

**CITY OF VERO BEACH, FLORIDA
FEBRUARY 5, 2013 9:30 A.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, excused absence and Councilmember Richard Winger, present **Also Present:** James O'Connor, City Manager; Wayne Coment, City Attorney and Tammy Vock, City Clerk

B. Invocation

Reverend Steve Jones of the Vero Christian Church 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

Mr. Winger requested that items 7-A) and 9B-2) be discussed together.

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

B. Proclamations

- 1. Native American Weekend – February 15, 2013**
- 2. Harlem Ambassadors Night – February 21, 2013**
- 3. Epilepsy Awareness Day – February 9, 2013**

Mayor Fletcher read and presented the Proclamations.

4. Lifesaving Award to be Presented to Officer Myron Pratt

Police Chief David Curry and Doctor Clay presented a Lifesaving Award to Officer Myron Pratt.

5. Indian River Magazine's Best of the Treasure Coast 2013 – Best Beach and Best Park

Mayor Fletcher presented the Best of the Treasure Coast Awards for the Best Beach and the Best Park to the City Manager.

C. Public Comment

1. Pension Plan Presentation – Mr. Rocky Joyner

Mr. Rocky Joyner gave a Power Point presentation on the City of Vero Beach's General Employee Retirement Plan (attached to the original minutes). It was noted that the Finance Commission was shown the same presentation and recommended that it be presented to the City Council.

Mrs. Turner asked the City Attorney to investigate the legal requirements of this trust so that it will help the Council when they get down to funding this. She would like to have this information for their Special Call meeting, which will take place on February 12th.

Mr. Brand, 6640 Liberty Place, had some concerns that he had no vote on the selling of the utilities to Florida Power and Light (FPL).

Mr. Steve Myers, Teamsters Union, 3400 34th Avenue, asked Mr. Joyner if this was a new defined benefit fund, would it be true that the employee's salary contributions of 3.25% in the City would only be 4.5% currently. Mr. Joyner answered yes. Mr. Myers continued by saying that if the City would have always maintained 100% funding then the City's current obligations for the retirement plan would only be 4.5%. Mr. Joyner said if you started the plan from scratch then his answer would be yes.

Mr. Joyner explained that if the City was at 100% funding right now the required contribution would be around 7.75%.

Mr. Myers felt that the pension problems that the City faces are because the City has not fully funded their obligations under the fund.

Mr. Joyner disagreed with Mr. Myers. He said that the underfunding problem is not because the City has not paid the required contributions over the years, it is because of very poor markets from years 2000 – 2010 that have created this liability.

Mr. Myers expressed that the City could have made up those differences each year by contributing additional money to fund the pension 100%. Mr. Joyner explained that the City has that in place now and it will be funded over the next 12 years at three million dollars a year.

Mrs. Turner added that these benefits that were negotiated through union negotiations retroactive, were never incorporated into the actuarial amounts that were to be included in the pension.

Mr. Myers stated that the City hires companies to estimate and give Council a baseline each year of how much they should be contributing to keep the fund funded. He said that the situation that they are in now with the pension plan is not the employees fault. He said that it is the governing bodies fault for not giving and allocating the extra money to make sure that the plan was fully funded.

Ms. Cindy Lawson, Finance Director, clarified that the City never failed to make the actuarial annual required contributions since the plan became underfunded.

Mayor Fletcher stated that the City is not delinquent in any of their legal requirements.

Mr. Myers brought up the employees that are expected to be transferred to FPL and assumed that FPL would be taking on their pension obligations. However, if that does not happen then the pension obligations remain with the City. He asked Mr. Joyner if he has figured the costs for this.

Mr. Joyner stated that he has given the City those numbers.

Mr. Myers continued by saying that the pensions are a mandatory subject of bargaining and it has not been bargained to transfer any employees pension from the City of Vero Beach to FPL.

Mr. James O'Connor, City Manager, clarified that what Mr. Myers is saying is correct. He said the only alternative that the City would have is to use the layoff provisions within the contract that the City has with the Teamsters today. He said if they use that then employees would not be guaranteed employment and pension plans at that point. He said that the City plans to have a contract that hopefully the Teamsters Union will consider and is an added benefit to the closing sale with FPL. He said that this has not been negotiated yet. He said if the Teamsters take a position that they are not going to allow the pension plans to transfer to IBEW and FPL, Mr. Myers is correct they have to use the alternative (layoffs) that is in the contract.

Mrs. Carroll thought that it was a wonderful offer by FPL to even take on the City employees. She felt that it was a significant part of the offer. If the Union feels otherwise and they plan to use other mythology to delay or deflect what is going on with the negotiations then that is their choice.

Mr. Myers stated that if employees are transferred into a bargaining union and if it is represented by the IBEW then all of those changes have to be negotiated with IBEW and this has not been done.

Mrs. Carroll said that if negotiations don't occur then employees will be laid off.

Mayor Fletcher thanked Mr. Joyner for his presentation and for being at their meeting today.

2 Up with People – Ashley Wright

Miss Ashley Wright informed the Council on what Up with People is about. She said that it provides young adults with international and intercultural experiences that teaches service leadership and uses the performing arts to deliver messages of hope and goodwill throughout the world. The group will be coming to Vero Beach and doing a singing performance at the Vero Beach High School Performance Arts auditorium on March 1st and March 2nd. They are looking for families to host the young adults while they are in town. The responsibilities for the families who are hosting would be basically providing breakfast in the morning and providing transportation to and from the Vero Beach High School. While the young adults are here they will participate in volunteer projects and any of the money raised from the performances will go to three different local charities. She said that a student could earn up to 12 college credit hours for traveling with Up with People.

Mrs. Carroll asked how much does it cost a student to participate in the program.

Miss Wright stated that for one semester it usually is around \$17,000 and a for a year it is around \$23,000. She said that some parents pay the fee and there are scholarships available. They (Up with People) encourage their students to do fundraising to help pay the costs of travel.

Council took a five-minute break at 10:54 a.m.

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

This item will be heard at the next City Council meeting.

Representatives from the Italian American Civic Association invited the public to “A Salute to our Vets,” which will be February 16, 2013 from 11:00 a.m. to 6:00 p.m. at the Vero Beach Airport. Tickets can be purchased at the Italian American Club located at 1600 25th Street.

Mrs. Nancy Cook, 3213 Ocean Drive, requested to address some concerns that she had. She asked Council that in their negotiations with FPL that they request of FPL not to put in smart meters in the City of Vero Beach and that it is made a part of the contract. She said that the end game with smart meters is that FPL is given total control of the electricity that a person uses in their home.

Mr. Ken Daige, 1846 21st Avenue, brought up smart meters and asked that in the agreement with FPL that it include if City residents opt out of having smart meters that they are not charged for someone to read their meter. He asked Council to defer doing the referendum because there are still a lot of unanswered questions and financial concerns. He said that when they hold their Special Call meeting next week that Council should discuss what is the environmental problems on the Power Plant property. He recommends having a study and getting the proper environmental companies to tell the

City what they need to do on that site. City Council's duty is to the taxpayers and residents of the City. These issues need to be addressed. He reiterated that there are too many unanswered questions to have the referendum on the March ballot. They also need to make sure that this City stays strong and operates into the future.

Mr. J. Rock Tonkel felt that it was important to proceed with approving the agreement with FPL. Both the Utilities Commission and the Finance Commission unanimously approved the agreement, so there are no big reasons to defer signing it. He read in the Press Journal this morning under the Editorials their position regarding the referendum. He concluded by saying that the voters can vote knowing that there will not be substantial changes to the document.

Mr. Glenn Heran, 1964 Gray Falcon Circle, stated that he has a smart meter and he doesn't have any problems with it. He brought up the City utility rates, which are 40% higher than FPL's utility rates. He encouraged Council to move forward in signing the agreement and that the voters vote yes on the referendum question.

Mr. Glen Brovont spoke to Council as a member of the public and not as a Finance Commission member. He felt that Council should move ahead with the referendum. He doesn't think putting it off for a couple of months will help them. The City has done a good job in moving this complex subject forward and resolving issues. He said that most people understood when they first started this adventure that it was going to cost a lot of money for legal fees. The fact that they have to fund more money for the Transactional Attorney should not be a surprise. He said that the City and the County will benefit from selling the utilities. There are provisions in the contract that the City can opt out if they have to. He didn't see any advantage to hold off doing the referendum.

Mr. Mark Mucher was surprised that the public would not be allowed to speak when item 9A-1) comes up on the agenda. He mentioned that the City will be responsible if contamination is found on the site whether they sell the Power Plant or not. He said that the City should not be in the utility business because they continue to make expensive mistakes.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – January 22, 2013**
- 2. Emergency Approval for Unit 2 Steam Turbine and Unit 5 Gas Turbine Overhaul – Extra Work Authorization #216508**
- 3. Utility Easement #2012-EG-0124 – Harbor Point Shopping Plaza**
- 4. Final Payment Request from Clear Zone Maintenance, Inc., for Obstructions Removal, Phase 2, Bid No. 200-11/CSS; FDOT Project No. FP 420769-1-94-01; FAA AIP No. 3-12-0083-035-2011**
- 5. Compliance Opacity Monitors**
- 6. Approval of Banking Services Contract**
- 7. Annual Commission/Board Reports**

Mrs. Carroll pulled items 2D-2), 2D-5, and 2D-7) off of the consent agenda.

Mr. Winger pulled item 2D-6) off of the consent agenda.

Mrs. Carroll made a motion to approve items 2D-1), 2D-3), and 2D-4) on the consent agenda. Mrs. Turner seconded the motion and it passed unanimously.

2. Emergency Approval for Unit 2 Steam Turbine and Unit 5 Gas Turbine Overhaul – Extra Work Authorization #216508

Mrs. Carroll asked Mr. O'Connor to explain the necessity for the \$100,000 emergency purchasing approval for Unit 2 and Unit 5 turbine overhaul.

Mr. O'Connor explained that during the overhaul there were several gauges and switches that were unable to be calibrated, adjusted, or were found inoperative and the items needed to be purchased and installed. The funding for this item was coming out the R&R replacement account.

Mrs. Carroll expressed that the contract that the City has with OUC requires them to check for repairs and bring them up to current standards. In this case they were required to spend \$100,000 for these repairs. She said that if every utility customer who receives a utility bill takes \$3.00 out of their pocket and considers these kind of charges on a personal basis then they consider what it is going to cost them to keep these turbines operating for another 20 or 30 years. She said that these are the errors that past Councils have committed them to with the contracts that they have in place today.

Mayor Fletcher asked Mr. O'Connor if this was going to be the last invoice that they would be seeing for the turbines.

Mr. O'Connor answered yes.

Mr. Winger referred to the cover letter of January 16, 2013, where it states that this is needed in order to operate on liquid fuel. He asked why they need to operate on liquid fuel.

Mr. O'Connor explained that the Unit itself is a combined cycle and also it is a dual fuel, which is oil and gas. He said going forward they probably will not run anything on oil unless there is a supply of gas issue that comes up, but they have to be capable of doing this service if they have to.

Mrs. Turner made a motion to approve the request. Mrs. Carroll seconded the motion and it passed unanimously.

5. Compliance Opacity Monitors

Mrs. Carroll pulled this item off of the consent agenda to ask Mr. O'Connor what is the amount that they are paying and why do they have to pay this emergency amount.

Mr. O'Connor explained that this is for capacity detectors in order to measure the environmental release going out of their stacks at the Power Plant. He said that this is required to be able to maintain those systems and those units if they are called upon. The cost for this replacement is \$64,609. He said that this is necessary in maintaining the paper filing of what the City does at the Power Plant and the City found that this replacement was needed through daily maintenance at the Power Plant.

Mrs. Turner made a motion to approve the request. Mrs. Carroll seconded the motion and it passed unanimously.

6. Approval of Banking Services Contract

Mr. Winger asked if by having this banking service, would it improve their banking costs and in round terms how much it would be.

Mr. O'Connor stated that it would improve their banking funds and give the City other opportunities, such as allowing people to pay by credit card at some of the different City facilities.

Ms. Lawson said that the banking costs would be improved by approximately \$1,000 a month.

Mrs. Carroll asked if people could pay their utility bills by credit card.

Mrs. Lawson said they can, but it is through a third party provider.

Mr. Winger made a motion to approve the banking services contract. Mrs. Turner seconded the motion and it passed unanimously.

7. Annual Commission/Board Reports

Mrs. Carroll asked that they discuss the reports from the different Commissions at their Special Call meeting next week. She thought that it might have some affects on their goals for next year.

Mrs. Turner was appalled when she read that the City provides minutes for union negotiation meetings.

Mr. O'Connor explained that the union negotiations are open to the public and fall under the Sunshine Law so minutes must be taken as a requirement of the City. He said that historically most cities do absorb these costs.

Mrs. Carroll asked Mrs. Vock to contact the Florida League of Cities and find out if other cities provide minutes for these meetings and report this at their Special Call meeting next week.

This item will not be approved until Council has discussed it.

3. PUBLIC HEARINGS

A) A Resolution of the City of Vero Beach, Florida, Establishing Fees for the Industrial Waste Pretreatment Program; Repealing Resolution No. 1993-13; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Water and Sewer Director

Mayor Fletcher read the Resolution by title only. He opened and closed the public hearing at 11:42 a.m., with no one wishing to be heard.

Mrs. Carroll made a motion to approve the Resolution. Mrs. Turner seconded the motion and it passed 4-0 with Mr. Winger voting yes, Mrs. Turner yes, Mrs. Carroll yes, and Mayor Fletcher yes.

B) An Ordinance of the City of Vero Beach, Florida, repealing Ordinance Number 1546 relating to operation of Golf Carts on certain City Streets and amending the Code of the City of Vero Beach by adding Article VI, “Golf Carts,” in Chapter 74, “Traffic and Vehicles,” relating to the Operation of Golf Carts in the City of Vero Beach; Providing for Implementation; Providing for Conflict and Severability; Providing for Codification; and Providing for an Effective Date. – Requested by the Police Department

Mayor Fletcher read the Ordinance by title only.

Mr. Wayne Coment, City Attorney, went over the changes that were made to the Ordinance as requested by Council at their last meeting.

Chief Curry reported that by passage of this Ordinance there would be something in their Code of Ordinances.

Mayor Fletcher opened the public hearing at 11:44 a.m.

Mr. Joe Collins, Attorney for the Riomar Country Club, was in favor of the passage of this Ordinance.

Mayor Fletcher closed the public hearing at 11:45 a.m., with no one else wishing to be heard.

Mr. Winger made a motion to approve the Ordinance. Mrs. Turner seconded the motion and it passed 3-1 with Mr. Winger voting yes, Mrs. Turner yes, Mrs. Carroll no, 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

None

7. CITY MANAGER'S MATTERS

A) Request for Additional Funding – Edwards Wildman Palmer LLP

Explanation for Transactional Attorney why we need to hire PA Consultants for further work – Requested by Councilmember Winger

Mr. O'Connor reported that the City has not received any requests for funding for PA Consultants in an official capacity. Mr. O'Connor has made it clear to their Transactional Attorney that if there is a need to hire PA Consultants then there would need to be a budget put in place. There is discussion right now that the City may be required to have a certificate signed by a third party that shows the transaction that is taking place with the City's power purchase agreement and with a private company (being FPL) and that they meet the fair market value. He said that PA Consultants may be hired to determine the fair market value.

Mr. Winger provided Council with a memo referring to Treasury Regulations Section 1.141-7(4)(3) and also the IRS Code of 1986 (on file in the Clerk's office). He said they have known all along that this transaction would probably take an IRS ruling. He referred to page 4 in the memo under (ii) where it states "The contract either is a negotiated, arm's-length arrangement that provides for compensation at fair market value, or is based on generally applicable and uniformly applied rate." He said in looking at these two regulations that they are highly technical and they would need a true expert to handle these issues. He would be in favor of having the certificate if it is required.

Mr. O'Connor made a request to Council to increase the amount of money to their Transactional Attorney by \$200,000. He said that he brings the increase in funding to the Council in increments. He said that they now have the Asset Purchase and Sales Agreement and can move forward with the next big challenge, which will be FMPA. He

said speaking about FMPA, the City has requested a budget from them and FMPA came back and said that they have no way of providing the City with a budget because they do not know exactly what they will be exploring.

Mrs. Turner expressed that there has been a lot said about their Transactional Attorney costs and some disparagement against their Transactional Attorney as well. However, she wanted to put this in perspective for the public. They are looking at a one hundred and eighty million dollar transaction and what they have spent is less than 0.5 percent for attorney costs. She said if you look at the overall revenue of their electric company it is a hundred million dollars and they have spent about one percent on their Transactional Attorney. She referred to the OUC contract and said that the City expended three million dollars in getting that contract in place. She said that they have been doing this transaction in a very open manner and have disclosed all of the documents for the public and have been controlling their costs.

Mr. Winger mentioned that he did a log of the number of hours the Transactional Attorneys have spent on this matter and they have only talked to FMPA for 18.8 hours. On May 25, 2007 FMPA provided a document saying how difficult it would be to exit. The Transactional Attorney has only met twice with FMPA and he did not know how they would negotiate an agreement with only two meetings. On May 2, 2012 the City received a letter from FMPA telling them the steps they would need to take in order to accomplish this and that the City was not even close. He said in January their Transactional Attorney sent documents to FMPA and the philosophy seems to be if they (FMPA) have all the documents that they are going to have to accept this. Mr. O'Connor has stated that the work is 60% done. He did not think they were anywhere near 60% completed. His position is that they really have not begun negotiations with FMPA. He does not believe the Transactional Attorney that they have hired has approached this matter the proper way. He said the proper way would have been to find a way to deal with FMPA. He was not in favor of expending more money with this Transactional Attorney.

Mrs. Carroll asked Mr. O'Connor if he was under the impression that exiting from the FMPA contract was going to be easy. Mr. O'Connor answered no. Mrs. Carroll asked him if he ever thought that it would go quickly. Mr. O'Connor said no. Mrs. Carroll asked Mr. O'Connor if he thought that it would be the biggest hurdle that they would have to go through. Mr. O'Connor thought that it was equal to the power supply agreements. He said that there were two major hurdles going forward. When the City met with FMPA about a year ago and talked about the issues, he understood that they could not negotiate with FMPA until there was a document in place to negotiate. He said FMPA was not going to give them a ruling on a power supply agreement that was not in place. Now they can negotiate with FMPA because there are documents that they can look at. He would like FPL to be allowed to attend the meetings that they have with FMPA, but FMPA has said that the City of Vero Beach is the only party that they want at the table. He knew that the IRS issue was going to be a very lengthy discussion. In part of their discussions with FMPA they are hoping that they can give them some foundation to help them in whoever they have to argue with in the future.

Mrs. Carroll commented that these issues that they are discussing are not new issues, yet Mr. Winger and other members of this Council and some members of the Press are making this out as like all of a sudden these are new obstacles. She said that they knew that these were concerns and believes that the City has worked closely with their Transactional Attorneys in order to bring forward the contract that they have now. The Finance Commission and Utilities Commission are coming forward with ideas on how to progress through this. She thanked everyone for all of the work that they have done in bringing this forward.

Mrs. Carroll made a motion to approve the additional funding as requested by Mr. O'Connor.

Mr. Winger referred to the January letter from their Transactional Attorney who said in that letter that the City really was not selling the utilities under Section O of the contract, that in part they were abandoning the electric business. However, when he looks at the agreement from FPL it is a purchase and sales agreement. He asked their Transactional Attorney about this and he (Mr. Miller) said that they would have to come up with other strategies because of the rejection by FMPA at the meeting that took place. He was concerned about spending all of this money without knowing the solution in regards to FMPA.

Mrs. Turner told Mr. Winger that she was sure that he has been in different negotiations where they have to try many things. To discredit the Transactional Attorney because one particular approach did not work is invalid. She asked Mr. Winger if he was suggesting at this time, after two years of working with this firm, that the Council should fire them and start the process all over.

Mr. Winger said he was suggesting that they could hire a lawyer that would get this done. He said that this process is failing and he would like to speed it up. He has lost confidence in their Transactional Attorney.

Mrs. Carroll expressed that they cannot continue running the City in the method that they have (referring to the unfunded pension and the aging utility system).

Mrs. Turner seconded the motion.

Mayor Fletcher felt that it was unrealistic to change Transactional Attorneys.

The motion passed 3-1 with Mr. Winger voting no.

Mrs. Carroll referred to the letter that Mr. O'Connor received from the Florida Departmental of Environmental Protection in regards to the discussion that they had with them some months ago and they asked a question about the sea grass dying within this community and their response was that they have looked at this and determined the cause

might be the alga blooms. She did not believe that alga blooms were specifically identified as the reason for the death of the sea grass throughout the County.

Mr. O'Connor thought that it was part of the issue, but they are saying that they have not established what the cause is for the massive sea grasses that have died.

Mrs. Carroll asked permission from Council to meet with Mr. O'Connor and address this letter. She said the City's position is they do not know if the cause was from alga blooms because it has not been identified by any State department and that they need to look at various other things to determine what is going on.

Mr. O'Connor added that the letter they received was to inform the City that there is continuing research going on.

Mrs. Carroll reported on a meeting that she had with Mr. O'Connor because there have been some concerns in the community about the substation relocation being moved to the old Post Office site. In this meeting they met with FPL and the Planning Department to discuss setbacks and what is required to put the substation on that site. They are discussing whether or not the entire site would be necessary and there have also been discussions on alternate sites as well.

Mr. O'Connor added that in their discussions with FPL they have made them aware of the concerns of having the substation at this site. They have put a provision in the agreement that the old Post Office site or any other site agreed by both parties will be the site that the substation will be relocated to. They have established two different parcels that could be used and FPL has their Engineering employees looking at this. The size of the site is still under discussion.

Mrs. Carroll brought up the communications that took place from the County Administrator and some extremely despairingly remarks made by Mr. Baird. She was concerned about the accusations that were made by Mr. Baird with regards to the relocation of the bus hub. She went over some of the comments made at the interview that took place on the Bob Soos radio show last week.

Mr. O'Connor commented that he also was on the Bob Soos radio show a couple days after Mr. Baird was on the radio show. His position is that the Go-line busses are a Countywide service. He gave an example of they are not maintaining the South side of the County Administration building, which would be the same thing. He thought that the City's contribution for \$250,000 in land, in a good location, had been agreed upon. The grant money had been applied for and was approved. He personally told residents in the community where the bus hub is located now that it was going to be a temporary location and once the grant is approved the bus hub will move. There was a meeting with all interested parties present (City, County, Senior Resources) and he walked away from that meeting thinking that everything was a go. It wasn't until about two weeks later that he received a call saying that they need to renegotiate the lease agreement. The lease

agreement that was sent to them had the City maintaining different things on the property so they marked through those things and sent it back to the County.

Mrs. Carroll agreed that it is a County facility so they should be responsible for cutting the grass.

Mayor Fletcher explained that this is for a Department of Transportation program and the funding comes from the State Department of Transportation to the County and the County is responsible for implementing the program. He said that they were willing to donate a piece of property worth \$250,000 so they have done more than their share.

Mrs. Carroll commented that two of the County Commissioners represent areas within the City of Vero Beach and she would like to have Mr. O'Connor draft a letter from the Council saying that they (the City) feel that they have contributed and address the points made by Mr. Baird about their City.

Mayor Fletcher felt that they needed to leave this matter alone.

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

- 1) Defer the Referendum to a later date than March 12th as it is highly unlikely the documents and deal will be known at that time for the Electorate to sufficiently vet to make an informed vote. – Requested by Councilmember Winger**

Mr. Winger requested that the referendum be deferred until a later date. He said that they are just starting negotiations with FMPA and their Transactional Attorney stated at their last meeting that there would be significant changes. He said if the contract is going to significantly change then they should not ask voters to vote on something that is going to substantially change. He felt that the odds of getting this done before the year 2016 are slim.

Mr. Winger made a motion to suspend this until further actions of the City Council have been made.

The motion died for lack of a second.

Mrs. Turner commented on why would they continue with trying to sell the utilities if they don't have the support of the people. If the City is required to meet with the other

cities who are members of FMPA then they need to be able to say that selling the utilities is what their customers want.

Mrs. Carroll was surprised that Mr. Winger changed his mind about having a referendum. She recalled that he brought it up back in September and was in favor of it.

Mr. Winger said since then he has learned a great deal about FMPA and he has his doubts.

Mr. O'Connor commented that the deal will collapse if they are not able to resolve the issues with FMPA. He didn't think that FPL would want to take on the liabilities of having a third party involved.

Mayor Fletcher stated that it was best to know now if the public does not want this to go forward.

B. New Business

- 1) Defer the Signing of the FPL Purchase and Sales Agreement until such time as the Transactional Attorney can tell us they have a solution to exiting the various FMPA contracts. – Requested by Councilmember Winger**

Mr. Winger felt that there would be substantial changes made to the Purchase and Sales Agreement between the City and FPL. So what they would be signing is a document that will require various amendments. He didn't see the reason to sign the document at this time. He made a motion to defer from signing the agreement until they have better information.

Mrs. Carroll noted that the agreement has been reviewed by both the Utilities Commission and the Finance Commission and they unanimously agreed to move forward in signing the agreement.

The motion died for lack of a second.

- 2) Explanation for Transactional Attorney why we need to hire PA Consultants for further work. – Requested by Councilmember Winger**

This item was heard earlier in the meeting in conjunction with item 7-A).

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

- A. Mayor Craig Fletcher's Matters**
 - 1. Correspondence**
 - 2. Committee Reports**
 - 3. Comments**

None

B. Vice Mayor Tracy Carroll's Matters

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

Mrs. Carroll went over some of the events taking place in the community. She said that on February 9th the Moonlight Mardi Gras will be held to raise money to maintain the Heritage Center. There was a meeting tonight on transportation and it starts at 5:30 p.m. and will be held at the County Administration building. This Saturday McKee Garden will be hosting the 60th anniversary of the corvette. She recognized some individuals in the community who recently received some awards from the Chamber of Commerce. On February 8th there will be a forum on lagoon health taking place at Harbor Branch starting at 9:00 a.m.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner attended the Human Resource seminar presented by the Florida League of Cities (backup material on file in the Clerk's office). She thanked everyone who worked on getting the Bethel Creek marker in place. She said that the Downtown Art Strolls are in full force and she attended the kickoff event for Camp Haven.

D. Councilmember Jay Kramer's Matters

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

E. Councilmember Dick Winger's Matters

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

None

11. ADJOURNMENT

Today's meeting adjourned at 12:25 p.m.

/tv