

**CITY OF VERO BEACH, FLORIDA
FEBRUARY 19, 2013 6:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

1. CALL TO ORDER

A. Roll Call

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

B. Invocation

Mayor Fletcher gave the invocation.

C. Pledge of Allegiance

Mayor Fletcher led the audience and the Council in the Pledge of Allegiance to the flag.

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

Mayor Fletcher requested that an item be added on the agenda under City Manager's Matters as item 7-B) "Status Report on the old Power Plant."

Mr. James O'Connor, City Manager, requested that the formal vote on the acceptance or rejection of the Florida Power & Light (FPL) Purchase and Sale Agreement be moved up on the agenda since their Transactional Attorney is at the meeting to discuss it.

Mayor Fletcher said that it could be heard before Public Coment if Council approves the request.

Mrs. Turner asked if they would be hearing just the report from their Transactional Attorney or would they be voting on it at that time.

Mayor Fletcher stated that they would have formal discussion and then take a vote.

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

B. Proclamations

1. Youth Against Tobacco Products

Mayor Fletcher read and presented the proclamation.

2. Vero Beach Lifeguard Association Sponsorship Check Presentation

The Vero Beach Lifeguard Association presented a check to the City for a new rescue skid. A painting was also presented to the City from artist Dave Farrow.

C. Public Comment

Mr. Mike Lafferty, Realtors Association, commented that the Realtors have not taken an official position on the FPL issue however they have a huge stake in it. The stake that they see is a daily issue. The Realtors have put in their multi listing section (MLS) of houses for sale whether they are on FPL or City utilities. He said that lower electric bills are what is needed to help stabilize the real estate community.

Formal vote on the acceptance or rejection of the Florida Power & Light (FPL) Purchase and Sale Agreement – Requested by Mayor Craig Fletcher (This item was moved up on the agenda)

Mr. John Igoe, Transactional Attorney, introduced Ms. Pam Rausch, Vice President of External Affairs for Florida Power and Light (FPL).

Ms. Rausch thanked the City Council for all of their hard work that they have done, as well as the entire Vero Beach community and staff to come up with this agreement. She was pleased to see this path moving forward. She said that the Board of Directors from Next Era have approved this agreement. She hoped that the agreement would be approved tonight. Their (FPL's) goal all along has been to provide the citizens of this community with lower electric rates. It is an honor for FPL to serve this community.

Mr. Igoe gave an outline as to the changes made in the agreement. He said that there were changes made as a result of the Special Call meeting held last week and also their City Attorney still had some documents to review and there were some last minute comments made today from some of the Directors (agreement and all attachments are on file in the City Clerk's office). He went over the changes that were made this afternoon and said that Council did not receive a copy of Exhibit G because there was only one change and it was the word "the." He received from FPL a copy of Phase 1, which he made available to the City Manager, who would make sure that Council received copies of it. Any changes made to the agreement have been put on the City website. He said there may be other slight changes to the agreement such as changes in the schedule, but all these changes will come before Council so that they are aware of them.

Mrs. Turner commented on the struggle it has been with the OUC contract and the 150 changes made to the agreement after it was executed. She expressed that no matter how little of a change is made to this contract that the public needs to be aware of it.

Mr. Winger asked where they were with FMPA.

Mayor Fletcher asked that at this time that they keep their discussion to the sale of the utilities.

Mr. Scott Stradley, Chairman of the Utilities Commission, reported that the Commission met this morning and Mr. Igoe was at their meeting to review the changes made since the last time that they reviewed the agreement. It was clear that none of the changes affected the business outcome of the deal. The Commission again unanimously approved the agreement. He almost felt that he had to apologize to Mr. Igoe for having to attend their meeting just to go over the minor changes made, which were mostly just typos. However, it is very important to this community that this is handled this way and everything has been disclosed. Mr. Stradley stated that he is a member on the Economic Development Council and they also unanimously voted to urge the City Council to execute this contract. He asked Council to make the right decision and vote in favor of this contract and execute it tonight.

Mrs. Jackie Solari thanked the City Council, City Manager, staff, Glenn Heran, Steve Faherty, and FPL for working together to get the best rates in the State of Florida. She encouraged the City voters to vote yes on March 12th for lower rates.

Mr. Toby Hill a member of the Utilities Commission and the Chair of the Indian River County Tea Party requested to speak. He said that the Board of Directors for the Tea Party is in favor of this agreement. Tonight he was talking to Council as a private citizen. He recalled that the last four (4) Elections have all been about the sale of their utilities to FPL. He moderated a number of candidate forums and they all were about the FPL issue. He said that the people for the sale of the Power Plant have won the election. The public at large is in favor of this because of lower utility rates. He said that the six million dollar transfer is not appropriate. He would rather see an increase in taxes then to have to pay this amount in his utility bill. He said that he can deduct his taxes, but he cannot deduct his utility bills. He is one-hundred percent in favor of the sale of the Power Plant. He urged Council to approve the agreement tonight. He mentioned that Mr. O'Connor has an open door policy and has been most helpful. The whole effort has been very transparent. He also thanked Glenn Heran and Steve Faherty who brought this issue to light.

Mrs. Caroline Ginn (former Mayors and Councilmembers appeared at the podium with her) stated that she was for limited government and free enterprise. She said that the sale of their utilities to FPL is not bringing enough cash to the table. She provided Council with some backup material (attached to the original minutes). She briefly went through her backup material. She felt that this was a horrible contract and asked Council to vote no.

Mrs. Turner commented that they had an assessment done of the utilities and it came in at around one hundred and eight million dollars so they are getting a fair price for the Power

Plant according to fair market value. She said that the transmission upgrades are required if they wish to remove the Power Plant. She said that the goal has been to dismantle the Power Plant and get lower rates for their ratepayers and this contract has accomplished that. She went over the agreements that they are tied to if they do not move forward with this contract. They are paying these penalties to OUC in order to reduce their losses in the future.

Mrs. Ginn commented that if this closing takes place then they will be getting rid of the one thing that brings in non tax revenue. She mentioned that other cities have sold their utilities and now want to purchase their utilities back.

Mrs. Turner stated it was not a proper analogy to Vero Beach due to other cities with high tax rates.

Mrs. Ginn asked what happens to St. Lucie (purchase power agreement).

Mr. O'Connor explained that all the purchase power agreements will go to OUC.

Mrs. Carroll gave an example of what they are bound to pay if you were looking at a huge mortgage. She said this is the best way of getting out of these contracts.

Mr. Bill Jordan was concerned with signing this agreement before the referendum has been voted on. He didn't understand what the big rush was and suggested tabling this and waiting for the results of the referendum.

Mayor Fletcher explained that if the referendum does not pass then the City will not incur any penalties as a result of signing the agreement.

Mr. Igoe agreed that the City has the option to terminate the contract without penalty if the voters vote no in the referendum.

Mr. Charlie Wilson commented that everything they have asked for from FPL they have received. He is not here to fight this battle again. He urged them to approve this contract, which has been a long time coming. The City cannot be competitive and have not been since 1976 and never will be. He thanked FPL who has been incredibly patient with the City. He thanked the City Council who worked so hard through these circumstances and to Mr. O'Connor for all of his hard work. He wanted to see this done and suggested naming the Park (once the Power Plant is removed) after Steve Faherty. He noted that he has a lot of respect for Caroline Ginn and it was nice to see her at their meeting, as well as Debra Fromang. He closed by saying let's get this done so we can move forward for the benefit of the City.

Mr. John Marker had no problem with the power bill that he receives. He is the owner of Indian River Electric and likes the cooperation that he gets from the City. His concern is the level of service to their customers and the response time that they will receive from FPL. He said that the response time from FPL is always longer than the City. He said

that the linemen from FPL are not familiar with the area and the City utility company comes to the different locations and does the work that needs to be done and they are great.

Mrs. Turner thanked Mr. Marker for bringing that point forward. She said that the City employees do have an opportunity to work for FPL and will continue to give great service as employees of FPL.

Mrs. Carroll mentioned that she has suggested to FPL that a service center be located in Vero Beach because their customers deserve the same service as the City gives them now.

Mr. Marker hoped that FPL would do that, but he was concerned that they would not. He would like to see the customer service center retained in Indian River County.

Mr. Tim Zorc, County Commissioner representing District 3, and speaking as the County Commissioner liaison for the Economic Development Committee, reported that the Committee unanimously supports moving forward with the sale to FPL. The Committee feels by reducing the utility costs it will help more businesses come into the Enterprise Zone. He has been told that there are many empty spaces at the Indian River Mall because of the costs of City utilities. He said with the open restaurant space that is available, he has been told the cost for utilities is more than the rent each month.

Mr. Walter Geiger commented that it is very seldom that the City has the opportunity to revitalize their community. He feels that the lower rates they will be getting from FPL will stimulate development within Vero Beach. He urged the City Council to vote yes on this agreement.

Mr. Bob Solari, County Commissioner, thanked everyone involved in this transaction. He appreciated the work FPL has done and thinks that this is great for the City of Vero Beach. It is a four hundred million dollar asset in the pockets of the citizens of Indian River County. He brought up taxes and said that Council may have to focus on some of the essential services offered in Vero Beach that can be reduced.

Mr. Steve Myers stated that it was clear by reading the agreement that the City has been out negotiated. The only way to block this is if the citizens vote no on March 12th. There are provisions in the contract that stated that negotiations by the Unions must take place. He said this has not been done so why are there provisions in this agreement that have not been agreed to.

Mr. O'Connor said that the items in the contract are not negotiable with the Unions.

Mr. Myers recalled that at the Special Call meeting, he (Mr. O'Connor) said that they are negotiable items.

Mr. O'Connor recalled that what he said that the other option is if the employees choose not to go with FPL or retire then there will be layoffs.

Mr. Myers went back to the comment made earlier by Mrs. Carroll concerning having a customer service center in Vero Beach. He said if that is what they want then why wasn't it put in the contract.

Mrs. Carroll said because there is no guarantee that there will be employees who choose to work for FPL.

Mr. Myers commented that the City is banking on the dollars as part of this agreement and that the retirement obligations of their employees will be transferred to FPL.

Mrs. Carroll felt that the offer was fair. In this economy she would rather choose employment then being laid off.

Mr. Myers did not see it spelled out in the contract as to what the employees are entitled to.

Mr. O'Connor stated that the employees are guaranteed two (2) years of employment. They have negotiated the best contract for the employees in their career field that they could.

Ms. Stephanie Austin spoke on smart meters and said that FPL has a lot of unanswered questions concerning smart meters. She gave an update on meetings held with the Public Service Commission and provided backup material to Council (on file in the Clerk's office). She asked that the information be admitted into the record and put on the website.

Mr. Brian Heady stated that citizens can come to the podium and say what they want even if it is not necessarily true, but just the same they can say what they want. He has been asking the three Councilmembers who voted in favor of the agreement what they thought the twenty million dollars was for. Mrs. Turner responded to his question, Mayor Fletcher and Mrs. Carroll have not. Before the public goes to the voting polls they should have the answer on this question from those Councilmembers. He requested a summary of the dollar amounts (referring to the agreement). He invited Council to come on his television show and talk about why this contract has them all fired up. He brought up the book that he recently published and urged people to read it before going to the polls because it might affect the way that they vote.

Mr. Warren Winchester had hoped that in finding a utilities company to take over the City utilities that it would have been done by an RFP. There are two issues that he would like to have some answers on. The first one is the transfer station on the current Power Plant site being moved to the old Post Office site and then moved back to the Power Plant site. He said that this would cost the City taxpayers nineteen million dollars. He did not see the reason of moving it across the road and then moving it back.

Mrs. Turner explained that they want to get the substation off the riverfront property. Once it is moved it will not be moved back to the Power Plant site and they are still looking at other sites for the substation to be moved to.

Mr. Winchester also had some concerns with what will go on this property once the Power Plant has been dismantled.

Mrs. Turner told him that they could not do anything with this land without public approval.

Mr. Winchester mentioned that this is a manatee habitat. He asked how do they intend to handle the problem of disturbing the manatee habitat.

Mrs. Carroll asked if the City created this manatee habitat. She was told that the City did not create it. The manatees reside there because of the warm water.

Mr. Winchester did not think that it made a difference who created it. He then went on to his second concern. He asked the City Clerk about the meeting that Council attended with FPL Representatives on January 7th. She told him that three of the Councilmembers met with the FPL Representatives and she was asked by Mr. Kramer and Mr. Winger to record their meeting and take minutes when they met with the FPL Representatives. He had some concerns about these private meetings being held with FPL. Mayor Fletcher told him that the Press was present for the meeting that he had with the FPL Representatives.

Mrs. Linda Hillman asked what will happen with their taxes and how will they support this City. The Vero Beach residents have to decide on this important issue. They have the right to all of the facts and understand what is going to happen to their City services. Where will they be in five years and how will they sustain this City. She said by voting no on March 12th it secures the taxpayers rights to make that decision. She brought up the Utilities Commission and noted that they are all in favor of the utilities being sold because they were handpicked. The previous Utilities Commission had utility background, but the members were dismissed because they had other opinions on how they thought the City should go in. She said if everyone is so assured of the outcome of this referendum then why are all of the signs to vote no disappearing. She also was concerned about the manatees. They will be dislodged from a home that they have known for many years.

Mrs. Carroll noted that when she was running for election she had some of her signs stolen and was told that a police report could be filed.

Mr. Dan Stump thanked the City Council for their fine work in reaching an agreement with FPL. He believes that this agreement will go a long way in solving a lot of the City's financial issues. He has not heard one person come up with an alternative to this proposed agreement so he has come to the conclusion that there is no alternative to

reducing the electric rates. There is also no alternative to get financing to fund their current liability with retirement. He said continued maintenance of the Power Plant guarantees that property taxes and electric rates will increase. He urged Council to pass the agreement tonight.

Mr. Glen Brovant stated that he serves on the Finance Commission, but was speaking as a private citizen tonight. He noted that these were complicated contracts and he has come to the conclusion that this is the best course to move forward. They have asked their elected officials to manage a one-hundred million dollar business and they have failed to do this over the last five years. He said that businesses come to Indian River County looking for low real estate taxes, low utilities, and good City management. He said that this is a lifetime decision and if the Council fails to approve this now there will never be any other elected officials who will have the guts to do it in the future. He asked Council to move forward on this. He complimented staff of doing a great job.

Mr. Glenn Heran stated that his view of the utilities is no secret. He thanked staff and FPL for having the perseverance to stick to this process. The heart of this deal is that they can get FPL rates. The previous Council promised that once the OUC contract was signed that customers on the City utilities would see the same rates as FPL and they never have even come close. Today the City's utilities are 40% higher than FPL rates. He went over numerous supporters that were behind getting this agreement signed.

Mr. Joseph Guffanti stated that the situation is to sell or not to sell. He said that either option is going to put the City taxpayers in jeopardy. He said to not sell is not a good idea because the City is in trouble over the Power Plant situation. He brought this up many years ago when he talked about the aging Plant. He sees Council's approach to this as to sell at any costs. He is in favor of disposing of the system. There is a remedy for the sale or no sale and it is to ask for an investigation of the OUC contract. He knows that the contract was fraudulent. There was a grand jury investigation, which was a white wash because the investigator at one time worked for the former City Manager.

Mr. Mark Mucher believes that there will not have to be a tax increase once the utilities are sold. He thought that there were other solutions. He encouraged the City Council to vote yes on the agreement and the voters to vote yes on the referendum.

At this time, Council took a break and returned to the meeting at 8:30 p.m.

Mr. Winger referred to the FPL contracts and the information that he has. He said that the "elephant" in the room is FMPA. The City must deal with the elephant or there is no deal. He does not see the City exiting out of the All Requirements Project before October 2016 and then beyond that with the agreements having to do with Stanton I Stanton II and St. Lucie. FMPA is concerned with the integrity of their contracts, which is the integrity of their business model. He said that unless the City can solve the FMPA issue, all of this is for "nothing." Mr. Stump mentioned when he spoke earlier that there were not any other alternatives. Mr. Winger believes that there are other alternatives. They could let County people who have City utilities go with FPL. Then when the City resolves the

FMPA issue they could sell the Plant (City part). He felt that there was a way to solve the FMPA issue that the City is not considering and the rates would be as low as FPL rates. He believes that the City is asking the taxpayers to pay twenty-three million dollars a year until October 2016. He said for 42 months the ratepayers are being held hostage. There are better alternatives and better ways to go. He felt that because the City doesn't have an agreement with FMPA that the agreement with FPL would change substantially. He went over the contract that the City signed with OUC, who will be taking the City's obligations. He said that the OUC agreements are also going to change. So if the City signs the agreement now the City is not farther along because of the "elephant" in the room who says the City is not going any farther. He said until the City resolves the FMPA issue there is no resolution in sight. However, there is more than one way to resolve this, but this is not the way. He is not happy with the taxpayers being held hostage for 42 months so for that reason he is going to vote against this agreement.

Mr. Kramer concurred with the comments just made by Mr. Winger. He has been talking to FMPA and some of their members and he has been told that there are some members who are not going to let them out of their All Requirements Project. He did not see them getting out of the All Requirements Project until 2016. He mentioned that there are other alternatives and one would be doing a partial sale. He has been working for some time on getting their utility rates down and his goal has been to get them as low as they possibly can go. He was not in favor of this agreement.

Mrs. Turner commented that the sale is all about securing the financial security of this City. They will be saving twenty million dollars for their ratepayers and this gives them the opportunity to strengthen their City government. She doesn't see how they would survive if they went with a partial sale because they would be getting rid of 60% of their customers. She reiterated that this is a great opportunity for their community. It is time for them to move forward.

Mrs. Carroll commented that they were paying three and a half million dollars a year to make sure that the Power Plant is in running condition. She went over the number of years that former Councils have tied them to these contracts and now they have found a way out of the contracts. She first ran for office because she did not like what she was paying for her electric. She said that this is a good deal for the business community. The Chamber of Commerce voted in favor of selling the utilities because it will help businesses in this community. When it comes to other alternatives, Mr. Kramer spoke to the Utility Commission members and unfortunately no viable option came out of that meeting. She trusts the City Manager that this is a good contract and they should move forward.

Mrs. Carroll made a motion to support this sale. Mrs. Turner seconded the motion.

Mrs. Turner asked Mr. Winger how he thought that they could expedite the process in getting the approvals needed from FMPA.

Mr. Winger said that by signing this contract would not help expedite the process with FMPA. In fact they know that this contract, as well as the OUC contract will have to be changed. They are asking the voters to vote on a referendum that is going to be significantly different.

Mrs. Turner did not understand this assumption or the conclusion that the contract has to be significantly changed.

Mr. Winger explained the reason that he says that is because the City is going to have to come to a settlement with FMPA and that will materially change the contract. He said one of the problems with FMPA and the way they are organized is they have members, and the members revenue of their electric system back the bonds and the bonds were used to either build electric plants or fund portions of electric plants. In effect these bonds have to be dealt with.

Mrs. Turner asked Mr. Winger again what he would do to make the process go faster with FMPA.

Mr. Winger stated that he would start talking with FMPA. The City has only met with FMPA twice. Mrs. Turner interjected by saying that every time they have met with them FMPA has said that they would help the City in this situation and continue to work with them. Mr. Winger commented that the City has received seven (7) letters from FMPA telling them (the City) what they have to do and the City has not complied with any of FMPA's requests.

The Clerk polled the Council and the motion passed 3-2 with Mr. Winger and Mr. Kramer voting no.

1. Parking Presentation for Downtown Area – Mr. Brian Heady

Mr. Heady gave the City Clerk a disk he prepared showing adequate parking downtown. He also put pictures on the doc cam showing different places where parking spaces are empty (on file in the City Clerk's office).

Mrs. Carroll asked what time these pictures were taken.

Mr. Heady said that they were all taken some time after 12:00 p.m. and before 2:00 p.m. He said that the time information is on the DVD. He reiterated that in the downtown area there are parking spaces all over the place. He explained the pictures and at what areas at they were taken in. He said anything they can do to help their merchants is a wonderful thing.

Mrs. Carroll asked Mr. O'Connor if there are any funds coming out of the City coffers for the study being done by MPO on the twin pairs.

Mr. O'Connor said that there has been no cash involved, however some staff time has accumulated.

Mr. Heady commented that taxpayers money is being used to conduct the study.

2. Indian River Lagoon – Mr. John Orcutt

Mr. John Orcutt urged Council to accept their leadership role and be a part of the Indian River Lagoon Coalition (item 9B-1). He said that this has come about because of the drastic changes that have been found at the lagoon. The total loss of the lagoon is near 32 acres. He then told how this policy statement came about. It basically says that the lagoon is in rough shape. He would like governments to take a leadership role and this is only going to work if they have support of the whole community. The real problem of solving these lagoon issues is the complexity of the players. He went over everyone involved. The idea is to have all the different municipalities sign on, which gives them widespread support and they may be able to get something done more quickly. He said that there are 22 organizations that have already participated. He named over 15 of them.

Mrs. Turner commented that she had the privilege of attending the Lagoon seminar that took place at Harbor Branch. She asked Mr. Orcutt to share some of the comments that he made at that seminar.

Mr. Orcutt went over his background and stated that he is in favor of small government, but unfortunately there are some things that only government can do. He again requested that the City of Vero Beach join in supporting this coalition.

Mr. Coment will prepare a Resolution for Council to adopt at one of their future meetings.

Mr. Kramer brought up regulations and zoning changes and thought that those things were handled by another organization.

Mr. O'Connor explained that the document does not mention any of those items. He said that they are asking for communitywide support, which is necessary in order to make changes to the lagoon.

Mayor Fletcher added that if there are any regulations changes that they would have to come before Council.

It was the consensus of Council to bring this item back as a Resolution.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – February 5, 2013**
- 2. Monthly Capital Projects' Status Reports**
- 3. Utility Easement #2012-EG-0109**

Center for Advanced Eye Care, 3500 US Hwy 1, 04-SP-1108C

Mrs. Turner thanked Mr. O'Connor for adding the completion dates to the monthly capital reports.

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

3. PUBLIC HEARINGS

- A) (Quasi-Judicial) A Resolution of the City Council of the City of Vero Beach, Florida, approving the designation of that certain City owned property known as the "Vero Man" Archaeological Site as a Historic Site/Archaeological Zone pursuant to Chapter 76, Article III, of the Code of the City of Vero Beach; and Providing for an Effective Date. – Requested by the Planning and Development Director**

Mayor Fletcher read the Resolution by title only and noted that this is a quasi-judicial hearing.

The City Clerk sworn in everyone testifying at tonight's meeting en masse.

Mr. Tim McGarry, Planning and Zoning Director, was sworn in. He explained that this Resolution approves the local historic designation of the "Vero Man" Archaeological Site to be recorded in the City of Vero Beach Register of Historic Places. The Historic Preservation Commission (HPC) determined that the site met the criteria for historic site designation pursuant to Chapter 76 and unanimously voted to recommend approval to Council of the application for designation as a Historic Site/Archaeological Zone. This designation is on Airport property so FAA will need to approve it.

Mrs. Turner noted that it states "the Resolution will not be in effect until adoption by the City Council or approval by that agency". She asked shouldn't the word "or" be changed to "and." Mr. McGarry agreed that this was a typo and would make the change. He reiterated that approval is needed by both the City Council and FAA.

Mrs. Turner suggested that copies of the Resolution be sent to FAA as well.

Mayor Fletcher understood that this was to be in the Vero Beach Registry and the State Registry, but not the National Registry. He asked Mr. McGarry if they were going to try for the National Registry.

Mr. McGarry explained that is something that will need to be decided. He pointed out that this site is on City property, but there may be digging on the right-of-way for Indian River Farms. He said that the area may change as they move along, but at this time this is the best area to go with.

Mayor Fletcher asked both Mr. McGarry and Mr. Coment who owns the artifacts that are found on this property.

Mr. McGarry stated that the City owns the artifacts. He said that the Old Vero Ice Age Site Committee has to have a license agreement to do anything on City property. He said that this is defined in the license agreement.

Mr. O'Connor clarified that this is the local designation and before it goes to the National designation the City would need to make sure that they understood what the limitations are on Airport property .

Mr. Eric Menger, Airport Director, was sworn in. He said that he received an email from FAA, which he read into the record. The FAA is just making sure that the City is aware that they have the ultimate responsibility of insuring that the Airport has use of the property for aviation purposes.

Mrs. Turner asked if this is considered a compatible use.

Mr. Menger stated that it is as long as each time the Old Vero Ice Age Site Committee enters the property that there has to be a license agreement approved by both the City Council and FAA. He said that as these agreements come before the City Council they will be reviewed by both the City and FAA.

Mayor Fletcher called for the Applicant's presentation.

Ms. Sandra Rawls, former Chairperson of the Old Vero Ice Age Site Committee, came forward and said that she has been sworn in. She was hoping that Council was going to follow in the footsteps of the Historic Preservation Commission and designate this site as a historic site and this will give the City better ability to preserve and protect the site. She feels that everyone in town has heard her Committee talk about the site and its significance. They are being told that it is one of the most significant sites in North America. This site is unique because it has four types of deposits. It has animal remains, artifacts, and potantical remains. She said that most sites have one, two or three of those, but not all four. The Committee has been struggling to raise money for the excavation that they want to do on the site. They now have enough funds to do the first phase of the excavation. They want to do a first rate dig that will be funded by the community. She said that this is a community project and there will be many opportunities for the public to participate. She hoped that the City Council would help preserve this site and accept the recommendation of the Historical Preservation Commission and approve this Resolution. She commented that at this point the Committee does not have any plans to obtain the National Historic Designation because there are many limitations if they were to pursue that designation. Also, they don't anticipate ever interfering with the operation of the Airport.

Mrs. Carroll noted that the City is designating this as an archeological property. She asked if there were any other archeological sites within the City that have been designated as such.

Mr. McGarry answered no.

Mrs. Carroll asked how deep will the excavation be.

Ms. Rawls said that it will probably be about 20 feet.

Mrs. Carroll wondered if there will be a need for police protection or any City services.

Ms. Rawls commented that they will need equipment to remove the excess soil.

Mrs. Carroll asked Ms. Rawls if she was looking at City resources to help with that.

Ms. Rawls said possibility.

Mr. Coment explained that they would be talking about the Water Management District property and not City property.

Mrs. Carroll asked if there would be trailers or other structures on the site.

Ms. Rawls mentioned that there will be a temporary weather tent there that will protect the site and maybe a POD to store equipment in.

Mrs. Carroll asked if those things were acceptable to FAA.

Mr. Menger explained that he will need to review each case as they come before them. He said with each license agreement they will need to review what the Committee is asking to do. He commented that he misspoke earlier when he said that the City Council has to approve the license agreements. He said that the City Manager can approve the license agreements because the City Council has already approved the memorandum agreement.

Mrs. Carroll commented that even though there are some things that have not been worked out yet does staff feel they are at the point to ask for City Council's approval.

Mr. Menger said that he would recommend denial for a National designation of this site. The reason is because there would be two federal agencies who would both be arguing over who has control over the property. But with this local designation the City has control and that should be fine.

Mr. Kramer asked Ms. Rawls what a historic designation gives them that they don't have now.

Ms. Rawls explained that it is recognition. She also pointed out that it does not put any restrictions on their Airport.

Mrs. Jane Howard, was sworn in and said that she was delighted to be at tonight's meeting to speak. She sits on the Board for this Committee and went over how important this is to the community. She expressed that this is a very important historic site and Vero Beach may become famous because of it (referring to what may be found on the site). She supports this with all of her heart.

Ms. Rawls added that this site has been described as a jewel and Vero Beach does not have all that many jewels.

Mr. McGarry recommended that based on Council's amendments to the Resolution that they include the FAA under section 4 and change "or" to "and" in the last section.

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

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

None

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

None

6. CITY CLERK'S MATTERS

A) Annual Commission Reports

Council accepted the Commission Reports, but requested that the City Clerk send a letter to each Commission Chairman asking that their reports next year be similar to the report that was submitted by the Recreation Commission.

B) Appointee for the Public School Planning Citizens Oversight Committee

Mr. Kramer made a motion to appoint Mr. Larry Lauffer to serve as the City's Representative on the Public School Planning Citizens Oversight Committee. Mayor Fletcher seconded the motion and it passed unanimously.

7. CITY MANAGER'S MATTERS

A) Little League Rates

Mr. O'Connor reported that the Recreation Commission discussed and finalized their decision on Little League and unanimously recommended the fee for Little League be raised from \$150 per team to \$180 per team. The new recommended rate would go into effect in the 2013-2014 fiscal year.

Mrs. Turner noted that by raising the rate it is still not covering all of the costs. She asked what deficit is not being covered.

Mr. Rob Slezak, Recreation Director, stated that it is around \$20,000 - \$22,000. However, the Little League continues to bring their costs down. He said in 2008 their cost was around \$40,000.

Mrs. Turner asked Mr. Slezak how he arrived at just a 20% increase.

Mr. Slezak explained that he averaged all the adjustments that were made with the other services that were raised in the Recreation Department and it came to 20%. He said that the people involved with the Little League programs realize that times are going to become a lot more difficult and the Little League is trying their best to go out and find other sources. He said that eventually he would like for them to completely pay for their program.

Mrs. Turner asked in order for Little League to be self supporting, what would their rates have to be.

Mr. O'Connor said about \$200.00 a player or \$500.00 a team.

Mayor Fletcher asked if the Little League plays only at Michael's Field. Mr. Slezak said no and named some other fields that they play baseball at.

Mr. Winger made a motion to approve the new Little League rates. Mrs. Carroll seconded the motion. The motion passed 3-2 with Mrs. Turner and Mr. Kramer voting no.

Status on the old Diesel Plant – Requested by Mayor Craig Fletcher

Mr. O'Connor reported that the tenant at the old Diesel Plant is running behind. He has not paid any rent since his contract started.

Mr. Kramer recalled talking to the Crooms (tenants) a couple of years ago and they said that because of the hard economic times it has been difficult for them to do anything with the old Diesel Plant. He said if they don't pay then the City would have to take it back.

Mr. O'Connor explained that the City does quarterly contamination testing at the Plant. Their last quarter testing showed that they were below the contaminate level. They will be doing another test in March. He said if the City takes the building back he was not sure what to do with it or how they would maintain it.

Mrs. Carroll asked what type of maintenance is required.

Mr. O'Connor mentioned that the electric is on and the mold problem.

Mrs. Carroll recalled speaking to someone who was interested in becoming a tenant at the old Diesel Plant, but was told that they would have to pay for the improvements. She is concerned that there are businesses interested in going in there but are turned off by a huge financial commitment.

Mr. O'Connor felt that whoever moves in there would have to remove the turbine.

Mr. Kramer explained that if they remove the turbine then they would have to do remediation. But, if they left the turbine alone then remediation would not be necessary. He suggested bringing this back at their next meeting and having the Crooms present to talk about the status of the old Diesel Plant.

Mrs. Carroll brought up the memo that they received from the Florida League of Cities who are opposed to House Bill 733 that has been filed by Representative Mayfield.

Council instructed Mr. O'Connor to write a letter for the Mayor's signature telling Representative Mayfield that they are not in support of House Bill 733.

Mrs. Carroll brought up the scheduling problem that occurs when County meetings in which they (City Council) serve as City representatives on are held the same day that their Council meetings occur. She asked permission from the Council to have Mr. O'Connor prepare a letter asking the County that their Commissions not schedule meetings on the same day as Council meetings.

Mr. Winger acknowledged that the County has sent out a mailing to the City's South Beach water customers. He felt that a letter should also be sent out from the City Manager letting the South Beach customers know that the City is willing to serve their water needs.

Mrs. Turner commented that giving County rates in South Beach would still be a wash.

Council concurred with having the City Manager send a letter to the South Beach property owners.

8. CITY ATTORNEY'S MATTERS

Mrs. Carroll referred to a letter that was sent from Mr. Winger to the City Clerk that has no email address. She asked where did this document come from.

Mr. Winger stated that he received it and sent it to the Clerk because it had to do with the City. He did not think that the memo was worth anything. Mrs. Carroll agreed, but

expressed as Councilmembers they have to be careful about sunshine violations. She still did not understand if it was an email how it could have no email address on it.

Mr. Winger asked that Mr. Coment be a part of the conversations that take place with FMPA. He said that he would feel more comfortable.

Mr. Kramer cautioned doing that. He didn't want to see Mr. Coment caught up in the issue.

Mayor Fletcher did not want to see Mr. Coment involved either.

9. CITY COUNCIL MATTERS

A. Old Business

1. Formal vote on the acceptance or rejection of the Florida Power & Light (FPL) Purchase and Sale Agreement – Requested by Mayor Craig Fletcher

This item was discussed earlier in the meeting.

2. Get direction from Council on the strategy to fund the City for five years after the closing of the sale of the Electric Utility utilizing the “Gorry Model” to derive possible complimentary strategies – Requested by Councilmember Dick Winger

Mrs. Carroll asked because of the late hour that they postpone discussion of the “Gorry Model” and this would give Council a chance to look at the numbers. She also recommended that this item go before the Finance Commission.

Mr. Winger said that is fine. He did request that it be heard earlier on the agenda at their next Council meeting.

Mrs. Turner concurred with Mrs. Carroll's suggestion.

Mrs. Carroll made a motion to table item 9A-2) until their next meeting. Mrs. Turner seconded the motion.

Mr. Peter Gorry told Council that in the future he will need their help with some policy issues (referring to his model).

Mr. Winger noted that Mr. Gorry did put assumptions in the study and all of the numbers are changeable. He reiterated that he would like to see the “Gorry Model” put on the next Council agenda and heard earlier in the meeting.

3. Electric Customer Survey – Requested by Councilmember Pilar Turner

Mrs. Turner asked for an update on where they were on the survey to be mailed out and was delighted to see a draft of the survey that will be mailed out. She had one revision to the survey where it says our electric service customers that reside outside of the City limits. She thought that the survey was being mailed out to all of their customers.

Mrs. Cindy Lawson, Finance Director, said that can be done, but it will increase the cost of sending out the survey because of more postage. They are looking at sending the survey out around March 18th.

Mrs. Turner asked why they were not sending it out with the electric bills.

Ms. Lawson explained that the electric bills are mailed out at different times, so they would not get all of the surveys back around the same time. This way they would get most of the surveys back within a couple of weeks.

B. New Business

1. “Call to Action” for Indian River Lagoon Coalition – Requested by Councilmember Pilar Turner

This item was addressed earlier in the meeting.

10. INDIVIDUAL COUNCILMEMBERS’ MATTERS

A. Mayor Craig Fletcher’s Matters

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

Mayor Fletcher reported that the Indian River Symphonic Association recently held their mid-term concert, which was excellent.

B. Vice Mayor Tracy Carroll’s Matters

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

Mrs. Carroll attended a Tourist Development Council meeting. She read the news release from the Vero Beach Sport’s Village of events occurring there. She then read parts of a complimentary letter from someone who was impressed with their Riverside Tennis Courts and also another letter from someone who wrote complimenting the Marina (both letters are on file in the Clerk’s office). She reminded everyone that this Saturday the annual Craft Beer and Wing festival will be held at Royal Palm Pointe.

C. Councilmember Pilar Turner’s Matters

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

Mrs. Turner attended an MPO meeting, the Lagoon symposium held at Harbor Branch, she congratulated the Heritage Center on their Mardi Gras party, and noted that on March 1st the Downtown Art Stroll will take place. She also invited the public to attend Aviation Day at the Airport on March 2nd.

D. Councilmember Jay Kramer's Matters

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

Mr. Kramer reported that Representative Bill Posey now has an office in Indian River County.

E. Councilmember Dick Winger's Matters

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

Mr. Winger attended the most recent DARE program.

11. ADJOURNMENT

Tonight's meeting adjourned at 10:15 p.m.

/tv