

CITY OF VERO BEACH, FLORIDA
JUNE 17, 2014 6:00 P.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

The invocation was given by Reverend Dan Holloway of Unity Center of Vero Beach, 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. Kramer requested that item 8-2) and 5-A) be heard together.

Mrs. Tammy Vock, City Clerk, requested that Discussion of the July Fourth Event be discussed under City Clerk's Matters.

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

B. Proclamations

1. National Dump the Pump Day – June 19, 2014

Councilmember Graves read and presented the proclamation.

2. Chef's Appreciation Day – August 16, 2014

Mayor Winger read the proclamation.

3. Presentation by the Vero Beach Air Show Committee

The Vero Beach Air Show Committee gave a wrap up on the Air Show. Mr. Todd Howder, Chairman of the Air Show, said there were close to 1,000 volunteers who helped with the show and over 50,000 people came to the show. The Committee presented the City Council with a painting from the Blue Angels.

C. Public Comment

1. Electric Utility Update from Mr. John Igoe and Mr. Schef Wright.

Mr. John Igoe, Transactional Attorney, addressed Florida Power and Light's (FPL) position. He explained that the City Manager sent a letter to FPL on June 12, 2014 regarding making substantial changes in the Power Generation Division of the Electric Department (please see attached). He said that FPL replied in their letter of June 18, 2014, stating that FPL's focus remains on a complete sale of the Vero Beach utility and FPL and will continue to stand by the agreement that they and the City have signed. They are also in support of the City considering other options to lower their electric rates and will work with the City in this effort (please see attached letter). He said the next steps they will be taking are Mr. Schef Wright will be going to Orlando Utilities Commission (OUC) to talk to their legal counsel and both himself and Mr. Wright will meet with FPL counsel.

Mayor Winger commented that the City receives 65% of their power from OUC so the cost there is of some concern. The City entered into a 20-year contract in 2008, which came effective January 1, 2010. He said that under the COVB/FPL agreement of February 2013 and under the OUC agreement of 2010, the City has to have permission from both of the corporations to make changes at the Plant. He expressed the City spends around \$4 million dollars on the Plant every year.

Mr. Jim O'Connor, City Manager, reported that the \$4 million dollars was spent at the Plant about three (3) years ago and it was for refurbishing older existing equipment.

Mayor Winger was talking about the ongoing fixed costs of \$4 million dollars a year.

Mr. O'Connor explained that if the Plant was taken off line it would be about a \$4 million dollar savings.

Mayor Winger said they need to be clear about that and not get expectations too high. He realizes if they make changes to the Plant there will be consequences that would have costs.

Mrs. Turner commented that they have to look at how much they will be charged by OUC for power. She said by using their rates, whatever savings they get may go away. She said it is something that has to be carefully studied.

Mr. Igoe reiterated that what they are doing immediately is laying the ground work to make OUC comfortable so they can pursue these discussions.

Mrs. Turner agreed that it was worthwhile to have the discussions and look at the options.

Mr. O'Connor reported that the City has sent letters to both FPL and OUC. The letter sent to OUC was to do some modifications to their contract in order to start taking steps

that would rearrange their organization as far as the generation part of their Plant. This would mean taking their Units off line and possibly taking the Plant down, but leaving the substation where it is and quit using the generation facilities. The City also sent a letter to FPL advising them that this is disposal of assets and they will need some help in modifying the contract the City has with them because part of the contract is the acquisition of these facilities and FPL has indicated their willingness to work with the City. He is working on correspondence to ask FPL to form a transmission study for the City. He believed that it was a lot of information that they already have. By doing this study the City would know what the transmission upgrades that are necessary are, what the capacity needs are, and how to go out with an RFP.

Mr. Schef Wright provided Council with a legal opinion regarding potential challenges to the validity of the Vero Beach-FMPA Power Supply Project Contracts (please see attached). He said in summary, FMPA was authorized to issue the Bonds and to use the provisions of Chapter 75, Florida Statutes, to have both the Bonds and the Project Contracts validated. The Bonds and the Project Contracts for each of the Power Supply Projects were dully validated by the Circuit Court. The Court's final judgment of validation pursuant to Section 75.09, Florida Statutes, "is forever conclusive as to all matters adjudicated against plaintiff (FMPA) and all parties affected thereby," which would include the City, and the validity of the Bonds or other obligations or of any revenues pledged for the payment of the Bonds "shall never be called in question in any court by any persons or party." The City approved each of the Project Contracts, and the City Attorney furnished his legal opinion to FMPA and others that the City's approvals and execution of the Project Contracts were legal and there was no basis for any claim challenging the validity or enforceability of the Project Contracts. It is his conclusion and opinion that the City cannot bring an action to have the Project Contracts declared invalid with any realistic hope of success. Any such action by the City would be barred by the express provisions of Section 75.09, Florida Statutes, and would likely also be precluded by virtue of the City Attorney's opinions affirming the validity and enforceability of the Project Contracts.

Mrs. Turner asked Mr. Wright which City Attorney he was referring to.

Mr. Wright said whoever the City Attorney was at the time of signing these agreements.

Mrs. Turner then asked Mr. Wright if he examined this from an anti-trust standpoint. Mr. Wright answered no. He said that it would be somewhat difficult for him to imagine what the anti-trust claim would be. He expressed that many different cities voluntarily entered into these agreements.

Mrs. Turner agreed that happened, but many things have changed in these cities since the agreements were signed. She said in a lot of the cities back when these agreements were signed their ratepayers only resided in their city limits.

Mr. Wright explained that if Mrs. Turner was worried about the City being sued for anti-trust, he said that they were protected by the State Action Immunity Doctrine and the territorial agreements that they have.

Mr. O'Connor stated that they would now proceed with the three (3) party agreements between the City, OUC, and FPL, in order to allow them to start looking at reduction of their rates. At the same time they will be talking with FPL to see if there are any other options or alternatives to the Power Supply Agreements. He said the point is the City owns Power Supply Agreements that have no market value. They need to find an eligible body to take those Power Supply Contracts and have not been able to identify one.

Mr. Fletcher asked Mr. O'Connor if what he is telling Council is that the sale as they originally envisioned is "dead." Mr. O'Connor said as they originally envisioned it, yes.

Mr. Wright reported that he met with FPL after the last Council meeting and they (FPL) are not ready to throw in the towel, but they don't have any specific ideas or options at this time. He does not either, but they are leaving the door open to see if there might be something out there that can be figured out.

Mrs. Turner commented that the electric utility rates are a vital issue for all of their ratepayers and the City residents have said that they want the City to be out of the utility business and sell their utility to FPL. She said it is imperative the Council seek whatever options there may be. She realizes that with this first approach they are dead in the water, but that does not mean all doors are closed. She said they need to continue to seek options.

Mr. O'Connor added that the City will continue to work with FPL to try to see if there are other options and alternatives.

Mayor Winger mentioned that in February they took various steps to lower rates and the rates are 5.4% lower than what they were in December. He believes that they can get their rates down significantly, but does not believe they will get them down to FPL rates.

Mrs. Turner brought up the 5.4% reduction that Mayor Winger mentioned. She reminded the public that the 4.2% reduction was strictly an over budget number and is a temporary reduction with no permanent cuts in anyone's utility bills. She said they would like to have something sustaining, but they are not there yet and have not found it.

Mr. O'Connor reported that he is working on putting an RFP together for an optimization and electric rate study.

Mayor Winger recalled about two (2) years ago they did an optimization study for the Water and Sewer facility and the operation has improved tremendously. He opened up the floor for public comments on the electric issue.

Mr. Charlie Wilson, 2134 18th Avenue, stated that the idea of attacking the contracts is not something that anyone suggested be done. He said there are legal options and avenues to pursue that do not include just looking at a 1983 review of the contracts by the Florida Supreme Court. He agrees that a negotiated sale of Vero Beach Electric to FPL may be dead and if it is dead it did not die of natural causes. It was murdered. Those who are happy that the negotiations have been sabotaged... Mayor Winger stopped Mr. Wilson and told him that was his opinion. Mrs. Turner told the Mayor that Mr. Wilson is allowed to give his opinion and should not be interrupted under public comment. Mr. Wilson continued by saying going forward what they can now expect. He said many employees promised by FPL that they would have a job will now be unemployed. The problem they need to make sure is that the public understands that legal action is inevitable. It will be curtailed because they are a defendant or they are doing the litigating. There will be a lot of money spent on litigation and the costs depends on if they stand alone or with a group. He hoped the Mayor's suggestion of negotiating would have worked, but it did not. He knew it never would because they do not have a seller operating in good faith that is motivated to do that. He heard the Mayor say at the Men's Republican Club that their option is that the sale is dead and to get over it. He was not sure that "get over it" was a plan for their future. He noted they have been presented with a bill from FMPA for nearly \$50 million dollars for stranded costs. He said this situation is going to get worse. He said the worst thing this City ever did was entering into the FMPA agreements and the worst thing they could do was not getting out of them. He asked what happens if there is a Statewide ballot initiative or a Legislative initiative that says utilities operating in the State of Florida can have a choice. They can either be a regulatory monopoly or they can be in competition. The reason there is the monopoly is because a utility agrees to a fair rate and fair operations. He said if FMPA members across the State have a choice they will leave. He asked what happens if they have to reorganize their utility department. He understands that the contracts are set aside by a Circuit Judge or Bankruptcy Judge. He said they may not be able to change the contracts, but they can change the circumstances from which they operate under the contracts.

Mr. Glenn Heran, 1964 Grey Falcon Circle, commented that he gets the impression that the ground work is being laid out to cancel the FPL contract, which doesn't expire until December 2016 and there is still time to negotiate with FMPA, if possible. He believes cancelling the contract is not in the public's best interest. With the sale to FPL the Power Plant employees would still have jobs and some of the unfunded liability would be paid down. He said in the last 14 years the City of Vero Beach electric bills have been higher than FPL and is costing our community \$20 million dollars a year. He said the City of Vero Beach entered into the FMPA contracts thirty years ago and has nothing to show for it. We (the City) still do not own anything. Then what is worse we are being told we have to pay millions of dollars to get out of the ownership we have been in for 30 years. He wonders if FMPA is underwater, which will be determined soon once they are audited. He asked if we cannot get out of FMPA, what solutions the City will be looking at to get the \$90 million dollars of unfunded liability paid off, how does the City plan to save the \$20 million dollars that the community is paying every year, and what has FMPA done for them in the last 30 years.

2. Mr. Ken Daige, High Speed Rail Commission Chairman, to give a Report.

Mr. Ken Daige, Chairman of the High Speed Rail Commission (HSRC), passed out a copy of some current issues regarding the All Aboard Florida (AAF) project. He said the City sent a letter to the Federal Railroad Administration (FRA) asking to be designated as a Cooperating Agency (attached to original minutes). A letter was received back declining the request (letter attached to the original minutes). A similar letter was sent by Indian River County and Sebastian and they also received denial letters. Mr. Daige presented the HSRC report to Council (please see attached).

3. Mr. Brian Heady, Member on the High Speed Rail Commission, to present a Minority Report.

Mr. Brian Heady, Member of the High Speed Rail Commission, presented a Minority Report (please see attached). He said when the HSRC discussed the report that was going to be sent to Council the vote was 4-1 to approve it. He went through the report presented to Council by the HSRC and pointed out discrepancies. He said that there were two (2) reports provided to Council instead of just one (1) as mentioned in the report just presented to Council. He started out with the findings and said #1 where it says increase train traffic will cause an impact on vehicular traffic during a 16 hour period each day. He has heard that the Downtown Association wants to increase traffic downtown and this might be a way to do it. The report talks about an increase in freight traffic. He said FEC could increase freight traffic tomorrow if they wanted to. He mentioned with quiet zones there still will be noise. If a train engineer sees traffic near the train tracks he is going to blow his horn whether it is in a quiet zone or not. If we ask for quiet zones then we will have to pay for them, which would mean an increase in taxes. He said #4 talks about quiet zones will be cheaper than original estimates, but how do we know that when we haven't seen cost statements. Also, #4 talks about as a result of the Environmental Impact Study (EIS), the FRA may make recommendations to AAF requiring additional safety measures for the crossings not having appropriate safety measures. He said how do we know that when the Study has not come out yet. He said #5 states that increased speed of the trains will create safety concerns. There has been testimony at their meetings that is not true. He agreed with #6 – The cost of implementation should be the responsibility of AAF. In #8 it notes that property values may be negatively impacted with the increase in train traffic. He said unless someone has a crystal ball they don't know what the property values will be. He commented on a recent trip that he took (Boston area) and rode the train. He told the HSRC that he would show the slide presentation to them, put the item on their agenda for their last meeting. He noted that his item was moved on the agenda to one of the last items and was not heard. In #10 it talks about the terms of the loan, which no one on the Commission has seen. In the recommendations by the HSRC they are recommending the City oppose the project and recommend it be relocated to the I-95 corridor. He asked who do they oppose it to. The recommendations were numbered 1 – 8. In #1 it says the COVB should prepare to establish quiet zones for each of the City's crossings. He said the City should stay away from establishing quiet zones. In #2 it talks about the EIS, which no one has seen. He agrees with #3 that all costs should be borne by AAF/FECI. In #4 it talks about working

towards reducing the speed of the trains. There was testimony at their HSRC meetings that reducing speed does not increase safety. In #6 it says that the City should continue working with the Indian River County Planning Agency and the Treasure Coast Regional Planning Council (TCRPC) in responding to the EIS. He brought up a HSRC meeting where Mrs. Kim Delaney from the TCRPC spoke and talked about a report and he had the Clerk make a public records request for that report, which they never did receive. With #8 it talks about the City contacting their liability insurer to determine if the project would increase insurance costs. He questioned why you would call your insurance company and take the chance of them increasing the premiums. Mr. Heady then read his Minority Report.

4. Mr. Russell Roberts, Vice President of Florida East Coast Industries, to give an update on the All Aboard Florida (AAF) project.

Mr. Rusty Roberts thanked the City Council for allowing him to be at tonight's meeting. He wanted to give a brief update on AAF. He took a minute to commend the work of the HSRC. He said they have done a fine job and have looked diligently at everything. He then read a prepared speech (please see attached). He showed a 45 second video taken in Ft. Lauderdale showing how the process works. He closed by saying although the initial phase is not having a stop in Vero, AAF will be part of the community and will enhance the quality of life through better transportation and a stronger economy.

Ms. Graves asked when AAF initially started talking about doing an EIS in this area.

Mr. Roberts answered January 2013.

Ms. Graves wondered if by notifying the community sooner about the project they could have been included as a Cooperating Agency.

Mrs. Turner thought that a Cooperating Agency was any Agency that had a specialized history or knowledge of the area. She agreed it would have been nice to have been advised at that time.

Mr. Roberts stated that when the EIS was announced it was published in the Federal Register, displayed on the FRA website and there were public hearings held just for this purpose. He said this has not been going on without public input.

Mr. Heady told Ms. Graves that there were people who spoke at the HSRC meetings telling the City not to get involved with the EIS at this point and wait until it comes out. He agrees with Ms. Graves that they should have been involved in the beginning of the process.

At this time (7:40 p.m.), Council took a break and the meeting reconvened at 7:55 p.m.

Ms. Monique Miller passed out a copy of an article that she wrote entitled Hedge Fund Railroad: The Truth about 'All Aboard Florida' (please see attached). She said that this

company has benefited from subsidies. There has been an incredible lack of transparency throughout this whole process. The biggest concern she has is with the bait and switch. She asked the Council to help stop this project.

Ms. Melinda Meikle announced that at the St. Lucie County Commission meeting they voted 5-0 against AAF. She was at tonight's meeting speaking against AAF. She passed out a memo that had nine (9) questions that she hoped to get answers on. She also provided copies of an article appearing in TC Palm saying that AAF filed a lawsuit blocking agencies from releasing sensitive documents (memo attached to the original minutes).

Mrs. Alice Johnson stated that the passenger rail will fail because there are only two (2) profitable rails in the world. They are in Japan and France. The route from Miami to Orlando has nothing in common with those two successful routes. A high speed rail needs good feeders to get ridership. The average tourist is not going to spend \$450 for a round trip ticket from Orlando to Miami. She doesn't know how AAF will succeed. She noted that a basic high speed rail cannot share tracks with freight trains. She said if Council spends taxpayers money on quiet zone crossings when this company will be bankrupt within two (2) years does not make sense. She encouraged Council to look at the EIS carefully and find places where they can object. She said watch the facts because some people are saying things that are not true.

Ms. Rosemarie Wilson was against the high speed rail. She said over 18,000 signatures have been signed in opposition of AAF.

Mr. Brian Heady heard some of the speakers talk about some of the facts not being true. Someone said to him that they didn't know he was in favor of the rail and was defending AAF, which he said he was not. He reiterated that he had a slide presentation to give at the last HSRC meeting and the meeting adjourned before he had the chance to give his presentation. He said there are rights for citizens to approach the podium and give their opinions whether you agree with them or not. He said that he was not supporting AAF, but people should stop ganging up on them. Government should stop spending money on the project and government should be sure that AAF is being told to make the high speed rail safe.

Ms. Althea McKenzie, 2405 16th Avenue, commented that after listening to this conversation she wanted to note that when the railroad first came into town the cities were built around the railroad not vice-versa, which is happening now. She said the towns now exist and the railroad wants to build around us. She said this will impact people. She commended Vero Beach for taking the lead on this to address the issue. She noted that school buses will have to be rerouted if this occurs and it will change the dynamics of Vero Beach. It will have long term quality of life effects and it is imperative that everyone look at alternatives. She suggested AAF going west where they could accommodate their needs that they are trying to accomplish. She questioned if there is an accident with one of these trains how does someone respond. The video did not make a

lot of sense to her because there was not any traffic. She expressed that this will have such an impact on this community that they may need to build a hospital out west.

Mr. Ken Daige explained when reviewing the EIS how the public input will work. He said the public will be invited to look at the plans and answer questions then provide their comments on a comment card and drop them in a box. He encouraged citizen groups to put together their facts in writing and submit their packets. He said there are a lot of individuals who have done research on their own and he recommended that these people site their sources. When the study comes out the public comment time will move very quickly. He thanked Mr. Roberts for attending the HSRC meetings. He has been their guest and has answered questions to the best of his ability.

Mayor Winger agreed with Mr. Daige on the EIS comment period. He said it doesn't seem like a format that will get them to where they need to be. He asked that once the EIS comes out that the HSRC review it and report back to Council on what they see in the Study to voice their concerns.

Mr. Daige mentioned that he will be meeting with County staff concerning the high speed rail project.

5. Mr. Jason Redmon, Heritage Sports Park, would like to discuss having a lease for Michael Field.

Mr. Jason Redmon, Heritage Sports Park, was at tonight speaking on behalf of being a dad, coach, and concerned citizen. He said there is a problem with places for children to play sports and he is presenting a plan so this can happen. He said that his organization will operate Michael Field as a year round full-service multi-sport complex that will be utilized and available for multi purposes. The need for an "open" field for local athletes, teams, and the community as a whole for multi-sports use is prevalent. He said there are some baseball teams leaving this community and playing in other areas because there are no options for them to play here. He thanked Council for giving them an additional two (2) weeks and asked them to consider Heritage Sports Park's lease for Michael Field.

Mr. Coogie Freedman commented that he has been in Vero Beach for 12 years and has been involved in sports, youth camps, etc. He said there is a lot of community support for Heritage Sports Park and like Mr. Redmon has said they want this to be an open field project. They are looking to grow this as a community and the community wants options and choices. He knows Heritage Sports Park had a short window to present their case, but would like Council to consider it.

Ms. Althea McKenzie was at tonight's meeting supporting Mr. Redmond's request. She has served on the Little League Board and has seen a lot of baseball fields being privatized. She said what is needed is people committed to making things work with little resources. Mr. Redmon's group has the heart and commitment to do this. They are not just looking for approval of the lease, but looking for a place to nurture and take care of. She expressed that there have been a lot of teams that have been displaced and are

having to find other places to go. She asked Council to please consider a partnership that works. She reiterated that she supported Mr. Redmon's organization.

Mrs. April Mullen, 971 48th Avenue, Community Relations Director for the Buggy Bunch, asked Council to support Heritage Sports Park and vote no to Indian River Sports Complex. She said there needs to be a multi service facility for the public. There is no place for children to run around and play. She understands that Indian River Sports Complex plans to charge people who use the field. She wants to see Michael Field used by families and not charging them to use it. She asked that Heritage Sports Park's lease be approved.

Mr. Derek Mullen, 971 48th Avenue, stated that he fully supports Indian River Sports Complex and loves what they are doing. However, he doesn't think they need to expand. There needs to be a multi service facility that covers various sports and a place that is open to all. He thinks that Mr. Redmon's group is just as established as Indian River Sports Complex. He said there are enough volunteers for the maintenance of the facility, so the only thing that needs to be paid for is the lights.

Miss Sarah Crow, 4420 10th Street SW, commented that she was unable to play softball this year because it was too expensive. One reason it is expensive is because the Leagues have to pay for the fields they play on.

Ms. Michelle Mckinny, 315 30th Avenue, supports Mr. Redmon's efforts to get Michael Field. She was President of the Vero Beach Little League softball. It seems her League has fallen through the cracks. She would have kept her son playing with Little League because of the values they provide. She said Cal Ripken is more competitive. She mentioned how sad it is because the youths don't have a place to play baseball. She asked Council to please think about the decisions they are making regarding the youth and softball games.

Mrs. Karen Gurge, 1402 39th Avenue, stated there is no place for her grandchildren to play ball.

Mr. Charles Brown, Baseball Coach, asked Council that before they make a choice to look at the lease that Little League softball has on some fields.

The Past President of Little League stated that he was not at this meeting to beg Council to do one thing or another. He wants them to look at what is best for Vero Beach. He gave the history of the different Leagues. Last year he came to Council for help and they helped the League out. His job is to protect the kids and give them a safe environment. He said baseball will survive and they need to do is look at the things that these different groups are wanting to do. He encouraged trying to make this work for everyone in this community.

Mrs. Kelly Sartain, Executive Director of the Buggy Bunch, invited the community to the 2014 Family Fun and Fireworks Spectacular. She said the event will take place in

Riverside Park and hoped that everyone could attend. The Buggy Bunch has organized the food truck frenzy for the event. This will be their last food truck frenzy for 2014. She said so they don't take away from local vendors they only have the food truck frenzy three (3) times a year. There will be 10 local food vendors and 17 food vendors total. They have pulled all the necessary permits and will be giving back some of the proceeds back to the City. She said from April 25-May 7 the Buggy Bunch allowed this period for local vendors to get first dibs to participate in the event. Unfortunately they did get a late start this year and some of the participants that participated in the event last year will not be able to make this year's event. Then the Buggy Bunch opened up the event to other vendors around the State of Florida who were interested in participating. They allow anyone in the community access to the food vendor list 20 days before the event. She expressed that the Buggy Bunch supports local businesses in this community. She told Council to be careful of other organizations who conduct food frenzy events and have them a couple times a month. She felt this would kill the economy.

Mr. O'Connor added that the Buggy Bunch and Mulligans help support the Fourth of July event celebration. He said whenever an event like this one occurs there are sometimes conflicts. He felt that the Buggy Bunch did everything that they could to open the event up to local businesses.

D) Adoption of Consent Agenda

1. Regular City Council Minutes – June 3, 2014

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

3. PUBLIC HEARINGS

A) ORDINANCES

None

B) RESOLUTIONS

- 1) A Resolution Authorizing the City of Vero Beach, Florida, to enter into a Supplemental Joint Participation Agreement with the State of Florida, Department of Transportation, to Construct, Mark, Light West GA Apron, Phase III (FDOT #422489-1-94-01). – Requested by the Airport Director**

Mayor Winger read the Resolution by title only.

Mr. O'Connor reported that this project is a three phase pavement construction project to complete the aircraft parking area along Taxiway C near the main runway at the Airport.

Mayor Winger opened and closed the public hearing at 9:23 p.m., with no one wishing to be heard.

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

- 2) **A Resolution Authorizing the City of Vero Beach, Florida, to enter into a Supplemental Joint Participation Agreement with the State of Florida, Department of Transportation to develop a Wildlife Hazard Management Plan (FDOT #430487-1-94-01). – Requested by the Airport Director**

Mayor Winger read the Resolution by title only.

Mr. O'Connor reported that the Federal Aviation Administration (FAA) requires that a Wildlife Hazard Management Plan be developed for public airports, like Vero Beach Municipal Airport, which are certified under 14 CFR Part 139. In addition to the Wildlife Hazard Management Plan the Airport was required by the U.S. Fish and Wildlife to develop a Habitat Conservation Plan as a condition of approval for their tree removal project that took place in 2012-2013. Staff requested that FDOT help fund this additional requirement using the existing grant and they agreed to fund 80 percent of the additional cost.

Mayor Winger opened and closed the public hearing at 9:24 p.m., with no one wishing to be heard.

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

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

- A) **An Ordinance of the City of Vero Beach, Florida, Providing for Amendments to the City of Vero Beach Charter, Section 5.05, Relating to Limitations on the Sale, Lease, Trade, or Gift of certain City-Owned Parks and Public Lands; Calling for a Referendum to be held on Tuesday, November 4, 2014, to present the proposed amendments to the Electors of the City; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the City Council**

Mayor Winger read the Ordinance by title only.

Mr. Coment reported that this Ordinance was drafted based on discussions with and direction provided by Ms. Graves, Mr. Daige, the City Manager, the Public Works Director, the Recreation Director, and the City Surveyor. The Ordinance calls for a

referendum to be held in November to determine if the electors of the City approve the amendments provided in the Ordinance. If approved in the referendum, the amendments would add certain specified additional City Parks and other public lands to the protections from sale, lease, trade, or gift without being approved by the electors of the City. In addition, the amendments would update the names of two (2) Parks and eliminate the current language related to Parks acquired subsequent to May 1, 1982 in light of the Parks being added.

Mrs. Turner asked why the vacant lot across from the Theater Guild is on the list. She said it is not being used as a Park.

Mr. Coment told Council to feel free to modify the list any way that they would like to.

Mr. Fletcher agreed with Mrs. Turner that piece of property did not need to be on the list.

Mayor Winger opened the public hearing at 9:28 p.m.

Mr. Ken Daige explained to his knowledge the Theater Guild uses that piece of property for overflow parking. They (Theater Guild) approached the City to buy the space, but it never went through because of other expansions taking place at the Theater Guild. He said the City doesn't have much green space and it would be nice to have that as green space. He said it is their intent to protect what little green space they have.

Mrs. Turner commented that it looks like what happened was all the available properties were put into this Ordinance. She questioned the logic in how these are being presented, such as the Cemetery, the Old City Nursery, Leisure Square, and this property across from the Theater Guild having nothing in common.

Mayor Winger did not think that they wanted the electors to vote individually on all of these pieces of property. He asked Mrs. Turner if there were any other pieces of property that she had concerns with.

Mrs. Turner brought up the Old City Nursery and said that is a vacant lot. She also objected to the Cemetery being thrown in with the Parks. She said the Cemetery is an Enterprise Fund and is suppose to be a self-sustaining business, but the City has chosen to keep supporting it. She thought that the residents would probably support doing this, but putting a business in the middle of Parks is mixing things up and these properties should be voted on individually.

Ms. Graves stated that some people would consider Crestlawn Cemetery a place of honor and a Park because their loved ones are buried there. She objected to Mrs. Turner's tone about Crestlawn Cemetery. She felt that the public has made it very clear how they feel about this. She agreed with taking the property across the Theater Guild off of the list, but would not agree with removing Crestlawn Cemetery off of the list.

Mrs. Turner explained she was not saying that Crestlawn Cemetery should not be preserved. She just felt that these properties should be voted on individually by the electors.

Mayor Winger stated that he was committed to protecting the Cemetery.

Mr. Fletcher and Mr. Kramer had no problems with taking the piece of property located across from the Theater Guild off of the list.

Mrs. Turner suggested also taking the Old City Nursery site off of the list because it is a vacant lot.

Mr. Fletcher made a motion to adopt the Ordinance with the amendment that the piece of property located on Atlantic Boulevard and San Juan Avenue be removed from the list. Mayor Winger seconded the motion. The public hearing on this Ordinance will be heard on July 15, 2014.

Mayor Winger closed the public hearing at 9:34 p.m., with no one else wishing to be heard.

The Clerk polled the Council on the motion and it passed 4-1 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner no, Mr. Kramer yes, and Mayor Winger yes.

5. CITY CLERK'S MATTERS

A) Approval of Letters Authorizing the Mayor's Signature

Mrs. Vock presented a letter addressed to Governor Scott concerning the Hybrid Septic System (STEP) and a letter thanking those who were involved with a Muscular Dystrophy Association fundraiser. It was the consensus of Council that the Mayor be authorized to sign both letters.

B) July Fourth Event

Mrs. Vock requested permission from Council to allow the sale of alcohol at the July Fourth event.

Mr. Fletcher made a motion to approve the sale of alcohol at the July Fourth event. Ms. Graves seconded the motion and it passed unanimously.

Mrs. Turner asked Mrs. Vock to go over the summer meeting schedule for the Council and the public. Mrs. Vock briefly went through the list and noted that a copy is available in the City Clerk's office.

6. CITY MANAGER'S MATTERS

A) Lease Agreement with Indian River Sports Complex, Incorporated

Mr. O'Connor reported that the Recreation Commission, as well as staff would recommend that the lease agreement with Indian River Sports Complex for Michael Field be approved.

Mrs. Turner asked if the public would have access to the field. Mr. O'Connor said that they would, but there would be a charge.

Mayor Winger commented that at budget time last year Council cut the baseball budget in half and he was uncomfortable about doing that. He knows that one of the City's concerns was to have a stable organization maintain this property and pay the utilities, but they also need to make sure that it is safe for the children. He did not hear what Heritage Sports Park Business proposal was. The City needs to know that the field is going to be taken care of. He has heard the emotional appeal and he is sympathetic to it. However, the City needs to also know that whoever takes over Michael Field is fiscally responsible and he has not heard that from the people that talked earlier.

Mr. Fletcher made a motion to adopt staff's recommendation. Mrs. Turner seconded the motion.

Mr. George Young, Manager of Indian River Sports Complex, mentioned that the facility they started with has been taken care of and upgraded. He said the County recently called him and asked if other people would be allowed to practice on Michael Field and he said yes. He said there is not one person in his organization making any money in taking over Michael Field. He said that he has never turned away any children in Indian River County that want to play baseball. He just wants to do what is best for the kids. He knows what maintenance needs to be done on the different fields and he knows how to treat the kids. He said that his organization has been working for the last three (3) months on this lease and making sure that it is right.

Mr. Kramer asked Mr. Young if he would be locking up Michael Field.

Mr. Young explained that they have to because of liability issues. He said there will be waiver forms that have to be filled out. He has no problem working with any of the other Leagues. He is just here for the kids to make sure they can play baseball safely.

Mr. Fletcher told Mr. Young that their (City Council) main job is to help the kids, but also protect the City of Vero Beach.

Mrs. Kelly Sartain, taxpayer and parent, had some concerns about having to pay \$10.00 for her children to play baseball. She encouraged Council to look at the records for the individuals signing this lease. She said charging people to play at their Parks is bad.

Mr. Derek Muller noted that Heritage Sports Park does have the necessary insurance policy set forth in order to lease the property. He said there is a donor who has obligated

to covering the cost of the baseball field, which amounts to approximately \$4,000 a year. He wanted to know from Indian River Sports Complex if the field was going to be used for baseball only if they were to get approval of their lease and would the field be open for free to anyone that wanted to play on it. He felt there should have been an RFP put out to anyone interested in leasing the property. He understands that Heritage Sports Park has a business plan and a means to pay the cost of maintaining the field. He reiterated that he would like the field used for multi-purposes.

Mr. Jason Redmon stated that he is a business man and knows about liabilities and waivers. Heritage Sports Park has a business plan. He requested Council giving more time to find the best suitable option.

Mr. Joe Fontana, former Vice President of the National Little League and current Vice President of Cal Ripken baseball, said they have been able to put 500 kids through their program. He said Little League does not want to help the children living in Vero Beach. He was in support of the Indian River Sports Complex being approved to lease Michael Field.

Ms. Althea McKenzie commented that as a Board member of the Little League and someone who has just gone through this whole process she knows it is not an easy one. She said it took them four (4) years to come up with a plan. When they started the process there was not a lot of support. Their donors came on board once they saw their stability. Council should give everyone an opportunity to be involved in this win/win situation. She said if you allow different groups to come to the table with different proposals, maybe something could be worked out. She suggested approving two (2) years for the first group and if doesn't work then open it up to the other group.

Mr. Fletcher felt that Mr. Young has done his homework.

Ms. Graves commented that it was not the worst thing in the world to have two (2) groups come forward who want to help children. She said this issue is not new and it has been going on for the last two (2) years. There was an opportunity open for anyone to come forward. She expressed that Bob Summers Park is open and waiting for anyone who wants to use it at anytime.

Mr. Fletcher asked what the term of the lease is. Mr. Coment said that it was a five (5) year lease and could be renewable by coming back to Council after five (5) years.

The motion passed 5-0 to approve the lease to Indian River Sports Complex.

Mr. Kramer commented that he had hoped that the School Board and Indian River County would be more supportive on this issue instead of having the City of Vero Beach have to deal with it.

B) Update on COVB vs. Carrolls

Mr. O'Connor reported that their legal counsel is waiting to hear when the case will be heard. He said the hearing probably will be in July or August. Their counsel has told the City informally that there probably will be oral arguments taken in the case, rather than the three-judge panel rendering a decision based solely on the legal briefs and materials submitted by both parties.

Mr. Fletcher asked after oral arguments, does the Court make an immediate decision.

Mr. Coment said that it usually takes about three (3) months for them to come back with an opinion.

C) United Healthcare Renewal

Mr. O'Connor reported that the City would be staying with United Healthcare this year and there will be an overall impact of approximately 10%.

Mrs. Turner noted that the backup material is still showing three (3) plans. She thought there were only going to be two (2) plans.

Mr. O'Connor explained they are still in union negotiations concerning the plans.

D) Approval of Repayment Agreements with State Department of Emergency Management for FEMA De-Obligated Funds

Mr. O'Connor reported that in early 2011 an audit was done by the U.S. Department of Homeland Security, concerning public assistance funds awarded to the City associated with Hurricanes Frances and Jeanne. The audit questioned \$2.6 million in costs associated with Hurricane Frances and \$1.3 million in costs associated with Hurricane Jeanne. In March 2012, the City received notification from FEMA that it intended to de-obligate funding for various projects totaling \$2.3 million for Hurricane Frances and \$1.4 million for Hurricane Jeanne. The City appealed these notices on May 7, 2012. In March 2013, the City received notification from the State Department of Emergency Management that the insurance coverage issues had been resolved in cooperation with Florida Municipal Insurance Trust (FMIT) and FMIT provided an additional \$1.6 million in insurance proceeds directly to the State on behalf of the City to replace funds de-obligated by FEMA. In June 2013, the City received a determination letter from FEMA indicating that the City's first appeal had been denied. On August 1, 2013, the City submitted a second appeal package to FEMA and the City still has not received any response to its second appeal. However, despite the continuation of the appeal process, the State Department of Emergency Management has notified the City that it is required to reimburse the State for funds already de-obligated by FEMA. Because the City facilitated the direct repayment of additional FMIT insurance proceeds to the State in 2013, the State DEM has provided the City with a repayment agreement which allows the City to make the repayment in monthly installments for two (2) years, with an initial down payment of \$500,000. Mr. O'Connor recommended that the City Council approve the repayment plan, which allows the City to extend its repayment of the requested funds

for 24 months as the appeal and closeout process continues. He said if they did have another hurricane that FEMA would not give the City any funds. They have also withheld funds that should have gone back to the Airport.

Mayor Winger made a motion to approve the repayment plan with the State Department of Emergency Management for FEMA de-obligated funds. Mr. Fletcher seconded the motion.

Mrs. Turner asked at budget time if they would be given more details as to how this was going to affect the budget.

Mr. O'Connor explained that most of the money will be coming out of the utility accounts and there has been money reserved in a Water and Sewer account in anticipation that they might run into this kind of situation.

The motion passed unanimously.

E) Commercial Lease between the City of Vero Beach and Walking Tree Brewery, LLC

Mr. Eric Menger, Airport Director, reported that staff has negotiated a lease with Walking Tree Brewery, for building 96 at the Airport. He said that Walking Tree Brewery is a new company by well known and respected individuals in the local community. Their plans are to develop a wholesale distribution company with on-site sales through a tap room in an historic building. They will assume the maintenance responsibilities on the building and would like to have a 30-year lease. He said that both the FAA and the Airport Commission are in agreement with the lease.

Mr. Menger noted that staff and the Airport Commission did not agree on the real estate commission for the Broker who handled this transaction. The Airport Commission requested an increase in the commission payout to the Broker. He said staff agreed on one commission figure to be paid to the Broker and the Airport Commission agreed on another commission fee. He said Council can make the change to the lease if they choose to do so and the difference is about a \$1,500 additional payment to the Broker.

Mr. Fletcher made a motion to adopt the lease with the increased fee being paid to the Broker/Agent. Ms. Graves seconded the motion.

Mrs. Turner noted that there were people in the audience concerning this lease and asked if anyone wanted to speak.

Mayor Winger opened the public hearing at 10:16 p.m.

Mr. Jay Burklew, Real Estate Broker, reported that there are about five (5) local business investment groups involved in this business and it is a very positive project.

Mayor Winger closed the public hearing at 10:17 p.m., with no one else wishing to be heard.

The motion passed 5-0 to approve the lease with the modification included.

7. CITY ATTORNEY'S MATTERS

None

8. CITY COUNCIL MATTERS

A. Old Business

B. New Business

1) Irrigation of Jacoby and Piece of Pie Parks – Requested by Vice Mayor Jay Kramer

Mr. Kramer commented that there are a number of Parks that are not irrigated in the City and do not compliment the neighborhoods very well. There are a few businesses that want to help put some irrigation in these Parks and help beautify them. He asked permission from the Council to allow fundraising to begin to get irrigation in Jacoby and Piece of Pie Parks.

Mr. Fletcher made a motion to move forward. Mayor Winger seconded the motion.

Mrs. Turner wanted to see a full proposal of the overall costs to irrigate these Parks. She spoke to the Public Work's Director who said that there is Bahia grass in the Park. She said if you put in an irrigation system where there is Bahia grass it will grow fast. She said we would need to resod the areas that have Bahia grass with maybe St. Augustine grass so it would be slower growing. There also will be an additional cost for water, maintenance cost for the irrigation system itself and also for mowing. She wanted to see a full outline of the costs associated with putting this irrigation in at these Parks.

Mr. O'Connor agreed there would be additional cost depending on which way they choose to go. He said if they go with City water then there will be a water bill and if they went with a well then it would be cheaper. The cutting of the grass by the Park's Department would have to be much more frequent.

Mr. Kramer wanted to have wells installed for the irrigation and this would improve the neighborhoods and parents would not be afraid to let their children play at the Parks.

Ms. Graves had some concerns with the "water." She lives near Jacoby Park and said that the grass looks fine. She said they are coming up on a water shortage and tapping into the well for the water concerns her if it is not completely necessary.

Mr. Kramer explained that the sprinklers would just run in the dry months to keep the grass in a healthy condition. He said there are already wells on both of these pieces of property.

Mrs. Turner asked for a more detailed proposal for consideration.

The motion passed unanimously.

2) Endorsement of the STEP System – Requested by Vice Mayor Jay Kramer

This item was heard earlier in the meeting.

9. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Richard Winger's Matters

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

Mayor Winger reported that Humiston Park has been named one of the best 10 family beaches in America. He attended the DARE presentation and the Treasure Coast League of Local Government's meeting where the main discussion item was AAF.

B. Vice Mayor Jay Kramer's Matters

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

Mr. Kramer announced tomorrow morning the Vero Beach Lifeguard Association will be saving him as a rescue victim for training purposes.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner reported that ORCA has received a grant to install 25 kilroys to monitor stormwater outfalls to the Lagoon. She attended the Legislative Delegation luncheon and reminded everyone to attend the upcoming Downtown Friday.

D. Councilmember Amelia Graves' Matters

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

Ms. Graves reminded the public to get out and celebrate the Fourth of July at Riverside Park.

E. Councilmember Craig Fletcher's Matters

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

Mr. Fletcher announced that he would be attending a Treasure Coast Regional Planning Council meeting on Friday.

10. ADJOURNMENT

Tonight's meeting adjourned at 10:24 p.m.

/tv