizing mode this coverage may not be affordable. They will have an RFP on the financial services by the end of the month. He said that the Finance Department is doing the background on the services and will be moving forward. As far as the Wastewater Lab goes the RFP should be out in January and they included a provision in the lab work that they have already contracted for a provision that there is an out clause in case there is someone who can incorporate all of the lab work.

Mrs. Carroll commented on how long this has all taken. They started discussing these things in October and now it looks like they will not be completed until March.

Mr. O'Connor expressed the importance of putting an RFP together in the proper manner and sometimes how much time it takes to do that.

Mr. Fletcher asked if the banking services contract was for five years. Mr. O'Connor answered yes.

1. Recreation Fund – Requested by Councilmember Winger

Mayor Turner requested that Mr. Winger use the correct form for putting items on the agenda and that he needs to provide backup material.

Mr. Winger felt that Mayor Turner's comments were appropriate. He continued by saying that there is a management style that he sees that needs to be invoked to deal with the sale of the electric. They have three critical issues in front of them, which are the sale of the electric and how much money they get from it, and the FMPA and OUC contracts. He presented a three legged stool (shown on the doc cam) and said if they cut off the bottom leg of the stool at \$4 million dollars revenue then they have an unstable stool. He said that the public needs to understand that changes are going to have to be made and they will need to utilize their Commissions as much as possible in assisting them to do this. He read a recent article that occurred in the Vero Beach Weekly.

Mayor Turner asked Mr. Winger to return to the item that he has on the agenda "Recreation Fund."

Mr. Winger explained that the point he wanted to make is that he attended the last Recreation Commission meeting where they were considering cigarette butt receptacles on the beach. He then gave some history on Recreation. He said that in 2002 they lost \$680,000 worth of funding from the County the year that they split. Then in the 2011-2012 budget, the total funding for Recreation is \$3.7 million dollars and the revenue is \$605,000. He believes that over 68% of the use of the Parks is by non City residents. He wanted it made clear that he is very much in favor of Parks and Recreation and he is for expanding them and not diminishing them. He is proposing to the City Council that they use the members on the Recreation Commission, the City Manager, and the Recreation Director to have meetings centered on changing the ratio. Right now the ratio of City funding is 82% and the ratio of self-funding is 18%. He has looked at some of the programs and feels that there are opportunities to change the ratio. He requested that the Recreation Commission and the City Manager come back to City Council with ways to produce more revenue and having less drain on the General Fund. They can come up with ideas on how to make the programs they have more successful and how they can improve the dynamics of what they have going on here. He said that he received this idea from the City Manager.

Mr. O'Connor talked to Mr. Winger about the organization of the whole City and one of the things they were talking about was how Parks and Recreation is classified as an Enterprise Fund. He wondered if it should be an Enterprise Fund. He has never seen a Parks Department generate more revenue than it costs or even break even. In the benchmarking that they are doing there is a possibility that they could put Parks under Public Works and that charge would go to General Fund and maybe call Recreation the programs that they provide. In one City where he worked the challenge to the Parks

Department was that they were collecting 30% of the cost of the Recreation Department activities and the challenge was the first year to go to 40%, 50% the following year, etc. He said that no one ever thought that they could break even, but the goal was to try to move the gauge up. In this case they will have to figure out what they are gauging against.

Mr. Winger stated that all he is asking that we empower Mr. O'Connor and the Recreation Commission to look at what they are doing with the idea of having benchmarks and empower them to come forward with ideas.

Mrs. Carroll had a significant concern with the verbiage that Mr. Winger used for this agenda item. She read where it stated in his backup to "Dramatically narrow the Gap between revenue and expense over several years starting now." She asked Mr. Winger if he has spent any time with the Recreation Director regarding cuts that have taken place with Parks and Recreation over the last four years.

Mr. Winger answered yes.

Mrs. Carroll then asked if he realizes what the budget includes.

Mrs. Carroll asked Mr. Slezak to delineate what has happened to the budget for the Recreation Commission for the last four years and what cuts have been made by his department.

Mr. Rob Slezak, Recreation Director, reported that the budget cuts made over the last four to five years amounts to \$700,000. They have trimmed 47 positions down to 28 positions and they are still trying to provide all the services that they have provided in the past. He said they are being impacted more and more with community events. At this time there are over 80 events per year that they are assisting with. In September he went before the Recreation Commission to discuss rate increases and they will be bringing some of the proposed rate increases to Council in the New Year.

Mrs. Carroll recalled the proposal to take lifeguards off the beaches for one day a week and they were able to work through that and find the money so they didn't have to do it.

Mayor Turner commented that they all agree that they have a huge challenge and she believes that the department heads are working hard looking for ideas to bring forward. She appreciated this item, but commented on the one department picked on is the one that has been the most active in cutting.

Mrs. Carroll read some of the comments received from the Recreation Commission regarding this item (on file in the City Clerk's office).

Mr. Kramer added that they need to be looking at different events that will bring money into the community, such as concerts, etc.

Mr. O'Connor will work with the Recreation Commission and Mr. Slezak in moving in that direction. The Recreation Department and the Recreation Commission will continue tackling the budget issue.

2. Monitor the implementation of the GAI W&S optimization with the intent of accelerating the accumulation of capital to move the Sewer Plant off the Lagoon more quickly – Requested by Councilmember Winger

Mr. Winger explained that all he is looking for is to have the City Manager have the Finance and Utilities Commission be active monitors of the optimization. He said that there are a number of issues beyond the vacant lots and expressed that they have to plan on how they can improve the economics.

Mayor Turner agreed that they have some suggestions, but they don't have a time line or implementation of the program.

Mr. O'Connor felt that when they do the lab RFP's and cost of service that these things can start to be done. He said that he would be giving Council a time line at their second meeting in January.

3. Begin the steps necessary to establish an Airport Authority – Requested by Councilmember Winger

Mr. Winger wanted it made clear that when he talks to the Airport Commission and uses the word "drain" in his memo he did not intend to say that the Airport Commission is a drain in any way. He mentioned that this is a Regional Airport and the City is dealing with issues of lead, land utilization, etc, and all he is asking here is would we get more jobs and have more growth in having an Airport Authority. He said that it would be a very long range project, but they might end up with a more effective entity for the Region if they saw it would be better to have an Airport Authority running the Airport instead of the City.

Mr. O'Connor explained that this could be looked at in the process of doing a new Master Plan, which will begin in the spring.

Mr. Winger commented that moving forward they will need to look at the different things that they are doing and ask is there a better way.

Mr. Fletcher commented that the Airport is a self sustaining entity and he asked Mr. Winger why he would want to go to an Airport Authority.

Mr. Kramer recalled that he talked to Mr. Winger about this before the election and the main reason for doing this is that you have an Airport, which is an entity that the City of Vero Beach makes no money on. However, if there is something that happens at the Airport then Airport becomes a liability. He is sure that the Airport Commission and the Airport Director sometimes have problems dealing with the City Council. If there was an

Airport Authority they would be able to have the authority to do whatever they would like regarding the Airport within their constraints.

Mayor Turner's position was that they have an Airport that is working well and sustaining and they should leave it alone.

Mr. Fletcher agreed that they did not want to create another democracy.

Mrs. Carroll referred to the document that they received from the City Manager having to do with Airport Authorities. She read from page 16 of the document, which indicated that Airport Authorities are usually formed if an Airport is failing or suffering.

Mr. Eric Menger, Airport Director, stated that currently the Airport is fine. He said that they should always be open to looking outside the box and investigating new ideas. He said the discussion of an Airport Authority through the Master Plan concept is fine. The Airport is currently running in the black and the City is happy with the Airport.

Mrs. Carroll wondered what an Airport Authority could provide the Airport that the current system of City Council and utilizing an Airport Commission does not.

Mr. Menger felt that the current structure works, but what an Airport Authority would most likely do is provide a more singular vision.

Mrs. Carroll wondered if they could add another line item to what the Airport Commission's responsibility is to charge them with assisting in creating a vision plan to increase the long term effectiveness of the Airport.

Mr. Menger agreed that could be done and said that the Airport Commission would be involved with the Master Plan process.

Mrs. Carroll asked Mr. Menger to share with Council the time frame of this Airport visioning process.

Mr. Menger reported that the Master Plan is about a \$500,000 study and it is typically funded by the FAA and FDOT. The funding for the State portion is planned for July 2012, but that is only a smaller portion and he does not know when the Federal funding will be available. He hoped by January 2013 something should be in place to begin the Master Planning process and it is usually a 19 month process, so it will probably not be until 2015 when they have a new Master Plan in place.

Mrs. Carroll asked how far out in the future does the plan go.

Mr. Menger stated that it would be for 20 years. The last Master Plan was done in 2000.

Mrs. Carroll commented that if an Airport Authority was created they would take the decision making process of this Council. Mr. Menger said that is correct, if it was formed as an Independent Airport Authority.

Mrs. Carroll stated that currently there is an administrative fee that comes from the Airport in their budget based on the amount of money that the Airport earns back to the City for the work done by different departments in the City (City Attorney, City Clerk, Finance etc.). She asked if that would then be changed if they had an Airport Authority.

Mr. Menger explained that an Airport Authority would have taxing abilities, so any ad valorem taxes collected at the Airport might stay at the Airport as opposed to now the ad valorem taxes for the businesses at the Airport go to the City, County, and School District. An Airport Authority is usually formed because there is a high cost of operation or because it has been a failing business. He felt that a lot of pros and cons needed to be listed before Council would be ready to make a decision.

Mr. Kramer stated that one of the reasons that you do an Airport Authority is that you can pretty much transfer the land into the Airport in exchange for getting the land back out of the Airport which would then go back on to the tax rolls.

Mr. Menger said that typically FAA would frown on this because it is a revenue source for the Airport.

4. Establish the cost of the FMPA and OUC Liabilities as a result of the sale of the Electric Utility – Requested by Councilmember Winger

Mr. Winger asked Mr. O'Connor to report on where they are with the cost of the FMPA and OUC liabilities as a result of the sale of the electric utilities.

Mr. O'Connor reported that they are in the process of just doing the preliminaries and the transactional attorney's engineering firm is starting to review this.

Mr. Winger said that his point is and will continue to be that until they know the length of this leg (referring to his drawing of the stool) the situation cannot be resolved.

5. Utility Commission – Requested by Mayor Turner

6. Reconstitution of the Utilities Commission – Requested by Councilmember Carroll

Both items were heard together.

Mayor Turner commented that Commissions are formulated by the City Council to support Council decision-making. In light of the overwhelming citizen support of the referendum to proceed with the sale of the electric utility to FPL, does the current Commission assist or hinder progress. An Advisory Commission is committed to

forwarding the desires of the citizens and Council. Per their Ordinance, December is the time for the Utility Commission appointments. She presented to the Council a slate of new appointees to the Utilities Commission.

Mr. Kramer felt that the referendum was just a continuation of negotiations and a lot of people are saying that it was just a straw poll. The rearrangement of the Utility Commission in his view seems to be like a political move. He would like them do an interview process and then appoint the members individually like they have with the other Commissions.

Mrs. Carroll told Mr. Kramer that they did not choose to do that when they reconstituted the Utilities Commission last year. She read from Section 2-105 in the City Code where it talks about removal of a Commission member and states that each Commission and Board member shall serve at the pleasure of the City Council and may be removed from office at any time by majority vote of the full City Council. She also read from Section 2-101 – General Provisions that the City Council may establish Commission and Boards from time to time to assist and advise the City Council with respect to matters coming before the City Council and to perform various other municipal duties and functions found by the City Council to be necessary or beneficial to the operation of the City or that are otherwise required by law. The City Council may modify or reconstitute Commissions and Boards as the City Council finds necessary or beneficial. She agrees with moving forward and reconstituting some members of the Utilities Commission.

Mr. Winger felt that they have a good Utilities Commission and did not understand why they wanted to change it.

Mayor Turner stated that it is clear that some of the Utilities Commission members have not been supportive of moving forward with the sale to FPL. She made a motion to accept the recommendations for the new slate of Utility Commission appointments.

Mr. Winger disagreed with Mayor Turner and said that the Utilities Commission was very clear that they supported the sale to FPL and the only thing that was in their recommendation was the same point that he just made, which was that no agreement be signed until they know the cost of FMMPA, OUC, and other contracts.

Mrs. Carroll asked Mrs. Vock when they reconstituted the Utility Commission last year, how many City residents did they have apply for the position. Mrs. Vock did not know the exact number, but believed that there were not too many City applicants that applied for the position. Mrs. Carroll continued by saying that they are in a unique situation right now where they have had a number of individuals in the community come forward saying that they will serve on this Commission. She is impressed by some of the applicants who have finally come forward and said that they will volunteer.

Mayor Turner asked if there were any modifications to the slate that she has proposed.

Mr. Winger asked who would be remaining on the Utilities Commission. He was told Scott Stradley, Bill Jenkins and Ed Wiegner. Jane Burton will now become an alternate on the Commission. Mr. Winger felt that Mrs. Burton was invaluable and certainly has been impartial and asked why would she be removed. He was told that she is not being removed.

Mrs. Carroll has had discussions with Mrs. Burton who told her that she felt comfortable with water and sewer discussions, but right now the biggest concern is with electricity and Mrs. Burton feels that is something that is not her expertise.

Mr. Winger said that he spoke with Mrs. Burton yesterday and did not get that feeling at all.

Mr. Kramer commented that when there is a full member present Mrs. Burton will not be able to vote. As far as he is concerned the only big issue now is to discuss water and sewer and she is a real good person for that.

Mrs. Carroll seconded the motion.

Mr. Kramer and Mr. Winger noted that interviews have not been done and they have the right to have interviews.

Mr. Winger nominated Warren Winchester for consideration.

Mayor Turner informed Mr. Winger that there is a motion on the floor and she did not wish to amend her motion.

Mr. Kramer amended the motion to include Mr. Warren Winchester in the nominations. Mr. Winger seconded the amendment. The amended motion failed 3-2 with Mr. Winger voting yes, Mr. Kramer yes, Mrs. Carroll no, Mr. Fletcher no and Mayor Turner no.

Mr. Fletcher moved to call the issue. Mrs. Turner seconded his motion.

The motion passed 3-2 to call the question, with Mr. Winger voting no, Mr. Kramer no, Mrs. Carroll yes, Mr. Fletcher yes, and Mayor Turner yes.

Mayor Turner moved forward with the vote that they propose the new slate of Utility Commission members appointments as presented. The motion passed 3-2 with Mr. Winger voting no, Mr. Kramer no, Mrs. Carroll yes, Mr. Fletcher yes, and Mayor Turner yes.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Pilar Turner's Matters

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

3. Comments

Mayor Turner mentioned that the Chamber of Commerce over the last 18 months has expanded jobs in this community by over 300 new jobs and these jobs have been at above average salaries. There is a new private sector, Economic Development, trying to raise additional funds to bring businesses to their community. She knows that this is a tight budget year and would only do something if she felt that the cause was vital to the community. She said bringing jobs to their community is the most important thing that they can do. She has reviewed their City Council budget and in their schools/meetings account for 2012 there is a sum of \$9,000. She said given the opportunity for Mr. Winger to attend the Florida League of Cities class for new Councilmembers and anyone else who would like to attend the advanced class for Councilmembers, they could still easily have \$2,000 available to make a contribution to the Chamber of Commerce for economic development. She asked for Council consideration and discussion of this issue.

Mr. Fletcher stated that they already do make a contribution through County taxes.

Mayor Turner was hoping that as a municipality they could do this and the Chamber of Commerce can say even their local cities have felt that economic development is important. This would show that they are business friendly and help people with their businesses.

Mr. Fletcher did not see that they needed to double-dip the taxpayers.

Mrs. Carroll noted that Mrs. Helene Caseltine, from the Chamber of Commerce Economic Development Department, was at today's meeting. She asked Mrs. Caseltine to come forward and share with them what their initiative is.

Mrs. Helene Caseltine, Economic Development Director with Indian River County Chamber of Commerce, appreciated that Mayor Turner brought this matter up for discussion. She explained that they do have a new initiative underway and it is the Economic Leadership Alliance. They have had private sector funding and a venue for that for a number of years, but what they want to do now is kick it up a notch. They are going out to their business partners and asking them to either increase their funding for economic development or to those who are not currently investors and asking them if they might participate. She noted that any funding that comes for economic development is solely used for economic development purposes. They have currently appropriated \$119,300 from the Board of County Commission for economic development purposes and that has stayed the same for the past three years. She introduced Mr. Jay Hart who is with Wells Fargo bank and co-chairing this initiative. Mrs. Caseltine reported that the Board of County Commissioners has agreed to match their private sector fundraising for every three dollars that they raise they will match a dollar up to \$25,000.

Mr. Jay Hart added that he is a volunteer and what makes the Chamber of Commerce work is volunteers. He discussed economic development and said that it is part of the comprehensive plan and the Chamber of Commerce is designated as the agent for

economic development, along with tourism and the County funds them about \$130,000 a year. He said that is not a lot of money, but it is leverage through volunteers like himself, and that is what makes it work. They are now looking to the private sector to make this happen. He named some new companies that have relocated to Indian River County. Their job at the Chamber is to keep the companies that they already have and help them grow, as well as recruit new companies to come to Indian River County. This is a private sector investment, but they need public sector support.

Mayor Turner mentioned that unemployment in this County is around 14% and they are among the highest in the State.

Mrs. Carroll commented that she agrees with some of the things that Mayor Turner has said. In the City of Vero Beach they have seen declining census numbers and declining businesses in the City. They have significant assets since the Enterprise Zone at their Airport allows tax incentives to businesses to move into the City. She suggested the discussion of a 1 to 5 match for City businesses within the City limits, up to a \$5,000 maximum and utilize that fund from their City Council funds that come out of schools and meetings, which they currently have \$9,000 budgeted for in that line item. Because four of the five Councilmembers have already gone to the training class offered by the Florida League of Cities there is not a need for that much money to be in the budget for Council schools and meetings.

Mr. Kramer asked that this item come back as an agenda item so that they have time to research it.

Mrs. Carroll said that she would be happy to do that.

Mayor Turner continued with her Committee Reports. She thanked St Edward's school for allowing the community to use their pool while the pool at Leisure Square was closed for three weeks. She thanked Mrs. Vicki Gould and the Main Street Association for all the new plantings downtown. The Oceanside Business Association did a fabulous job with the Christmas parade and she thanked them for including the City Council. She said that the Tree lighting ceremony was also fabulous. She wished everyone in the community a very safe and happy holiday.

B. Vice Mayor Craig Fletcher's Matters

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

Mr. Fletcher reported that at the last Treasure Coast League of Cities meeting Mayor Turner was nominated to serve as Vice President. He also mentioned that he had a nice time at the Tree lighting ceremony and he wished the whole community a Merry Christmas.

C. Councilmember Tracy Carroll's Matters

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

Mrs. Carroll reported that the Youth Sailing Organization is looking at locations and are moving forward with their plan concerning having a boat house row on the river. They hope to bring something to Council within the next couple of months. She attended the Sunshine Law presentation given by Mrs. Pat Gleason and mentioned how well received it was. She also attended the Main Street downtown clean up day last Saturday. She has heard a lot of comments from the public about the Vero Beach Boat Parade saying that this was the best boat parade yet. This weekend the Vero Beach Rotary Club will be holding their annual Nautical Flee market and they anticipate having about 150 vendors there.

D. Councilmember Jay Kramer's Matters

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

Mr. Kramer also attended the Sunshine Law presentation by Mrs. Pat Gleason. He thanked Mrs. Lyon for getting Mrs. Gleason to come here. He felt that the Christmas Tree lighting went well and that the parade was another great success. He attended the Republican for Life luncheon, and the Christmas tea party given by the Republican Women of Indian River County.

E. Councilmember Richard Winger's Matters

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

Mr. Winger reported that he toured the Heritage Center and was impressed with the building. He also attended the Sunshine Law presentation and the Oceanside Christmas parade.

11. ADJOURNMENT

Mr. Fletcher made a motion to adjourn today's meeting at 12:10 p.m. Mrs. Carroll seconded the motion and it passed unanimously.

/tv