

CITY OF VERO BEACH, FLORIDA
JUNE 4, 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, present and Councilmember Richard Winger, present **Also Present:** James O'Connor, City Manager; Wayne Coment, City Attorney, and Tammy Vock, City Clerk

B. Invocation

Father Richard Murphy of Holy Cross Catholic Church gave the invocation.

C. Pledge of Allegiance

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

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

Mrs. Tammy Vock, City Clerk, requested permission from the Council to add an item to the agenda. It is the engagement letter from James Linn, Law firm of Lewis, Longman & Walker. Also, under Public Comment, she requested to add item 2C-4) to the agenda allowing Mr. Peter Jones to give an update on the Economic Development Zone.

Mayor Fletcher requested that item 2B-3) Proclamation – Humanist Recognition Week, be removed from the agenda. He refused to support an organization that does not recognize Jesus Christ as their savior.

Mr. Kramer had a problem with removing the Proclamation from the agenda because of Freedom of Speech.

Mrs. Turner supported the Proclamation “in the interest of tolerance” and felt that the Proclamation should remain on the agenda.

Mr. Kramer made a motion to keep the Proclamation on the agenda. Mrs. Turner seconded the motion and it passed 3-2 with Mrs. Carroll and Mayor Fletcher voting no.

Mr. Kramer will read the Proclamation.

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

B. Proclamations

1. Joe McManus to present a U.S. Medal of Valor to Lifeguards

Mr. Joe McManus presented awards to various individuals working for emergency services throughout the Treasure Coast.

2. Justin Riney Appreciation Week – June 1, 2013

Mayor Fletcher read the Proclamation.

3. Humanist Recognition Week – June 16-23, 2013

Mr. Kramer read and presented the Proclamation to Mr. Phillip Katrovitz.

Mrs. Carroll explained the reason she did not sign the Proclamation was because she looked up the definition of “Humanist” and it referred to the common term of “Atheist.” She recalled that this is the same organization who have been against proclaiming Thanksgiving Week (Christian Heritage Week).

Mr. Winger referred to the First Amendment of the Constitution of the United States. He said that this is a nation for people of all faiths.

Mr. Katrovitz told Mrs. Carroll that her definition of Humanist was false. Mrs. Carroll told Mr. Katrovitz that she retrieved her information from his organization’s website.

C. Public Comment

1. Mr. Tony Young to address Council on the possible sale of Crestlawn Cemetery.

Mr. Young thanked Council for allowing him to speak today. He presented Council with a copy of the “Images of America Indian River County” that goes over some of the history of this County. He mentioned that he sits on the Board of Genealogist, the Veterans Association and the Veterans Memorial Island Sanctuary Committee. He mentioned that Ms. Alma Lee Loy could not be at today’s meeting, but sends her sentiments, which are in alignment with what he will be talking about.

Mr. Young put on the doc cam a slide entitled “A Mark in the Sand” (please see attached). He mentioned that he received a call this morning from someone who feels strongly about the Cemetery and could not be at the meeting because of health issues. That person was B.T. Cooksey. Mr. Cooksey feels that Crestlawn Cemetery should be

retained by the supervision of the City of Vero Beach. At this time, a large group of people supporting Crestlawn Cemetery stood up.

2. Mrs. Judy Orcutt to speak about the Indian River Lagoon.

Mrs. Judy Orcutt presented her community service program. She showed the brochure that she had been working on. She said that all of the information in the brochure is public information. However, the information was spread all over the place, which is why she wanted to develop this brochure and have all of this information available in one place. She mentioned that she still gets questions from people asking where the Lagoon is. So she thought it was important to have a photo on the front of the brochure showing the Lagoon. She felt that the best way to disseminate this information was to send it out in the City utility bills. She did not have a problem with the City logo going on the brochure or any changes that Council wanted to make to the brochure was fine with her.

Mrs. Turner complimented Mrs. Orcutt on doing an incredible job of putting this brochure together. She said that it was easy to read and that government should be educating citizens about the Lagoon.

Mr. Winger felt that it would be proper to move this forward and have the brochure sent out in their utility bills. He has been told that the approximate cost would be around \$3,000. He made a motion to move forward with this.

Mr. Jim O'Connor, City Manager, concurred that the approximate cost would be around \$3,000.

Mrs. Turner seconded the motion.

Mrs. Carroll asked if this \$3,000 covered both the printing and mailing. Mr. O'Connor said that there would be no printing costs, it is just for the mailing. Mrs. Carroll wanted to visit some Service Clubs to see if they could contribute funds to cover the mailing of the brochure in the City's utility bills.

Mayor Fletcher had a problem with mailing the brochure out in the City utility bills. He said that there could be other people coming to them wanting to also be able to do mailings. He would be voting against this.

Mr. Kramer commented that obviously the State spends some money on the Lagoon. He said that if the brochure is purely for education to benefit the community then he could approve it. He wanted to see a proof before it is mailed out. He was open to other organizations helping to pay the costs.

Mr. Winger tabled his motion and asked that the item be discussed at their next meeting.

Mr. O'Connor informed Mrs. Orcutt that she needed to get with the Finance Director to finalize the format.

Mrs. Carroll asked Mrs. Orcutt if she has discussed the brochure with the County.

Mrs. Orcutt said that the County has given their input on what should be in the brochure. She was not in favor of having different organizations (other than the City) putting their logos on the back of the brochure because of conflicts that could arise.

Mr. O'Connor told Mrs. Orcutt that if she had some extra brochures that he had no problem having them placed at City Hall.

3. Mr. David Ashcroft to give a presentation on an alternate site for the sub-station.

Mr. O'Connor reminded Council that the City and FPL have been looking at alternative sites for the old substation site. He said that Mr. David Ashcroft, with JHL Partners, will be giving a presentation.

Mrs. Carroll asked Mrs. Vock to get a copy of the Power Point presentation that Mr. Ashcroft will be presenting for Council and that in the future that she provide it to Council before the meeting.

Mr. David Ashcroft, 816 Dahlia Lane, said that he was at today's meeting along with three other individuals to present this proposal. He gave a Power Point presentation (please see attached). The alternate site proposal value for value exchange of property between the City (Postal Annex site) and JHL/Morrison (17th Street site) based on appraisals of each site. FPL will take title and build the substation on property that the City receives in exchange with JHL/Morrison and the Postal Annex property received by JHL/Morrison will be developed and placed back on the tax rolls providing much needed revenue to the City. The square footage for the whole site will be around nine (9) acres since Mr. Schlitt has partnered has included the land that he owns.

Mr. Ashcroft went over what the benefits to the City taxpayers would be. He said that the tax revenue for the development of the postal annex property could result in tax revenues of up to \$1 million dollars per year from property and sales taxes compared to about \$20,000 per year from property taxes for the substation. He said that there will be economic development, as well as aesthetic improvement. A tastefully designed retail center will be the first step in greatly improving the current industrial character of this gateway to Vero's beachside community.

Mr. Ashcroft briefly went over the status of the project. He said that JHL has had several meetings with City staff and representatives of FPL, all of who have been supportive of the project. He said that discussions with FPL are moving forward. They (FPL) have evaluated the site and agree that it could serve their needs. In conclusion, they are asking for the full support of the City Council in taking advantage of this opportunity to avoid blight on one of the prime intersections as the gateway to the barrier island. It will add

significant revenue to the tax base, stimulate economic development in Vero Beach, and promote quality development in the City.

Mrs. Carroll referred to one of the slides shown and asked Mr. Ashcroft to explain the retention pond. She was told that there would be heavy landscaping around the retention pond.

Mr. Winger thought that there was about a six or seven million dollar value in moving the transformer from where they are to the postal site. Mr. O'Connor explained that there is about an eight million dollar substation construction cost attributed to FPL. However, the substation that they presently have at the Power Plant does not resemble what they are going to be building. Mr. Winger pointed out that this reduces the consideration of what the taxpayers might have otherwise received. He wanted to know if there was any reason that they could not work between this firm and FPL to make this happen. He has been stating all along that he doesn't want to drive over the bridge and look at an industrial facility. He wanted to see them do the groundwork and have staff come back to Council and tell them what is involved in doing this. Mr. O'Connor said what he would recommend to City Council is to allow the three (3) parties to sit down and go through some of the numbers and see what they can put together.

Mrs. Carroll felt from an economic standpoint and a job standpoint that the City continues to suffer under a high unemployment rate and this proposal would bring some jobs to the City, as well as some tax benefits to the City. She agreed that they should pursue this.

Mr. Winger added that this corner (location) is the gateway into their City and anything the City can do to make it look better is important.

Mrs. Turner commented that there is not much commercial property available in the City. She was delighted that they were looking at developing this site.

Mrs. Carroll made a motion to authorize the City Manager to move forward in discussions and bring something concrete back to Council. Mrs. Turner seconded the motion.

Mrs. Carroll hoped that FPL would extend their deadline in order to allow the different parties to work through this.

Mr. Kramer commented that he thought the contract that they have with FPL doesn't give that corner piece of land fee simple to FPL.

Mr. O'Connor explained that it does, except that it has a provision in it that allows for the two parties (City of Vero Beach and FPL) to come together and agree on an alternate site.

Mr. Kramer asked if they would be acting for this development group. Mr. O'Connor said no that the City would be acting on behalf of the City of Vero Beach. He reiterated

that this is the only property in the City that they can transfer to FPL via fee simple. Mr. Kramer just wondered the leverage they had in getting something like this done. He said that if FPL does not want to do it then they don't have to do anything. Mrs. Carroll felt that FPL has put feelers out that they want to proceed and pursue this.

Mrs. Carroll added that the plan they saw a few minutes ago with the big retention pond on it was actually developed by the FPL Engineers.

Mr. Winger referred to the reverter clause in the contract that was put in there when Council signed it in January. He said what would happen is if FPL did not need this site for whatever reason it would become City property.

Mrs. Carroll understood that someone from FPL was in the audience. She asked are there any other substations throughout Indian River County that have been developed to standards with plantings around it. She was told that the City substation off of 58th Avenue is a fine example of what this site might look like.

Mayor Fletcher mentioned that one of the problems that he has is that their City Codes have a requirement to transition from residential to industrial. He said that there would be some zoning problems.

Mr. O'Connor agreed that there would be rezoning issues that would have to be addressed.

Mayor Fletcher continued saying that they would have to talk to the people (residents) who would be impacted by this.

Mr. O'Connor explained that there would be public notices sent out.

Mayor Fletcher felt that they were talking about something that these people think is unsightly and unpleasant and imposing it on some other residents.

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

4. Mr. Peter Jones to give an update on the Economic Development Zone

Mr. Peter Jones, Main Street Vero Beach, referred to Ordinance 2012-07 passed by the City Council relating to economic development and authorizing designation of economic development zones and trust funds. He said that Main Street is putting together an Ad Hoc Committee to promote economic growth. The Ad Hoc Committee is scheduling their first meeting for June 10th to be held at PNC Bank. Then by August 30th they should have all of the rules in place and plan to submit something to Council by September 10th. He said if there is anyone that would like to serve on the Ad Hoc Committee that they should contact Tammy Adams, Main Street Director. He looks forward to a successful progress and economic growth.

Mr. O'Connor reported that he attends both the Main Street and Oceanside Business Association meetings. There has been a lot of interest shown by both organizations. He has pointed out to the organizations that anything done must be accountable to the City Council and that there is no intention to raise taxes or to impose debt service.

Mr. Kramer mentioned that he had hoped to get this done sooner than later. However, he has been told by Mr. McGarry that the Tax Incremental Financing concluded on May 1st so the organizations will have to wait until next May 1st. He said that this is an excellent example of people taking responsibilities for their neighborhoods. He commented that the City has taken some funding away from the Main Street organization and this is a way that Main Street can get their funding back through their own efforts and not rely on the City.

Mr. Jones closed by saying that Main Street recognizes that there are a lot of opportunities for Downtown. As they put the Ad Hoc Committee together the members will be coming up with a lot of ideas and a good plan of action.

At 10:44 a.m., Council took a ten-minute break.

Mr. Herb Whittall, 19 Park Avenue, felt that the Vero Isles Association would go along with the proposal for the new substation site. He then mentioned that recently there was an article about Sewall's Point and their fertilizer Ordinance. He knows that the City of Vero Beach has also passed a fertilizer Ordinance and asked what kind of training is given (referring to the fertilizer Ordinance). He also mentioned that he has observed City crews mowing and the clippings are left there and could go into the drain.

Mr. O'Connor explained that each contractor is required to take an on-line course in order to get a license certification. He said that the City has also had some of their employees take the course. He will look into the mowing crew and clippings going into drains. He mentioned that the City has no discharge water coming from the Plant and they have installed baffle boxes to help stop different materials from going into the Lagoon.

Mrs. Carroll mentioned that she also has observed what Mr. Whittall said about City crews mowing and the grass clippings going into the drain. She was told by the Public Work's Director that the street sweeper comes by on the same day that the grass is mowed.

Mr. Joseph Guffanti commented that if the substation disturbs some people when they come across the bridge then he would advise them never to travel on the New Jersey turnpike. He recalled that a couple of meetings ago he discussed septic tanks and sewer systems and pollution in the Indian River Lagoon. In that same meeting after he had finished his presentation some City Councilmembers brought up septic systems and attacked the septic systems on the barrier island. He cautioned Council to wait until all of the research on this matter had been completed. He asked that if there were going to be

meetings between the City, FPL and developers that those meetings to be held in the open so that the public knows what is being said.

Mr. Kramer asked Mr. O'Connor if those meetings could be open to the public.

Mr. O'Connor explained that there are meetings going on all the time and he would not recommend that they be open to the public. He said that the Council meetings are where the public discussion should take place.

Mr. Guffanti reiterated that the public has a right to know what is going on.

Mr. Warren Winchester, 1845 Pelican Lane, commented that he listened to the proposal for the substation site and did not hear about appraisals for the land. They need to discuss relative value to relative value. He doesn't have any objections to what that group wants to do, but the City needs to get fair value of the property. He suggested that the City take another look at their fertilizer Ordinance. In the area where he lives it is almost impossible to do anything about the storm water runoff. He also asked Council to reexamine their membership with the Florida Municipal Electrical Agency (FMEA), because they help out with storms if you need them to. He recalled that when he served on Council that he created a CRA for the downtown area. However, it was removed by the succeeding Council. He told this Council that if they wanted to try to have another CRA then they should make sure that another Council that comes along doesn't kill it. He supports having a CRA and was sorry that it did not stay in place 25 years ago.

Mrs. Carroll commented that the only possibility of making sure that another Council doesn't amend an Ordinance in place is to do a Charter amendment, which would require the vote of the public.

Mr. Glenn Heran felt that the presentation given this morning on the substation was a very logical presentation, but cautioned Council that there were people in the room who would like to kill the deal with FPL and would use the substation issue as a means to do it.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – May 21, 2013**
- 2. Special Call City Council Minutes – May 14, 2013**
- 3. COVB Bid #130-13 – Cooling Tower Emergency Services Contract**
- 4. Annual Service Contract/Agreement with Efacec**
- 5. Addendum to Commercial Lease Agreement between the City of Vero Beach and Corporate Air, Inc.**
- 6. Third Addendum to Commercial Lease Agreement between the City of Vero Beach and Corporate Air, Inc.**
- 7. July Fourth Event**

Mr. Winger pulled item 2D-3) off of the consent agenda.

Mrs. Carroll pulled item 2D-7) off of the consent agenda.

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

Mr. Winger referred to item 2D-3) and said that he did not see what the cost was going to be.

Mr. O'Connor explained that it is broken down in man hours, trucks, and equipment. Mr. Winger was satisfied with this explanation.

Mr. Kramer made a motion to approve the Cooling Tower Emergency Services Contract. Mrs. Carroll seconded the motion and it passed unanimously.

Mrs. Carroll announced that the City of Vero Beach would be holding their annual July 4th event at Riverside Park. There will be food and craft vendors at the event starting at 4:00 p.m. She thanked the County and Mulligan's for their contributions towards the July 4th event.

Mr. Rob Slezak, Recreation Director, added that this should be a great event and he went over some of the vendors that will be participating.

Mrs. Turner made a motion to approve the request to sell alcohol at Riverside Park for the annual event. Mr. Kramer seconded the motion and it passed unanimously.

3. PUBLIC HEARINGS

A) Quasi-Judicial Hearing – Request for Exemption from City Standard/Specifications for Streets Submitted by Old Oak Lane, LLC for Old Oak Lane Subdivision (#SDE13- 000001)

Mayor Fletcher followed the procedures for a Quasi-judicial hearing. He asked Council if they had any ex parte communication. He disclosed that he attended the Planning and Zoning Board meeting when this item was discussed. Mr. Winger also disclosed that he was in attendance at that same Planning and Zoning Board meeting.

The City Clerk swore enmasse all witnesses testifying at today's meeting.

Mayor Fletcher noted that if there are exhibits referred to during the testimony that they will be retained by the City Clerk for 30 days until the time for appeal has expired.

Mr. Tim McGarry, Planning and Development Director, stated that he has been sworn in. He explained that the applicant has requested an exemption for City Standard Specification for Streets submitted by Old Oak Lane, LLC for Old Oak Lane

Subdivision. Staff went through the process on this and did not feel that it met all of the requirements in the Code, however after listening to all the dialogue at the Planning and Zoning Board meeting staff reconsidered its opinion and revisited the matter and made some findings. He went over the approval criteria that Council must make: 1) The exemption is not contrary to the spirit and intent of the pertinent provisions of the Land Development Regulations; 2) the applicant has taken all practicable measures to minimize any adverse impacts on public health, safety, and public welfare; and 3) The circumstances of the proposed exemption outweigh the public interest underlying the particular standard and specification. Staff recommends approval of the exemption subject to the following conditions: 1) the applicant, its successors or assigns shall be required to amend the HOA documents for the subdivision to include language stipulating and adjacent swale maintenance in the Club Drive right-of-way abutting the length of the subdivision and 2) prior to the inspection and approval by the City Engineer of the completed road construction, the applicant, its successors or assigns shall record the amended HOA documents in the official records of Indian River County and shall provide a proof of recording to the City Engineer.

The applicant was not present for the public hearing and no one else wished to be heard.

Mr. Kramer made a motion that the City Council finds that the facts presented and reviewed are competent substantial evidence to grant the application. Mrs. Carroll 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.

B) A Resolution of the City Council of the City of Vero Beach, Florida, determining that certain City-owned real property comprising of 0.13 acres located west of Bridge Plaza Drive and south of the Merrill Barber Bridge is no longer needed by the City and authorizing the City Manager to offer said real property for sale; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the Public Work’s Department

Mayor Fletcher read the Resolution by title only.

Mr. O’Connor told Council that the City has no use for this piece of property and have requested that it be declared surplus so that it can be disposed of.

Mayor Fletcher opened and closed the public hearing at 11:28 a.m., with no one wishing to be heard.

Mrs. Turner made a motion to approve the Resolution. Mr. Kramer 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

- A) A Resolution of the City of Vero Beach, Florida, authorizing the issuance of a Water and Sewer System Refunding Revenue Note, Series 2013 in the principal amount of not to exceed \$8,500,000 to refund the City's Water and Sewer Refunding Revenue Note, Series 2008 and pay the cost of Issuance of the Series 2013 Note); Authorizing the Negotiation, Execution and Delivery of a Loan Agreement with respect to the Issuance of the Series 2013 Note, Such Note to be a limited obligation of the City payable from System Revenues as pledged herein; Providing for the Rights and Securities of the Owner of the Note; making for certain Covenants and Agreements for the benefit of the Purchaser of the Series 2013 Note; and Providing for an Effective Date. – Requested by the Finance Director**

Mayor Fletcher read the Resolution by title only.

Ms. Cindy Lawson, Finance Director, reported that this Resolution authorizes the issuance of a loan agreement and a note to refinance one of their existing Series 2008 Water & Sewer loans. On May 8th she brought this matter to Council and they gave staff permission to issue an RFP. They issued an RFP on May 9th and they received nine (9) responses. She said that Mr. Dunlop is at their meeting and will speak to the selection of the bank. They did achieve an interest rate of 1.68%. She clarified what the true interest savings were on an annual basis and there will be a decrease in operation expenses by about \$330,000 annually because of the interest savings and because of the additional interest paid down. Their cash flow benefit to the Water & Sewer utilities will be about \$330,000 a year.

Mr. O'Connor commented that they do need to keep in mind that they do not want to be taking all of their reserves out of the Water & Sewer Department. Also, if there are capital needs in the future they need to cover those expenses and they need to stay competitive in their pricing.

Mr. Craig Dunlop, 1146 Keys Avenue, Winter Park, Florida, representing Dunlop & Associates, reiterated that he did receive nine (9) responses for the proposal. He said that the 1.68% interest rate submitted by the bank (BB&T) back on May 2nd has been locked in for 35 days. He said everyone else submitted a rate that was not locked in and would have been higher than the one that is being recommended to Council today. Another option that BB&T had in this particular loan is that it would be callable at par after December 1, 2017. He would recommend that Council approves this Resolution.

Mrs. Turner referred to page 5, Section 9, where it says designation of the 2013 note as a qualified tax exempt obligation. She asked what exactly is involved in this and her concern was that they were designating the Mayor, City Manager, Councilmember or City Clerk to authorize to certify such findings.

Mr. Dunlop explained that cities are allowed to issue up to \$10 million dollars a year, per calendar year, pursuant to a Federal tax law. If a city issues less than \$10 million dollars in one calendar year the debt is considered to be bank qualified. He said that there is

some tax advantages to banks to bid on bank qualified debt and that interest rate is passed on to the city. The City of Vero Beach does not intend to issue more than \$10 million dollars this calendar year, so the City can enjoy this bank qualified status and it was reflected in the 1.68% rate.

Mrs. Turner was concerned if these are the people that they want authorized to certify that they don't want any more debt.

Mr. Wayne Coment, City Attorney, explained that this is typically the wording that the City is given by the bank and by Mr. Dunlop.

Mr. Dunlop said that the City needs to certify that they are not going to be issuing more than \$10 million dollars in this calendar year of tax exempt debt.

Ms. Lawson added that based on their current budget it is not their intention to issue more than that. She said that this verbiage has been included in the last couple of loans that they reissued and they don't have any plans for additional reissuance of debt. She said that the certification that qualifies them as tax exempt are IRS forms, which are relevant to their intent. She said if for some reason they did issue more than \$10 million dollars worth of debt then there is a provision in the note itself for the bank and the City to go back and recalculate what the rates should have been if they did not qualify for this loan.

Mrs. Turner stated that her main concern was who should be the one certifying this document within the City. She wanted to see this limited to the Mayor and the City Manager as far as those allowed to authorize this.

Mrs. Carroll asked Ms. Lawson if it would be a problem to modify this so that these two individuals will be the only ones signing this agreement.

Ms. Lawson explained that they intend to have the three primary documents that govern this, and they are the Resolution, the Loan Agreement and the Note, all to be signed by the Mayor and there are some other documents where signatures may be needed.

Mr. O'Connor added that they do have attorneys who declare this as tax free.

Mr. Kramer expressed that nothing will get done unless Council approves it. What they are doing is giving their executive team the authority to carry through with what they are voting on. He does not see any problem with it.

Mr. Kramer made a motion to approve the Resolution. Mrs. Carroll 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.

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

- A) An Ordinance of the City of Vero Beach, Florida, Granting to Florida Power & Light Company an Electric Utility Franchise within the City of Vero Beach; Establishing Terms and Conditions relating thereto; Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the City Attorney**

Mayor Fletcher read the Ordinance by title only.

Mr. Coment reported that this is the franchise Ordinance in the form that Council was previously provided as Exhibit E to the Asset Purchase and Sale Agreement between the City of Vero Beach and Florida Power & Light Company. He recommended that Council schedule the public hearing for this Ordinance. He said that this document is contingent upon the closing of the actual sale.

Mrs. Turner made a motion to set the public hearing for this Ordinance on June 18, 2013. Mr. Winger seconded the motion and it passed 5-0 with Mr. Winger voting yes, Mr. Kramer no, Mrs. Turner yes, Mrs. Carroll yes, and Mayor Fletcher yes.

6. CITY CLERK'S MATTERS

- A) Report on Code Enforcement Lien Reduction Request from Federal Home Loan Mortgage Corporation for 2055 34th Avenue, Vero Beach, Florida 32960**

Ms. Ashley Mitchell, Attorney representing Freddie Mac, was at today's meeting regarding property located at 2055 34th Avenue. She said that this property has a lien on it in the amount of \$48,000 and she is asking for a reduction because the bank (Bank of America) did not have possession of the property in the beginning and to reflect the time that the bank took the property over they would be looking at a fine of about \$400.00.

Mr. McGarry stated that public nuisance was the major problem on this property and banks should be doing their job. We wanted to be fair about this and what is owed and the City would like to have the house occupied. His recommendation was that the total amount to be paid to release the lien would be \$8,665.46.

Mr. Kramer asked if when Bank of America took over this property, were they allowed to go on the property.

Ms. Mitchell explained that things can get a little sticky when it comes to going on the property. She said that Florida does not allow self help eviction. The Bank has to wait until they get title on the property. She said that once the Bank received title for the property then they made changes to the property to clear up the violations.

Mrs. Carroll asked Ms. Mitchell if she normally goes around to different locations asking for reductions in lien fines.

Ms. Mitchell explained that she has done it before.

Mr. Winger made a motion to go with staff's recommendation. Mrs. Turner seconded the motion.

Mr. Kramer was not comfortable with the \$8,600 as outlined in their backup material. He felt that the amount should be less because they (the bank) did not have the ability to do anything to take care of the property until they received title on it.

Mrs. Carroll stated that she did not think that the amount should be less.

Mrs. Turner added that the bank accepted the loan knowing that there were liens on the property.

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

7. CITY MANAGER'S MATTERS

Mr. Winger asked Mr. O'Connor to give an update on the meeting that took place on May 28th with FMPA.

Mr. O'Connor mentioned the different parties that were represented at the meeting (City, FPL, FMPA, etc.). Also, the Bond Counsel was present via speaker phone during the discussion. The discussion surrounded the tax exempt exposure to FMPA and their Bond Counsel gave some ideas on how they can proceed. The discussion expounded on if OUC was to go out of business then FMPA would have some exposures. Everyone involved is working through this process. He said that another meeting has been set up for June 12th.

Mr. Winger hoped that the questions being asked by FMPA can be answered and that some progress will be made on June 12th. He would like to see more progress made at the June 12th meeting then what was made at the May 28th meeting.

Mr. O'Connor felt that they were making progress. In the beginning he has always said that this is going to be an extensive process that the City must go through. He thinks that the City has made substantial progress in the last 21 months. He also felt that they made progress at the May 28th meeting and thinks that they will make more progress at their June 12th meeting.

Mr. Winger mentioned that when the Transactional Attorneys come to Council asking for additional funding he hopes that some of these concerns are behind them and have been worked out. He then asked about the electric increase.

Mr. O'Connor recalled that he sent out a written explanation to Council on why an increase may be needed (on file in the City Clerk's office). The Units at the Power Plant

ran five (5) days this month. He said part of the costs was for running the Units for testing and then their system was called upon twice.

Mr. Winger brought up that at the last Recreation Commission meeting the fact that the City still is not capable of accepting credit cards came up. He keeps hearing wait until next year and that will be possible. He would like to see the Recreation Department be able to accept credit cards. He doesn't want to hear how busy the Finance Department is.

Mrs. Carroll agreed with Mr. Winger's comments. She said that when she lived in Ft. Lauderdale she was always able to pay for her daughter's recreation activities on line by using a credit card. She asked the same question some years ago and was told that it was not something that the City offers.

Ms. Lawson reported that the City wants the community to be able to use credit cards not only in the Recreation Department, but also at the Marina and in the Planning and Development Department. She has asked the bank to give the City a proposal and hopes to hear something soon. Eventually the City would also like their utility customers to have the capability of paying their bills by credit card. She thought that this would be done in about two (2) months.

Mrs. Carroll noted that on her desk this morning was a packet from Mrs. Croom in regards to Mr. Croom's lease of the old Diesel Power Plant. She said in the letter it mentions a number of concerns that Mr. Croom has. She knows that the City has just received this packet and staff probably has not had time to review it. She would like Mr. O'Connor and Mr. Coment to create a document and say whose responsibility is it and present that document to City Council. She felt that the City needed to move forward as to what their position is.

Mr. Coment reported that he and the City Manager have a meeting scheduled with this group (people involved with the old Diesel Power Plant) on Thursday to work out some things and come to some sort of resolution.

Mr. O'Connor reminded Council that at their last meeting they directed him to sit down and work with this group to find a resolution.

Mrs. Carroll stated that based on this document the City needed to have all the facts laid out. She said if the meeting scheduled for Thursday is too early then maybe it needs to be postponed.

Mr. O'Connor wanted to meet with the group on Thursday and strive for an amicable conclusion.

8. CITY ATTORNEY'S MATTERS

A) Engagement Letter from Lewis, Longman & Walker

Mr. Coment presented Council with the Engagement Letter that he received from Mr. James Linn on the General Employees' Retirement Committee and the Pension and Benefit Reform Matters. In the letter it notes that based on their experience with other cities, the fees in connection with these matters could range from \$15,000 to \$50,000. He suggested if Council wants to set a limit and if additional fees are needed then the firm can ask for them.

Mrs. Turner made a motion to set a limit of \$30,000 and if additional funds are needed then that can be discussed. Mayor Fletcher seconded the motion and it passed unanimously.

9. CITY COUNCIL MATTERS

A. Old Business

B. New Business

- 1) Discussion of need for direction to the City Manager to develop a long term plan to end contamination of the Lagoon by Septic Tanks on lots on streets adjacent to the Lagoon by installation of a Sanitary Sewer System in these most at risk locations within the City. – Requested by Councilmember Richard Winger**

Mr. Winger wanted to commend the City Council for a number of things that they have done in regards to the Lagoon. The City has put in the Deep injection Water Well, implemented a fertilizer Ordinance, instructed staff and the Planning and Zoning Board to look at the septic tank Code and bring it up to the 1983 Code. They have also installed baffle boxes, as well as take water out of the main relief canal and sell it for reuse water. He was just looking to see what more they could do. He reported that there is a meeting at the Press Journal today for those interested in the Lagoon. His concern is with septic tanks located on streets immediately adjacent to the Lagoons. He wanted to see if it was the consensus of Council to have staff look into this.

Mrs. Carroll noted that she asked the Water & Sewer Department to develop some documents showing what number and areas of properties bordered the Indian River Lagoon and whether the properties were on septic or sewer. She said that the areas with the biggest concern are in the central beach area, (around Live Oak) as well as the area adjacent to the 17th Street bridge. One other area includes the homes in the Country Club area, but they are located in the County. She received a letter from a property owner who lives within the City in an older home on the Lagoon and said that a few years back they had problems with their septic tank and found material within the septic tank (letter on file in the Clerk's office). She said after reading that letter it was the determining factor for her that they needed to move forward as suggested by Mr. Winger. She said that there may be other homeowners who have experienced this same problem, but they have not sent Council a letter. At some point look the City needs to look at ways,

possibly using bonds or loans, to replace septic tanks with a sewer system for the properties that are near the Lagoon.

Mrs. Turner hated to react with a knee jerk reaction concerning septic tanks. She felt that the City needed to make sure that when spending tax dollars that they go with the most effective solution for the Lagoon.

Mr. Kramer agreed that the City needed to find a solution and proceed cautiously. He said maybe there are some homeowners willing to participate in a study and have their systems redone.

Mrs. Carroll commented that unless the main is near someone's home it is almost impossible for them to connect to the sewer system. Her desire is to look at the City providing infrastructure and then when a homeowner's septic tank needs to be replaced they have to hook up to the sewer system.

Mr. O'Connor told Council that he will continue to update them as to what can be done. He said as the public comes in for permits staff will review them. He said that the Utilities Commission will be discussing the redraft of the septic tank Ordinance at one of their future meetings.

Mrs. Honey Minuse, 27 Starfish Drive, was today's meeting representing the Indian River Neighborhood Association (IRNA). She said that IRNA has addressed the Lagoon problem and she read into the record a letter outlining their concerns (please see attached).

Mr. Bob Bruce had a detailed scientific presentation that he would give to Mr. Bolton. He said that he would answer any questions that Council had.

Mrs. Turner asked Mr. Bruce if Mr. Lapointe had received funding from the County for additional studies.

Mr. Bruce said that Mr. Lapointe did receive some funding and should have something in place within the next two months.

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**

None

- C. **Councilmember Pilar Turner's Matters**
 1. **Correspondence**
 2. **Committee Reports**
 3. **Comments**

Mrs. Turner attended the Chamber of Commerce Tourism luncheon and the Memorial Day Service. She reminded everyone that the Downtown Art Stroll would be on Friday night, and the Youth Guidance Luau is scheduled for June 15th.

- D. **Councilmember Jay Kramer's Matters**
 1. **Correspondence**
 2. **Committee Reports**
 3. **Comments**

Mr. Kramer attended the Memorial Day service event and Downtown Friday. He announced that he would be starting some projects this summer and is forming a Committee to get more events for the City.

- E. **Councilmember Dick Winger's Matters**
 1. **Correspondence**
 2. **Committee Reports**
 3. **Comments**

Mr. Winger attended Downtown Friday and the Youth Sailing Foundation starts their summer camp in two (2) weeks.

11. ADJOURNMENT

Today's meeting adjourned at 12:33 p.m.

/tv