

**CITY OF VERO BEACH, FLORIDA
FEBRUARY 18, 2014 6:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

The invocation was given by Pastor Christina Moore of Rhemo Apostolic Deliverance Center followed by the Pledge of Allegiance to the flag.

1. CALL TO ORDER

A. Roll Call

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

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

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

B. Proclamations

1. Chief of Police to present two officers with life saving medals.

Chief Curry presented Officer Gregory Plumb and Detective Michael Gasbarrini with life saving medals.

2. Certificate of Completion for attending the Institute for Municipal Elected Officials to be presented to Councilmember Amelia Graves.

Mayor Winger presented Councilmember Graves with a Certificate for completing the Institute for Municipal Elected Officials offered by the Florida League of Cities.

C. Public Comment

1. Mr. Tim Zorc, County Commissioner, to speak on Economic Development Initiative.

Mr. Tim Zorc, County Commissioner for District 3, delivered a personal message from Commissioner Peter O'Bryan stating that he would like to have better communication between the County and the other municipalities residing in Indian River County. He said that during the summer of 2013 the Economic Development Council voted to ask for

funding to undertake what is being called the Economic Positioning Review of the County. This review will take into consideration participation from all of the municipalities in the County. He said that once this initiative gets underway they will be looking for the Council to participate in making the program successful. He said that the County Commission has approved \$75,000 to fund this project.

Mrs. Helene Caseltine, Economic Development Director with the Indian River County Chamber of Commerce, added that nothing like this has ever been done before in Indian River County. What they would like to see is where Indian River County is compared to other states and counties. She anticipates that the process will take between six and eight months to complete once the consultant has been hired. She has been working with County staff to get the RFP finished to hire a consultant. She said that there would be a lot of stakeholders involved throughout this whole process, which includes the City Council. She said that they will assess what their target industries are now and see if some changes need to be made.

Mrs. Turner felt that this was a great step in helping to target their market. She looked forward to Mrs. Caseltine coming back to Council with her report.

2. Ms. Lila Blakeslee/Art Gallery Downtown, to present Council with a gift.

Mr. Barry Shapiro, Lighthouse Framing, presented Council with a photo of the Theatre Plaza, as well as a large photo that depicts all of the new banners that have been placed downtown. He said that he appreciated that the City hung the banners for them. He commented that on February 7th they had their monthly Art Stroll downtown and it was attended by hundreds of people. The success of these Art Strolls is further evidence that the area downtown has become an important part of Vero life. He asked for more support from the City as they move forward.

Ms. Lila Blakeslee mentioned that as a business owner and partner in Gallery 17, which opened seven years ago, they have seen tremendous growth. She was instrumental in coming up with having the banners designed for downtown and has enjoyed working with everyone and seeing how involved they have become. They are seeing a different momentum downtown and the banners have brought raving reviews from everyone.

3. Mrs. Bev Paris to talk about the Community Day Open House at Leisure Square.

Mrs. Bev Paris announced the Community Day Open House at Leisure Square will be on March 1st. The groundbreaking for the new Pavilion will also be on that same day. She provided information on what they anticipate the Pavilion will look like. She also mentioned the donor opportunities for the Pavilion. Mrs. Paris commented that Leisure Square will be open every Saturday in the month of April and whoever wants to come out and use Leisure Square it will be free of charge. She also reported that she is looking at forming a 501c-3 non-profit Foundation for the Recreation Department, which enables

people wanting to donate to a 501c-3 organization to be able to and it also provides more free advertising for their upcoming events.

Mr. Stewart Kennedy, Eugenia Road, talked about the electric system. He is tired of paying high utility rates and a lot of work is being done to try and change that. The City is spending taxpayer's money in employing outside attorneys to complete the sale. He showed numerous newspapers and said that there are comments in the newspapers for and against the sale of the utilities. He was perturbed to read in 32963 that one member of this Council has been in regular contact with a lobbyist who works for FMEA and who is against this sale. He felt that the public needed an explanation on what is going on. He would like to move forward in getting this transaction completed.

Mr. Charlie Wilson mentioned that the Vero Beach Chamber of Commerce is also interested in the electric issue. He has set up a Town Hall meeting for March 5th at the Elks Lodge from 6:00 p.m. to 8:00 p.m. so questions can be answered and to pull the community together in moving forward. He invited members of the Press and the public will have an opportunity to speak. He invited Mr. Kramer to participate and discuss a partial sale and has also invited the City Manager to be on the panel. It will be posted as a public meeting and there is no cost to attend. He wanted to know from Council if the City Manager could attend in order to answer questions from the public.

Mr. Joseph Guffanti noticed on the agenda there was some fine print and he guessed they were going back to the three minute rule. He commented that by going back to the three minute rule they will validate living in a small town and getting small minded people to run for government. He has a problem in dealing with people who are opposed to his position. Now he won't have the time to be polite because of the three minute rule. He felt that Council doesn't want the public's input and they think that they know it all.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – February 4, 2014**
- 2. Utility Easement #2010-EG-0072 – ABC Liquors, Century Town Center**
- 3. Contract 1449-C – Utility Bill Printing and Mailing Services**
- 4. 18th Street Stormwater Treatment System – Final Pay and Acceptance – COVB Public Works Project #2007-15-Bid No. 170-13/JO**
- 5. Award of Bid #010-14/CSS – FDOT #429707-1-94-01; Demolition of Building at 2625 Airport Drive**
- 6. Monthly Capital Projects' Status Report**
- 7. GIS Data Sharing Agreement with AGL Resources**
- 8. Veterans Memorial Island Sanctuary Advisory Committee request to expend funds from the Veterans Memorial Island account for six (6) military service markers**

Ms. Graves pulled item 2D-5) off of the consent agenda.

There was no one from the public wishing to comment on the consent agenda.

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

Ms. Graves commented that she just pulled item 2D-5) off of the consent agenda to say that she was happy that FAA approved the lease for the new bank building at the Airport and that they were moving forward in demolishing the old building that remains on this site. She made a motion to approve this item. Mrs. Turner seconded the motion and it passed unanimously.

3. PUBLIC HEARINGS

Quasi-Judicial Hearing (*First of two public hearings*)

- A) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by Changing the Zoning District Designation of C-1M, Marina District, to P-2, Park District, for City-Owned Property bounded by East Indian River Drive on the East, the Indian River Lagoon on the West, State Route 60 on the South, and the Northern Line of Government Lot 2 on the North, containing 17.35 acres, more or less; Providing for an Effective Date. – Requested by the City Council**

Mayor Winger read the Ordinance by title only and conducted the quasi-judicial hearing.

There was no ex parte communication. The City Clerk swore in anyone testifying at tonight's meeting enmasse.

Mr. Tim McGarry, Planning and Development Director, was sworn in and testified that they are rezoning this property to P-2 to ensure its preservation for open space and recreational uses and to bring the zoning into compliance with the future land use designation of the property. He showed on the screen the area that is being rezoned. He explained that whether or not this Ordinance is adopted it has nothing to do with the dog park being at this location. It cleans up their zoning Ordinance and makes it more transparent for people when looking at what can be done in that district. He said that staff recommends approval.

Mr. Fletcher asked if the passing of this Ordinance was to change the zoning only. He was told that it was.

Mr. Jim O'Connor, City Manager, expressed that this piece of property is in the Charter and states that it may not be sold, traded, or given away by the City unless such sale, lease, trade, or gift is approved by a voter referendum. However, the property can be leased without a referendum as long as it is used for public or civic purpose, which also serves a recreational, artistic, or cultural purpose, including incidental concessions.

Mr. Bill Walker read a letter into the record that was sent by Mr. Ray Neville who could not be at tonight's meeting (please see attached).

Mr. O'Connor made it clear that this Ordinance has nothing to do with the dog lease. He reported that the lease has been drawn up and sent to the corporation wanting to lease the land for their comments. He understands that the organization is requesting to be on the March 4th agenda.

Mayor Winger suggested that Mr. Neville appear before them at the appropriate time (when the lease is being discussed).

Mrs. Turner made it clear that by passing this Ordinance they would not be precluding Marina activities.

Mr. O'Connor told her that was correct and that the Marina could still expand in the future if they chose to move in that direction.

Mr. Fletcher referred to the lease of the dog park land and wanted to make sure that the City would still be retaining that piece of property if they needed to use it.

Mr. O'Connor answered yes. He said that the City would need to give the people they are leasing to a twelve month notice if they were asked to leave.

Mr. Mark Mucher was sworn in. He was interested in clarifying the concessions and list of things that Mr. Walker just mentioned would still be allowed. He just learned that they are giving away Bob Summers baseball field and he was curious on what is going to happen to that part of the Park.

Mr. O'Connor explained that the Recreation Commission reviewed the request to consolidate Little League baseball programs and have the games played at the ball field on 16th Street. They (Little League) have asked to be able to utilize the lights, fencing, and score board and transport these things to the 16th Street facility. Staff, as well as the Recreation Commission recommended allowing them to transfer the equipment, but it does not eliminate all of the fencing around Bob Summers Park.

Mr. Mucher questioned the status of the dog park lease.

Mr. Wayne Coment, City Attorney, explained the lease has been prepared and sent to the organization's attorney for their review and then it will come to City Council for final approval.

Mr. Mucher was not aware that Council has seen the lease.

Mr. Coment explained that Council gave staff the direction to draft the lease to go to the potential tenant and if they (tenant) agree with the lease it will come before the City Council for their approval.

Mr. Mucher thought that public hearings needed to be heard for leases.

Mr. McGarry pointed out that this designation does not allow for commercial uses.

Mayor Winger closed the public hearing at 7:02 p.m., with no one else wishing to be heard.

Mrs. Turner made a motion to hold the second public hearing on March 4, 2014. Mayor Winger seconded the motion and it passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

B) An Ordinance of the City of Vero Beach, Florida, amending Sections 2-102, 2-105, and 2-106 in Article III, “Commissions and Boards,” of Chapter 2, “Administration,” of the Code of the City of Vero Beach, relating to City Commissions and Boards; Providing for Transition and Severability; Providing for an Effective Date. – Requested by the City Council

Mayor Winger read the Ordinance by title only and opened and closed the public hearing at 7:04 p.m., with no one wishing to be heard.

Mr. Kramer made a motion to approve the Ordinance.

Mrs. Turner reiterated what she had brought up at the last meeting about the two Whereas clauses in this Ordinance not being appropriate (streamlined method of conducting the business of the Utilities Commission and serving to promote and improve efficiency and representation in the operation of the City government). She asked Mr. Coment to provide at least one example of how this Ordinance would streamline business or promote efficiency.

Mr. Coment told her that he just drafts the Ordinance and he could not provide one example. Council can make any changes to it that they want to see.

Mrs. Turner said if Mr. Coment could not give her an answer as to why those particular clauses are in the Ordinance then she would like to see them removed.

Mr. Fletcher did not see how implementing this new Ordinance would help anything at all.

Mayor Winger seconded the motion.

The Clerk polled Council on the motion and it passed 3-2 with Mr. Fletcher voting no, Ms. Graves yes, Mrs. Turner no, Mr. Kramer yes, and Mayor Winger yes.

C) A Ordinance of the City of Vero Beach, Florida, Amending Chapter 58 “Personnel and Retirement,” Article II, Divisions of 4 and 5 of the Code of

Ordinances of the City of Vero Beach to Provide for Internal Revenue Code Compliance; Providing for Repeal of all Ordinances in conflict herewith; Providing for Severability; Providing for Codification and Providing an Effective Date. – Requested by the Police Pension Board

Mayor Winger read the Ordinance by title only.

Mr. Coment reported that their outside attorney, Mr. Glenn Thomas, has reviewed this Ordinance and confirmed that it was necessary in order to be in compliance with IRS rules.

Mayor Winger opened and closed the public hearing at 7:07 p.m., with no one wishing to be heard.

Mrs. Turner recalled that they discussed this Ordinance at their last meeting and she asked if there would be any financial impact and she was told no. However, after reading the minutes from the last Police Pension Board meeting, there have been a lot of questions raised. The Police Pension Board alluded that the Ordinance encompasses all of the collective bargaining agreements. She asked if that was true and if so what they are. The minutes also reflect that Mr. Little needed to do an impact statement on this Ordinance applicable to getting IRS approval. Mrs. Turner said if it is applicable then there will be some cost change. She reiterated that going through the minutes raised a lot of questions and she would like to see the financial impact of this addressed more thoroughly before they approve it.

Mr. Coment reported that the first item that Council has is the impact statement provided by the actuarial and he states there is no material impact to the cost of the plan.

Mrs. Turner asked if that was today's cost of the plan, future cost of the plan, and does it include whether these clauses are applicable or not. She requested that this matter be deferred until they receive some answers to her questions.

Mr. O'Connor explained that the provisions will need to be in place for IRS. He said whether or not there is an impact, this has to be done because they have to be in conformance with IRS regulations. He said when they talk about the impact of the labor contract two things come to mind. The first one is they did grant the pay increase to the Police Officers and the other is the impact where overtime has been reduced. He felt that the numbers would be relatively small.

Mr. Fletcher is hearing that they are being asked to pass something without the knowledge of what the impact will be.

Mr. O'Connor explained they could ask the Actuary to come to one of their meetings and explain this, but he would probably tell Council the same thing that he (Mr. O'Connor) just mentioned.

Mrs. Turner felt that they still needed some more information and they would be within the time frame of when this needs to be passed for IRS Compliance.

Mr. Fletcher suggested getting a written report from the Actuary. Mr. O'Connor said that he would ask for that. Mr. Fletcher asked Mrs. Turner if that would be okay with her.

Mrs. Turner just wanted her questions answered. She said after reading the last set of minutes from the Pension Board meeting she found this very unsettling.

Mr. O'Connor had no problem with tabling this Ordinance and asked Mrs. Turner to send him the specific questions so that he could pass them on to Mr. Little.

Mrs. Turner made a motion to continue the public hearing until March 4, 2014. Mayor Winger seconded the motion and it passed 5-0 with Mr. Fletcher voted yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

4. RESOLUTIONS

None

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

- A) An Ordinance of the City of Vero Beach, Florida, updating the Capital Improvements Schedule of the Comprehensive Plan's Capital Improvements Element for FY 2013/14-2017/18; 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. McGarry reported that this Ordinance updates the five-year Capital Improvements Schedule of the Comprehensive Plan pursuant to Policy 1.1 of the Capital Improvements Element and Section 163.3177, Florida Statutes. He said the Ordinance is a housekeeping measure to meet the requirements of the Florida Statutes and the Comprehensive Plan. He would recommend that the Ordinance be approved at first reading and a public hearing be scheduled.

Mayor Winger opened and closed the public hearing at 7:14 p.m., with no one wishing to be heard.

Mr. Fletcher made a motion to schedule the public hearing for March 4, 2014. 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.

6. CITY CLERK'S MATTERS

A) Appointment to the High Speed Rail Commission

Mrs. Vock reported that Mr. Scott Stradley has resigned from the High Speed Rail Commission. Mr. Stradley was on the Commission representing Main Street and they have asked that Ms. Debbie Avery replace him on the Commission. Her application has been provided for Council's review.

Mr. Kramer made a motion to appoint Ms. Debbie Avery to the High Speed Rail Commission. Mr. Fletcher seconded the motion and it passed unanimously.

7. CITY MANAGER'S MATTERS

A) FPL Update

Mr. O'Connor gave an FPL update. He reported that negotiations took place today and hopefully they will be given some direction in the way that they are going to move on.

Mrs. Turner referred to the article that appeared in 32963 concerning the calls that Mr. Kramer has made to Mr. Barry Moline. She asked Mr. Kramer if he would like to respond to the article. She said as an Elected Official and having received the vote of the voters to move forward with the sale of the electric after having two (2) referendums, she believes some response or disclosure is in order.

Mr. Kramer stated for disclosure that he didn't have to give these phone numbers out because a lot of them are private phone calls. Mr. Charlie Wilson asked for them, he (Mr. Kramer) is transparent, so he provided them. What he was disappointed about is that no one asked him about the content of what these phone calls were about. He said that most of the calls occurred after their meetings because Mr. Moline wanted to know what happened at the meeting. He felt that the City Manager just provided them with a real cryptic answer when giving his FPL update. Mr. Kramer said that he has to find the details on the negotiations from other places. He said that Mr. Moline is a lot cheaper than calling their Transactional Attorney who charges \$500.00 an hour. He (Mr. Kramer) is supposed to be getting FMPA updates and he has to talk to Mr. Moline about what happens in those meetings.

Mrs. Turner expressed that minutes are available for all of the FMPA meetings.

Mr. Charlie Wilson stated that he did make a public records request asking for those phone records. However, he does not agree that it was necessarily voluntary. He explained what happened was at a Council meeting one of the Councilmembers disclosed that that they had talked to FMPA and then he asked for emails between the two parties from the City Clerk and there were no emails. He said since there were no emails or written records that meant that the only other records available were private phone calls on a private telephone. He said even though the calls were made on a private phone the records are still required to be made available. He also has requested records from the

State of Florida on what Barry Moline has been doing. He mentioned that he was sure that Mr. Moline is able to watch their Council meetings (live video streaming) and knows precisely what happens at the meetings. He is concerned when a Councilmember is “sleeping with the enemy.” It is true that FMPA is preventing them from getting rate reductions and removing the burden that every citizen has in this community.

Mr. Kramer corrected Mr. Wilson and told him that Mr. Moline works for FMEA and not FMPA.

Mrs. Turner explained that FMEA is the whole lobbying arm of FMPA. She has heard the members say that there is no difference between one organization and the other.

Mr. Wilson said that the question here is what side is Mr. Kramer on.

Mr. Kramer explained the side he is on is to get the rates down.

Mr. Wilson said that the side he is on is to get the permanent reduction of rates and relieving the burden, which faces this community and that is the sale of the utilities.

Mr. Kramer told Mr. Wilson that was not true. He said that FPL has their lobbyist in Tallahassee trying to raise their rates.

Mr. Wilson commented there have been two referendums that have passed on this matter, so the public has spoken. The fact is that Mr. Kramer has been talking to the lobbyist opposing the sale of the utilities.

Mr. George Christopher stated that this is outrageous and he has never heard or experienced anything like this. He hoped that Council would be allowed to talk to people that can give them information and they can learn. He said to suggest that a Councilmember should not talk to someone is outrageous.

Mr. John Wester stated that he has talked to a lot of people about this and he has yet to meet anyone that feels that Mr. Kramer was out of line.

Mr. O’Connor reminded Council about the fundraiser this weekend sponsored by the Rotary Club (Beer and Wings Festival).

8. CITY ATTORNEY’S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

B. New Business

- 1) **Requesting action by City Council to protect the people of Vero Beach's interest in the utilities they own versus 4 pieces of legislation bring introduced by Representative Mayfield to the Florida House of Representatives. These acts seem to be prejudicial to the interests of our citizens and the viability of the City. – Requested by Mayor Richard Winger**

At this time, Council took a short break.

Mayor Winger reported that their State Representative in this particular area of Florida has introduced four pieces of legislation. He said that there are two Statewide Bills, Statewide Bill #813, which acts against municipal utilities in favor of counties. The second Bill is #861, which is not helpful and mostly targeted against FMPA. He said that it is an unfortunate time for this because they need the cooperation of FMPA, OUC and FPL to conclude the sale of the utilities. He said that the two Bills he wants to talk about don't yet exist, but have been advertised. The first Bill is a local water Bill only addressing the City of Vero Beach and the second Bill only addresses power in the City of Vero Beach. He said these legal notices were advertised on January 29, 2014 in the Press Journal. He said that the notice that was advertised was deceptive and not true. The first notice says "*Notice of Intent to Seek Legislation The City of Vero Beach, the Town of Indian River Shores and Indian River County Florida, hereby give notice pursuant to Article III, Section 10 of the Florida Constitution and Section 11.02, Florida Statutes, of their intent to seek legislation before the 2014 Florida Legislature. The Legislation will provide that the City of Vero Beach Electric Utility, a utility with customers residing outside the City, is subject to the jurisdiction of the Florida Public Service Commission; requiring that the City set rates that are fair, just, and reasonable for the outside customers; providing that the Florida Public Service Commission has the authority to enforce the provisions of this act and is authorized to adopt rules; providing for the representation by the Public Counsel of the outside customers of the utility; providing an effective date.*" The other advertisement reads: "*Notice of Intent to Seek Legislation The City of Vero Beach, the Town of Indian River Shores and Indian River County, Florida, hereby give notice pursuant to Article III, Section 10 of the Florida Constitution and Section 11.02, Florida Statutes, of their intent to seek legislation before the 2014 Florida Legislature. The legislation will provide that the City of Vero Beach electric utility customers who reside outside the municipal boundaries of the City and who reside or do business in Indian River County or the Town of Indian River Shores shall be permitted to hold a survey to open the Public Service Commission territorial agreement; providing an effective date.*" Mayor Winger stated that this City never asked that this be done. He said that this is totally untrue. He revealed that himself, the City Attorney and the City Manager having been talking to Mr. Ryan Matthews, Lobbyist for the Florida League of Cities (FLOC), about these four Bills. He said that the FLOC has announced their opposition to one of the Statewide Bills. Also, the City has had retained for a number of years, a law firm in Tallahassee, and their legal counsel is Attorney Schef Wright, and they have spoke to him about this. The advice of the FLOC and Attorney Schef Wright is that the City Council should direct the City Attorney to place an advertisement disallowing that the City had anything to do with or is asking for this

Legislation. Then they will send it to the various offices of the Senate and House disavowing that the City of Vero Beach had any intention or any support for these particular actions. They are highly prejudicial to the people of Vero Beach and the owners of the utility. He asked for permission from the City Council to continue to work with the legal counsel and Mr. Matthews on this matter. Mayor Winger brought up if the Public Service Commission (PSC) were to regulate the electric utility, they would most likely have to raise the rates, not lower them. He also feels that this is being done for political reasons and not in the interest of voters. He asked for comments by the Council as to the private Bills of this particular Representative.

Mr. Kramer agreed that the City never did take any action to support this.

Mrs. Turner also agreed that Council did not review these Bills. She brought up the local Bill and said that she had no idea that it would be brought forward as a Statewide Bill. She did not think that it was an attack on the cities, but a call for the unrepresented customers outside of the community, who do not have a voice. She said if the City is charging a reasonable and fair rate then she does not see any danger in having it reviewed by the PSC. The only reason someone would object to having a PSC review is if you can't substantiate your rates and are taking advantage of their outside customers.

Mayor Winger referred to the State Hand Book Rules (attached to backup material) and noted that on page 3 and 4, it strongly suggests that a hearing be held before such advertisement or Bills are placed. He said that hearing would have to have been held by now. The claim seems to be that the hearing was held at the Legislative Delegation meeting held in November where someone from the public stood up and spoke about a private Bill, which does not constitute a public hearing. He said there is no way that the City is sponsoring these two Bills and he would ask for a resolution from City Council to place an advertisement in the newspaper and then send copies to the Legislatures so they are aware that the City of Vero Beach is not sponsoring this.

Ms. Graves agreed it was important to rectify this so that it is very clear who is doing what, when, where, and why. She said they can't have people speaking on behalf of the Council.

Mr. Wilson believed there was some discussion some time ago where they supported the Heran and Faherty suit at the PSC.

Mayor Winger told him that was not true. He said Council put in abeyance their suit. He said in talking to their counsel in Tallahassee and FLOC, they do not believe their suit has any grounds to stand on legally. He said that the suit was put in abeyance in the interest of keeping the cost down. What is in the interest of the public is to solve the electric issue and get the utilities sold.

Mr. Wilson explained he was not taking a position on this and he has not talked to Representative Mayfield about it.

Mayor Winger asked that names be kept out of the conversation.

Mr. Wilson said he was talking about the original document brought up several years ago, not the document that has just been put in abeyance. As far as the actual Bills are concerned the problems they are going to face as a group, as the sale progresses is will they end up “pitting” their County residents versus the City residents. So far they have been trying to represent everyone. He said that a partial sale would be horrific to the situation. He asked are they going to find themselves in a position where no sale is better than a partial sale, he hoped not. He does not know the situation with the Bills, but could see why it would be concerning, but he does not have an answer. What he is saying is that the State Representative has a right to file Bills.

Mr. Fletcher explained the point that Mayor Winger was trying to make was the advertisement is saying that the City of Vero Beach endorsed something, which they did not.

Mr. Mark Mucher was also surprised when he saw those advertisements. He was disappointed that someone from the Representative’s office was not present to explain why and how this happened. The reason he stood up to speak was that he thought he heard a motion that they were going to take out some sort of advertisement and all he knows is that advertisements are very expensive and that they could probably accomplish the same thing by writing a letter to the appropriate person in the Legislature.

Mayor Winger told Mr. Mucher that their counsel in Tallahassee and the FLOC specifically have said that because their Representative placed an advertisement that this is what the City has to do. He said that legally they have to correct this in the public records.

Mayor Winger made a motion to direct the City Attorney to draft a legal notice and post that legal notice in the Press Journal. Ms. Graves seconded the motion.

Mrs. Turner asked if Council would have a chance to review the notice.

Mayor Winger suggested that they review the notice at the Special Call meeting being held next week. He expressed they were running out of time because the Bills have to be filed by March 2nd. The Clerk was instructed to add this item to the agenda.

The motion passed unanimously.

Mayor Winger moved on to House Bill #861, and House Bill #813. He said that with House Bill #813 the City had an agreement drafted in 1989 and the City has recently voted in favor of offering County rates for this unincorporated area. The City owns the assets and they have a business and are entitled to a profit stream for that business. He knows that the FLOC is opposed to this Bill. The reason they have utilities in the South Beach area is because the County was not able to provide such utilities in 1989 and the City was asked to provide those services. He felt that any change in the Legislation

would put the City bonds at risk. As far as the water and sewer is concerned, there is no way for the County to be able to get to the South Beach area without going under the Lagoon and doing that would be very costly. He met with the County Administrator and one of the County Commissioners and they agreed that it would be difficult to step in. He is not asking for any action by Council on this Bill, but did want to point out this Legislation, which will be Statewide is not good Legislation.

Mayor Winger brought up House Bill #861 that deals with the electric situation and said that this requested Legislation is likely to delay the successful sale of the City electric utility as it might be seen by some as an attack on either municipalities or power providers. The way it is worded is a “shot” at FMPA. He suggested to the public this shot is being taken at the worst possible time. He explained that in closing the deal with FPL, the City must first solve the contracts they have with FMPA, OUC, and FPL. What this Legislation might do is throw a monkey wrench into the situation delaying the sale and it has no possible good consequences. He said this is just politics. He felt that both of these Bills were ill advised and will either never come out of Committee or they will be defeated. On a personal basis he was highly critical of the Bills.

2) Use of finance to lower utility bills – Requested by Vice Mayor Jay Kramer

Mr. Kramer reported that the public has asked the Council to lower their utility bills and other than work on one specific solution there has not been any serious action to lower the utility bills. He said that one method, which is not adverse to the current specific solution being considered, is to look at two approaches to financing: *A) Refinance current debt – The current debt in the electric utility has some of the highest interest rates of their debt portfolio. Currently Craig Dunlap their financial advisor is looking at some possibilities to improve their position to reduce debt expense. B) Finance Current capital costs – They are currently paying upfront capital costs with cash and not amortizing the cost of assets over their useful life. By financing these capital costs they would be able to smooth out their rates and lower them for the customers.* Mr. Kramer recommended that this concept be taken before the Finance Commission and let the Finance Commission come back to Council with a recommendation. He made a motion to task the Finance Commission to look at these refinancing options.

Mayor Winger asked if he could modify the motion to include having the Utilities Commission also look at the refinancing options.

Mr. Kramer had no problem with that. He withdrew his motion and made a new motion that Council send this to the Finance Commission and Utilities Commission to look at possibly refinancing their current debt and financing their capital costs moving forward. Mayor Winger seconded the motion.

Mrs. Turner agreed with letting the Finance Commission and the Utilities Commission review this to see if they could come up with something but recovery of refinancing costs and prepayment penalties in the event of a sale would have to be covered in any potential saving.

Ms. Graves also agreed with giving it a try.

Mr. Mark Mucher commented that they are trying to sell the utilities and hopefully it will occur this year. He suggested waiting until the next quarter and then review this to see how much money they were losing before moving forward with refinancing their current debt.

Mr. Kramer did not want to see them incur any new debt. He wanted to hold it at the level that it is and then move forward.

Mrs. Turner noted that Mr. Kramer's memo referred to capital expenses so she was happy to hear that he is now not in favor of incurring any new debt. She said as far as reducing the rates, she has said it before and will say it again that the quickest way to reduce the rates is to start decreasing the transfer to the General Fund.

Mr. Mucher said that is a long term thing. He felt that the solution was to stay the course and get out of the utility business at any cost.

Mayor Winger stated that he was committed to getting the sale done. In the meantime said that the City needs to look at ways to lower the rates. The City does not know when the contract will conclude and it may not be concluded until 2016. While the City is doing everything it can to resolve this matter sooner than later, it is largely in the hands of FPL and FMPA and Council owes it to the taxpayers to look at Mr. Kramer's proposal.

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

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Richard Winger's Matters

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

B. Vice Mayor Jay Kramer's Matters

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

Mr. Kramer reported that he attended an Indian River Neighborhood Association meeting held at Historic Dodgertown, he attended a Main Street Vero Beach Board meeting and the Indian River County Chamber of Commerce had their regular government meeting and discussed the High Speed Rail. It was mentioned at that meeting they will be looking at parking on Ocean Drive because of the rise in tourism. He reported that the Fundraising Committee met and will continue to work on various projects.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner reported that she attended the Veterans Council of Indian River where they made an announcement about their Warriors Support Program. She said that this consists of two different programs. The Veterans Outreach program and the Upward American Veterans program. She said that these are great programs to support their Veterans. She also attended the Mental Health Collaborative and was happy that Chief Curry was at the meeting and raised a point that on average in the City of Vero Beach there have been 100 people baker-acted every year.

Mrs. Turner thanked the Power Squadron for their help in doing oyster mats to save the Lagoon. She reported Orca and Scott's Miracle Grow Company announced that they are going to partner together in working on research for a solution to help the Lagoon. She reminded the public to attend Downtown Friday and that ORCA will be bringing in a National Geographic photographer to speak at the Emerson Center.

D. Councilmember Amelia Graves' Matters

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

Ms. Graves recognized the years of service provided by Officer Ken Barrett and wished him luck with his retirement. She also wished her grandmother who turned 98 today Happy Birthday.

E. Councilmember Craig Fletcher's Matters

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

11. ADJOURNMENT

Tonight's meeting adjourned at 8:20 p.m.

/tv