

CITY OF VERO BEACH, FLORIDA
JUNE 7, 2011 9:30 A.M.
REGULAR CITY COUNCIL MEETING
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

A G E N D A

1. CALL TO ORDER

- A. Roll Call
- B. Invocation – Pastor Peggy Williams/Treasure Coast Assembly of God
- C. Pledge of Allegiance

2. PRELIMINARY MATTERS

- A. Agenda Additions, Deletions, and Adoption
- B. Proclamations

- 1. Plaque to be presented to Dorothy Wallace for all her years of service as an employee of the City of Vero Beach
- 2. Pledge of Civility

C. Public Comment

- 1. Rebecca Rickey, Vero Heritage, to speak about the “The Place Matters”
- 2. Kathleen Proudly, Main Street Vero Beach, to speak about upcoming events
- 3. Richard Winger to present to Council a report regarding water and sewer matters

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – May 17, 2011
- 2. Special Call City Council Minutes – May 24, 2011
- 3. [Central Beach Speed Limit Reduction – Requested by Acting City Engineer](#)
- 4. [Utility Easement #2011-EG-0090 – McDonalds – 1925 US Highway 1 – Requested by Chief Surveyor](#)
- 5. [Agreement between the City of Vero Beach Recreation Department and the Indian River County School District](#)

(The matters listed on the consent agenda will be acted upon by the City Council in a single vote unless any Councilmember requests that any specific item be considered separately.)

3. PUBLIC HEARINGS

- A) A Resolution of the City of Vero Beach, Florida, establishing fees associated with Pain Management Clinic permit applications and related appeals; providing for conflict and severability; providing for an Effective Date. – Requested by Planning and Development Director
- B) An Ordinance of the City of Vero Beach, Florida, amending Chapter 65, Article III, amendments to Comprehensive Plan and Land Development Regulations of the Code of the City of Vero Beach; providing for additional standards for amendments; providing for conflict and severability; providing for an Effective Date. – Requested by Planning and Development Director
- C) A Resolution of the City of Vero Beach, Florida, approving the transmittal to the State of Florida Department of Community Affairs of proposed City of Vero Beach Comprehensive Plan text amendments to the Land Use Element, Traffic Circulation Element and Capital Improvements Element; providing for conflict and severability; providing for an Effective Date. – Requested by the Planning and Development Director

An Ordinance of the City of Vero Beach, Florida, amending the text of the Land Use Element of the City of Vero Beach Comprehensive Plan by revising Policy 1.15 governing the relationship between Future Land Use Designations and Zoning Districts; providing for conflict and severability; providing for an Effective Date. – Requested by the Planning and Development Director

An Ordinance of the City of Vero Beach, Florida, amending the text of the Traffic Circulation Element and Capital Improvements Element of the City of Vero Beach Comprehensive Plan by revising the level of Service Standard for a segment of State Route A1A from 17th Street to the South City limits; providing for conflict and severability; providing for an effective date. – Requested by the Planning and Development Director

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution of the City of Vero Beach, Florida, certifying “As-Built” Costs and the Special Assessment amounts in connection with the installation of a Sewer System to replace an existing Lift Station for Ocean Towers of Vero Beach, Inc., Ocean Towers II of Vero Beach, Inc., and the Cardinal Drive Townhouses; providing for Completion Date; Date for Payment without Penalty and Interest; and Interest Rate.
- B) A Resolution of the City of Vero Beach, Florida, reconstituting the Airport Commission, Code Enforcement Board, Fire Pension Board, Marine Commission, Police Pension Board, Tree and Beautification Commission and Veterans Memorial Island Sanctuary Advisory Committee for consistency with the Code of

Vero Beach as amended by Ordinance No. 2011-05; continuing, without interruption, the Terms of Office of Members currently appointed and serving; providing for an Effective Date.

- C) A Resolution of the City Council of the City of Vero Beach, Florida, repealing Resolution 88-05 and discontinuing use of approximately 37,669 square feet of Municipal Airport real property by the City Water and Sewer Department; providing for payment from the Water and Sewer Fund into the Airport Fund for use of the property; establishing the amount of the payment; and providing for an Effective Date.
- D) A Resolution of the City Council of the City of Vero Beach, Florida, providing for the use of certain Municipal Airport Real property by the City Water and Sewer Department as part of the City Water Well Field and Water Pumping System; providing for payments from the Water and Sewer Fund into the Airport Fund for said use; establishing the amount of the payments and providing for adjustments thereto; Repealing Resolution 89-12; providing for an Effective Date.
- E) A Resolution of the City Council of the City of Vero Beach, Florida, providing for the use of approximately 25.14 acres of Municipal Airport real property by the City Water and Sewer Department; providing for payments from the Water and Sewer Fund into the Airport Fund for said use; establishing the amount of payments and providing for adjustments thereto; providing for certain roadway maintenance by the Water and Sewer Department; repealing Resolution 89-11; and providing for an Effective Date.

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

6. CITY CLERK'S MATTERS

- A) New Alternates for the Tree and Beautification Commission and Veterans Memorial Island Sanctuary Advisory Committee
- B) Municipal Elections Agreement
- C) Code Enforcement Board Case# 09-CE-724 is requesting a reduction of fine

7. CITY MANAGER'S MATTERS

- A) Live Oak Road Paving and Drainage Improvements – Recommendation of Award – City of Vero Beach Project No. 2005-09 – Bid No. 150-11/JV
- B) Final Payment for Vogt Power International – Superheater Module Replacement

8. CITY ATTORNEY'S MATTERS

9. CITY COUNCIL MATTERS

A. Old Business

1. GAI Electrical Consulting Contract – Requested by Vice Mayor Turner
2. Water and Sewer Regionalization – Requested by Vice Mayor Turner
3. Continuation of discussion, consideration of Charter Officer positions – Requested by Councilmember Heady

B. New Business

1. City Manager Objectives – Requested by Vice Mayor Turner
2. Monthly Financial Report – Requested by Vice Mayor Turner
3. Consideration of FPL offer – Requested by Councilmember Heady
4. Request for staff presentation on any errors in any electric utility presentation to City Council by an individual or group – Requested by Councilmember Heady
5. Discussion of City Manager position – Requested by Councilmember Heady
6. Charter Officers, existing conditions of employment – Requested by Councilmember Heady
7. Discussion of Response from advisory commissions – Requested by Councilmember Heady

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Jay Kramer's Matters

1. Correspondence
2. Committee Reports
3. Comments

B. Vice Mayor Pilar Turner's Matters

1. Correspondence
2. Committee Reports
3. Comments

C. Councilmember Tracy Carroll's Matters

1. Correspondence
2. Committee Reports
3. Comments

D. Councilmember Brian Heady's Matters

1. Correspondence
2. Committee Reports
3. Comments

E. Councilmember Craig Fletcher's Matters

1. Correspondence
2. Committee Reports
3. Comments

11. ADJOURNMENT

Council Meetings will be televised on Channel 13 and replayed.

This is a Public Meeting. Should any interested party seek to appeal any decision made by Council with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings and that, for such purpose he may need to ensure that a record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based. Anyone who needs a special accommodation for this meeting may contact the City's Americans with Disabilities Act (ADA) Coordinator at 978-4920 at least 48 hours in advance of the meeting.

CITY OF VERO BEACH, FLORIDA
JUNE 7, 2011 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA

1. CALL TO ORDER

A. Roll Call

Mayor Jay Kramer, present; Vice Mayor Pilar Turner, present; Councilmember Craig Fletcher, present; Councilmember Brian Heady, present and Councilmember Tracy Carroll, present **Also Present:** Monte Falls, Interim City Manager; Wayne Coment, Acting City Attorney and Tammy Vock, City Clerk

B. Invocation

Pastor Peggy Williams of Treasure Coast Assembly of God gave the invocation.

C. Pledge of Allegiance

The audience and the Council joined in the Pledge of Allegiance to the flag.

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

The City Clerk requested that item 8-A) be added to the agenda under City Attorney's matters "City Deed to County – Dodgertown land swap."

Mr. Heady requested to add three new items to the agenda, under "New Business" 1) lead issue 2) scan documents and 3) thru streets (the items would become 9B-8, 9B-9, and 9B-10).

Mrs. Carroll was under the impression that this Council made a decision that City Council matters were going to be added to the agenda only one week prior to the agenda so the rest of the City Council would have the opportunity to review the backup material in order to make a decision based on the data provided and whatever research they chose to do themselves. She said that the proper place for Mr. Heady to bring up these issues would be under individual Councilmembers Matters.

Mr. Heady disagreed with Mrs. Carroll. He said that these items came up after the Wednesday agenda deadline and if they put them on under City Council matters and then Council wants to take some action there is always some question as to whether or not that is appropriate. He said that these are discussions under New Business and there is no backup material for them. Then at the end of the discussion, if Council wants to take

action, then they can do so or they can put it off until the next Council meeting. He felt that these items belonged under New Business.

Mrs. Carroll recalled that Mr. Heady was not at the meeting where this Council voted to follow the procedure to delineate this. She felt that this would be up to the Mayor if he wanted to honor Mr. Heady's request.

Mayor Kramer requested that these items be put under Councilmatters and then brought back up at the next meeting if action needed to be taken. His biggest concern was that notice of the items be given.

Mr. Fletcher agreed with the Mayor that was the appropriate place.

Mr. Heady commented that it is interesting that the Council that ran on platforms of government with public being a part of it, continuously tries to shut down open discussion (he said particularly Mrs. Carroll). At the very first meeting when Mrs. Carroll took the Oath of Office, her first official action was to deny him the opportunity to speak, which he thinks was interesting and she continues to do that. He knows at the last meeting that there was a motion to end discussion and thankfully they have a Mayor who feels that discussions should be out loud and in the public eye. The three things that he would like to discuss are matters that if they want to take action on they can and if they don't want to, then move them off until the next meeting. He has no problem with that, but he has a problem with adding it on under Councilmembers Matters. Again, he asked that these items be placed under New Business.

Mr. Fletcher said what is appropriate is that the public has been given proper notice, which is the main issue.

Mr. Heady commented that when things come up after the Wednesday deadline that are important to the City, then there is nothing wrong with having a discussion and talking about issues important to the City. There is no need to vote on these items. He said that this is City business and not something that relates to him individually. Again, he asked that these items be added under New Business.

Mr. Fletcher stated that if Mr. Heady feels that they are important, then the public should have notice as to when they are going to be discussed.

Mrs. Carroll commented that she ran on the issue of civility and competency on this dais and asked that they move forward.

Mr. Heady told Mrs. Carroll that because someone disagrees with her does not mean that they are not civil. He said anytime someone disagrees with her, she thinks that they are not being civil. He said they have different views on what government should do or how government should interact with people. Mrs. Carroll can categorize it any slanderous way that she wants, but civility has nothing to do with this.

Mrs. Turner made a motion that they amend the agenda to include the Dodgertown Land Swap under the City Attorney's matters and that they add a discussion of lead, scan documents and thru streets under Mr. Heady's individual matters. Mrs. Carroll seconded the motion.

Mr. Falls stated that just for informational purposes, he was going to modify the recommendation on the drainage improvements for Live Oak Road. He is going to recommend that the decision on this contract work be tabled until the first meeting in July. He knows that there are some residents from that neighborhood present for today's meeting and he would welcome their comments. He also wanted to work with them to come up with an appropriate solution.

Mr. Heady amended the motion to include his items under New Business. The amendment to the motion died for lack of a second.

Mayor Kramer did not have a problem scheduling a Special Call meeting if these matters were of a pressing nature.

Mr. Heady said he had a problem with spending taxpayer's money by having a Special Call meeting. He said they probably could have discussed these items in the time it has taken to block them from being on the agenda. He said that this is ridiculous. He just wanted the items discussed. If Council wants to take action, they can and if they don't want to, that is fine also. This is City business and they should be willing to discuss it.

Mr. Fletcher explained that Council is willing to discuss the items if the public has had proper notice.

Mr. Heady referred to the memo item 8-A) that they are being asked to add to the agenda. He said that this is the first time that he has seen it and wondered if the public has had notice to it prior to just now.

Mayor Kramer stated that the public has not had notice.

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

Mr. Heady explained that without a unanimous vote, item 8-A) does not get added to the agenda.

Mr. Coment explained that the reason for adding item 8-A) to the agenda was because there was a change to the deed that they approved and he was bringing it back before the Council just to let them know that it was changed.

Mayor Kramer wondered if it was so material that the public might want to make comments on it.

Mr. Coment said what it has to do with is some language that was inserted into the deed. He just wanted to bring it forward before the Mayor executes the agreement.

Mrs. Carroll made a motion to add item 8-A) to their agenda. Mr. Fletcher seconded the motion.

Mr. Heady amended the motion to include lead, scan and thru streets. The amendment died for lack of a second.

The motion was 4-1 with Mr. Heady voting no.

Mr. Turner made a motion to adopt the current agenda. Mr. Fletcher seconded the motion and it passed 5-0.

B. Proclamations

1. Plaque to be presented to Dorothy Wallace for all her years of service as an employee of the City of Vero Beach

Mr. Eric Menger, Airport Director, accepted the plaque on behalf of Dorothy (Dottie) Wallace. He expressed that Mrs. Wallace has been a City employee for the last 27 years and she will be missed. Her last day will be on June 17th. He invited the Council to come out to the Airport on her last day and wish her well.

2. Pledge of Civility

Mayor Kramer read the Proclamation. Mrs. Carroll asked that each Councilmember receive a copy of the Proclamation.

C. Public Comment

1. Rebecca Rickey, Vero Heritage, to speak about the “The Place Matters”

Mrs. Rebecca Rickey, Vero Heritage, was at today’s meeting to speak about “This Place Matters Community Challenge”. She said that the Heritage Center and the Indian River Citrus Museum are honored to be a finalist in the “This Place Matters Community Challenge,” sponsored by the National Trust for Historic Preservation. Three cash prizes of \$25,000, \$10,000 and \$5,000 will be awarded to the three contestants with the most votes. What needs to be done is that the public needs to vote for them in order for this to happen. It was the consensus of Council to allow this to go on the City website. The public will be given the entire month of June to vote.

2. Peter Jones, Main Street Vero Beach, to speak about upcoming events

Mr. Peter Jones was speaking on behalf of Kathleen Proudy, Executive Director of Main Street, who could not be at today’s meeting. He was here today requesting that Council

give permission to Main Street Vero Beach to hold their future events on June 24th, August 26th, October 28th, and November 25th and be allowed to sell beer and wine at these events.

Mr. Heady made a motion to approve the request to hold the events and that Main Street Vero Beach is allowed to serve alcohol at these events. Mrs. Turner seconded the motion and it passed unanimously.

3. Richard Winger to present to Council a report regarding water and sewer matters

Mr. Winger wanted to make a Power Point presentation to Council.

Mr. Heady suggested letting the other people wanting to speak under Public Comment be allowed to speak first. Mr. Winger had no problem with this.

Council returned to Mr. Winger's presentation at 11:50 a.m. He said that there have been modifications to the presentation that was already presented to the Finance Commission. He has indicated by asterisks the things that the Finance Commission has not seen (Presentation is attached to the original minutes).

Mrs. Carroll asked if some of this information was produced by Mr. Bolton in the last week or two. Mr. Winger said that there are five spreadsheets in the presentation and the one comparing City/County merged rates was completed by Mr. Bolton about two weeks ago. He said there are two other spreadsheets that were done within the last two weeks. There is also one spread sheet that was done yesterday afternoon. He said that a great number of people have contributed to this presentation (many different sources). He would say that 90% of the content in his Power Point presentation is from someone else and not his own.

Mrs. Carroll asked Mr. Winger if he has checked all the documents from Mr. Bolton and agrees with all the numbers on his spreadsheets.

Mr. Winger stated that all of Mr. Bolton's spreadsheets are models. He said that you need to look at them as models and not absolutes.

Mrs. Carroll noticed that the one thing that she did not see included was the suppositions he made in terms of the evaluations, supposing that the County was going to be paying eighteen million dollars for the transfer of the pipes. She said that is not delineated in the document. She asked if Mr. Winger agreed with all of those suppositions that Mr. Bolton utilized to create this document.

Mr. Winger said that he agrees with them to the best of his ability to agree with them. He said that some of them are recent GAI appraisals and he has to accept them at face value. He said that the answer is yes, the Finance Commission and himself generally agree with them. He said ultimately you have to look at the GAI analysis and use this as something

of a footprint and pre-cursor. He commented that Jane Burton (Utilities Commission member) made a presentation to the Finance Commission outlining a number of concerns that she has. He said that the Utilities Commission would be meeting this week and he thought that the questions brought to them by Mrs. Burton would be discussed at this Utility Commission meeting. He said that many of her questions, if asked to the County could change the facts on the presentation that he is giving them this morning. The Finance Commission has limited data and they have not questioned the County on anything. He said they are leaving it up to the Utilities Commission to ask those questions to the County. He recalled a couple meetings ago that he made the comment that personally he would like to see the Water Plant moved someplace else, which is covered in this presentation. The Finance Commission's position is simply that the taxpayers, citizens and employees should have fair value if this entity is sold. There are also a number of very serious hidden pitfalls if this is sold for too little that would put the City in a very precarious position financially. He will cover this in his presentation. Also, the Council needs to realize that what they decide here has a number of implications.

Mr. Winger began going through his Power Point presentation. He commented that they have a good Plant, but it is not state of the art. If they were to build another Plant, they would make it more efficient and there is no question that there needs to be more automation.

Mrs. Carroll wondered if what he was saying was that the project debt being increased is based solely on the GAI analysis and what they think the pipes projections are.

Mr. Winger said to some degree yes. They will have further data from GAI in order to judge this on and they should wait until they receive it.

Mrs. Carroll wondered if anyone has contacted the County and asked them if they will pay approximately twenty-million dollars for those pipes.

Mr. Winger said that the bottom line is that the City should get more for their assets than what the County is offering them at this point.

Mrs. Turner mentioned that during the Finance Commission meeting there was another chart made available to them. She requested a copy of that chart.

Mr. Winger told her that he would get the chart from Mr. Bolton.

Mrs. Turner greatly appreciated the tremendous effort that Mr. Winger made in putting this presentation together.

Mrs. Carroll referred to the backup where it talked about the Village of Royal Palm Beach. She said that they were locked into rates, but then also had to pay the 10% franchise fee. So the City residents ended up paying more than they did in the past.

Mr. Winger explained that they ended up paying the same thing that they were and the 10% came out of the County side of the equation. The Town ended up getting the revenue to offset the transfer into their fund.

Mrs. Carroll was under the impression that the residents had to pay 10% more.

Mr. Winger said that he would be happy to clarify that.

Mr. Glenn Heran stated that Mr. Winger was correct when he said that Palm Beach County Utilities paid \$70 million dollars to the Village of Royal Palm Beach. However, what Mr. Winger was failing to tell them was that the rates were frozen at Palm Beach County rates for ten years and that rate was 75% higher than Palm Beach County utility rates. The parallel here is the County is offering them County rates. This was a very good deal for Royal Palm Beach government, but a bad deal for Royal Palm ratepayers.

Mr. Winger disagreed with what Mr. Heran was saying. He has talked to both Tom Cloud and the Manager in Palm Beach County and he would stand by that the existing rates in the City were lower and they were locked in. He will not stand by the 10% franchise fee until it is clarified. The users at the Village of Royal Palm Beach were not penalized and the users in the City of Vero Beach should not be penalized if a merger was to take place. The biggest legality here is the \$70 million dollars. He is not saying that the City of Vero Beach is worth \$70 million dollars, but it certainly is worth a lot more than \$24 million dollars.

At 12:34 p.m, Council took a break for lunch and returned at 1:45 p.m.

Mr. Winger provided Council with a document concerning the Village of Royal Palm Beach sale of utility to Palm Beach County (please see attached).

Mrs. Carroll referred to the document and asked who is corbit.com.

Mr. Winger did not know. He said that he asked for this from Tom Cloud, who gave him the comparables. He said corbit.com belongs to someone that is in the law department at Palm Beach County.

Mrs. Carroll read number 3 of the document where it states "Royal Palm Beach retained its existing utility service area and all sales by the County in that area are subject to a 10% franchise fee." She said that it sounds like everyone had to pay the 10% franchise fee.

Mr. Winger stated that what it says is what it says. This was a good deal for these particular people.

Mr. Heady mentioned that Council was getting two very different reports. He asked Mr. Bolton to get from the public records in Royal Palm Beach and from the public records in Palm Beach County the rates from the 2006 year and distribute them to the Council so

that they know what the facts are. He said that with the franchise fee being split out among different political subdivisions that one subdivision does not have the legal authority to impose a franchise fee on another political subdivision.

Mr. Winger did not know that. However, he suggested to Mr. Heady that Royal Palm Beach had an agreement in place for a service area and as he understands it from Tom Cloud, they did not give up the rights of the service area, but rather signed it to the County.

Mr. Heady gave them an example of what he was saying. He said here in Indian River County they have the proposal of the sale of the utility. He said that the franchise fee that would come back to the City will not be the franchise fee from all of the areas that they serve.

Mr. Winger stated that the whole point of this presentation was to show that the County's offer to them is a low ball offer and not fair. So the Finance Commission is just preparing them to move forward.

Mr. Heady brought up the two different reports that have been shown from Royal Palm Beach and the difference between them. He said it makes a huge difference in the presentation.

Mr. Winger stated that flat out the gentleman that got up and spoke and interrupted him was one hundred percent wrong.

Mr. Heady explained that is why he has asked Mr. Bolton to provide them with the public records from Royal Palm Beach and Palm Beach County.

Mr. Winger continued with his Power Point presentation.

Mr. Fletcher expressed what a good report this was and thanked Mr. Winger.

Mrs. Turner thanked Mr. Winger and said that they will continue discussions and bringing forward issues that they may need to investigate. She did not want anyone to be making decisions based on rumor and speculation. She wanted to see decisions made based on what they think are the best deal for the taxpayers of the City of Vero Beach.

Mr. Glenn Heran put up on the doc cam a residential water and sewer bill graph as of April 2006 Palm Beach County vs Royal Palm (service before tax). He explained the graph. He also showed a residential water bill graph. These graphs are attached to the minutes.

Mrs. Carroll asked him where these numbers came from.

Mr. Heran explained that they are Royal Palm Village and Palm Beach County historical rates. He has put them in a form that they could actually see.

Mrs. Carroll commented that she tried to go on-line during lunch and could not find this.

Mr. Heran informed her that he made a public records request to get this information.

Mayor Kramer asked Mr. Heran if he was saying that the value of the system is the net present value of the benefits that you receive when you...

Mr. Heran asked which system. He said that it should be based on the rates that they would be getting from purchasing the utility.

Mayor Kramer commented that the one thing that seems to be missing here is that the County gets 4-5 million dollars profit from their system and why should they be entitled to the net present value of that.

Mr. Heran was not certain that was the case. He said probably what would happen is that they find that, after the County has taken over the system and they handled any deferred maintenance that he thinks is out there, then you will probably find that rates will get cheaper.

Mayor Kramer said he is not seeing any signs of deferred maintenance in regards to the City's side of water and sewer. However, he is on the County side.

Mr. Heran expressed that he did not think that the City system is healthy. The Council is put here to create smaller government.

3. Honey Minuse

Mrs. Honey Minuse commented on how much talk is taking place about the sale of the electric utility system. She said that there are people concerned if the electric utilities are sold to FPL, losses would occur to the community. She asked that Council receive all the facts when considering this sale and let the community know about it. She suggested holding a workshop so that everyone understands what concerns the public has concerning the sale and that those concerns have been addressed.

4. Charlie Wilson

Mr. Charlie Wilson mentioned the letter that Council received this morning and he asked them to discuss that letter today. He has been hearing comments made in the community that are not accurate. He was not surprised that FMEA is trying to stop this type of thing from happening and are able to do that because the City is still paying dues to them at a cost of \$35,000. He urged Council to give clear direction to staff regarding renewing their dues to FMEA. There has been a policy made from this Council to move forward in the sale of this electric utilities and he hopes that the new City Manager will not be coming in hoping to change their rethinking on this. He understands that due diligence needs to take place, but they need to understand the consequences of delaying this. He

mentioned after attending the closing of a "Theater Play" that he was in, he was threatened by some City utility employees. He then brought up the 14% drop in residents from the City of Vero Beach, which showed after the census was done. He said that the 14% drop was not a miscount, it is misconduct. He wondered with losing 14% of their population, how will their revenue have dropped because of this. He then had some questions for the City Attorney. He mentioned that he was concerned that in the past the City Council has given information that is true and accurate information, but is not all the information. He thought that there may be a problem here.

Mayor Kramer told Mr. Coment that because these questions were being presented to him under Public Coment that he did not have to answer them if he did not want to.

Mr. Wilson reported that he sent some questions to Monte Falls some time back and he has not received anything back.

Mr. Heady told him that if he ask City staff questions and does not receive the answers back to let him know and he will pose these questions to the staff.

Mr. Wilson brought up having to have a referendum. The City Attorney apparently has given them some information that the sale of the electric utilities requires some sort of referendum. He said that as he understands it, the only part of this activity that would require any type of referendum is the sell of the City land. They are not required to have a referendum of any type to sale the electric system. If their position is that they have to have a referendum, then if he was FPL, he would not take the land. He would make the City take the Plant down themselves. The problem is there are several ways around this and there are all types of options. His question to the City Attorney is has he given Council all of the options. He then asked Council if they were being provided with all of the options. He asked that when the City Attorney made a decision that a referendum was required, were they given options that would not require a referendum. He has not heard them and he requested them to ask the City Attorney for guidance of options that explain his decision that a referendum is required.

Mr. Wilson explained to Council that when the question is called after a motion is made and it is seconded, then the majority of the Council votes for it. The ruling of the Chair was that it takes a two thirds vote of the Council. He asked why the City Attorney did not tell them (City Council) that the real answer is that it is a Chair decision and the Chair's decision is simply to move business along. What would need to be done is to appeal the decision of the Chair. He said that they have a City Attorney and twice he has seen this happen at their meetings and the City Attorney has not advised them the proper procedure in calling the question.

Mrs. Carroll told Mr. Wilson that he has asked that question in the past and has been told that they do not follow Roberts Rules of Order and to require the City Attorney to make a ruling according to Roberts Rules of Orders would not be in the responsibilities of law.

Mr. Wilson stated to appeal the Chair's decision is not in Roberts Rules of Order. It is the City way of operating.

Mayor Kramer recalled in both instances when "Call the question" came up, it did not change the way that this Council voted, but rather gave an opportunity for individuals to express their opinions. He always wants to respect the Council and give the public a chance to speak, which goes back to this referendum issue. He said that the people of Vero Beach need to have their say and their voice heard. He is not trying to do anything that would stop people from being heard.

Mr. Heady added that this Mayor has bent over backwards to make sure that every single Council member and every single member of the public has had their say and he applauds the Mayor for his actions.

Mr. Richard Rodgers, 326 Indian River Drive, was not sure if they were going to be discussing the closure of Live Oak Road.

Mr. Falls stated that item will be discussed. The item on the agenda is for Live Oak Road paving and drainage improvements. He knows that there are some residents who have come to the meeting to speak about doing some additional things to the roadway and to ask Council permission in order to do that. He said some of the requests that will be made by the residents are not included in the project that he has on the agenda. The item on the agenda is to help with the flooding problem in this area. Mr. Rodgers then asked if he thought that they would be discussing the closing of Live Oak Road and reducing the speed there. Mr. Falls felt that the discussion would come up.

Mr. J. Rock Tonkel, resident of Grand Harbor, was pleased that Council made the decision to hire Mr. Jim O'Connor as their new City Manager. It is in the interest of the City that they utilize the skills and contributions that both Mr. O'Connor and Mr. Falls bring to the City. Mr. Falls can be an asset to Mr. O'Connor when he arrives. Mr. O'Connor has in his opinion an obligation to fulfill policy to facilitate the sale of FPL. It is clear that he should and Council should set very clear expectations for Mr. O'Connor. If they sell both utilities and reduce Mr. O'Connor's salary by fifty percent would be foolish. He said that compensation should be considered judging on what kind of results that Mr. O'Connor receives. He then recalled that he was before them a few months ago and requested that they establish an incident report for utility failures and he has not seen anything. He is speaking about Grand Harbor and the impact that the residents feel with the numerous outages that they have occurring. He made a formal request to receive this incident report. He said that there have been at least twenty outages in Grand Harbor ranging from a few minutes to a few hours. He is requesting the City Manager develop a report that would be available to the public to review quantifying incidents in Grand Harbor and to discuss what will solve the problems on a permanent basis. The President of the Community Association of Grand Harbor met with FPL and he (Mr. Tonkel) will be discussing the correspondence generated from the outcome of that meeting. Their concerns have not changed and they would like Council to proceed with selling the utilities to FPL. He invited any of the Councilmembers to come and talk to the Grand

Harbor ratepayers. He said that this invitation is particularly being made to Mayor Kramer, because he supports their utilities serving the City residents only and the residents of Grand Harbor are interested in hearing about that concept. Mr. Tonkel said that he would be back at their next meeting.

Mrs. Carroll asked staff if the outages were occurring because of the switchgear.

Mr. Falls commented that he does have this report as requested by Mr. Tonkel on his to do list and has not forgotten about it. He just has not had the time to get to it yet.

Mr. Randall McCamish, Transmission & Distribution Director, reported that some of the switchgear has been replaced and there still are quite a few outages occurring in Grand Harbor. He said that the switchgear is part of the problem, but not the whole problem. He said that there are a couple more switchgears that still need to be replaced. So far they have replaced two out of the five. He assured Council that notice will be given to the residents when they make these replacements of the switchgear.

Mrs. Carroll asked if they have received the signed agreement (Employment contract) back from Mr. O'Connor. She was told that it has been signed and is filed in the City Clerk's office.

Mr. Heady requested that the Clerk put the letter that they received from FPL this morning on their website, along with the report that they received from FMEA.

Mr. Trent Bernandaz (spelling may not be correct), resident of Live Oak Road, commented that he asked for stop signs to be put up in this area and was told that, by putting up stop signs, it would not reduce traffic. He asked for Council's help in stopping some of the traffic that occurs on Live Oak Road.

Mr. Ken Daige appreciated Council doing due diligence concerning the sale of the utilities to FPL and the water and sewer situation. He encouraged them to lay everything out on the table so that the residents can see what is going on. He suggested when doing the budget that they do two budgets. One would be the budget that they are working on now and the other budget would show what the impact will be if they don't have the electric and water and sewer utilities. They need to know what the impact will be in the future. He knows that they all want to do the right thing. When this Council campaigned, they all said that they would look into selling the utilities to FPL and gave the public the impression that everything would be laid out on the table. He knows that they are looking out for the City residents. If it is not handled correctly, it will be devastating to the City. He is happy to see all of these issues on the City website and hopes that they will continue to put up all the information so that the public can all see it. He asked Council if they were meeting with FPL tomorrow. Mrs. Carroll said that she plans on attending the meeting. Mr. Falls added that this is a staff meeting that will consist of the consultants, Mrs. Carroll and Mr. O'Connor who will be attending via Skype. Mr. Daige asked if the public was allowed to attend the meeting. Mr. Falls said that this meeting is just a staff meeting and will not be open to the public. He will discuss

this matter with FPL and see how they want to handle this in the future. They are just trying to have open exchange between the parties. Mr. Daige asked Mrs. Carroll if the public would be able to ask her questions about what occurred at this meeting. Mrs. Carroll made it clear that they were just going to be talking about parameters and not negotiations. Mr. Daige appreciated Council moving forward with due diligence.

Mr. Steve Martin, 4111 Indian River Drive, felt that closing Live Oak Road would be a low cost solution to the traffic problem in that area.

Mr. Heady requested that in consideration of the citizens attending today's meeting, that they move item 7-A) "Live Oak Road Paving and Drainage Improvements – Recommendation of Award – City of Vero Beach Project No. 2005-09 – Bid No. 150-11/JV" up on the agenda. Council agreed that was a good idea.

**Item 7-A) Moved up on the agenda and heard at this time
Live Oak Road Paving and Drainage Improvements – Recommendation of
Award – City of Vero Beach Project No. 2005-09 – Bid No. 150-11/JV**

Mr. Falls reported that this project was for drainage and improvements on Live Oak Road. He said that there is a flooding problem in this area and this project would be to raise the current elevation of Live Oak Road from Mockingbird Drive to State Road A1A and install a new underground drainage system inclusive of a nutrient separating baffle box and new stormwater outfall through the concrete seawall at Bethel Creek. This part of the project needs to be done no matter what changes they may make to Live Oak Road. They had originally bid this project to do this and there are some possibilities that if they make some modifications, they may only have to do the drainage portion. He would recommend to Council to table action on this construction bid until their next meeting. They have until July 18th to make the award. The contractor is currently checking with his suppliers to see if he could hold off on that any longer. If the entire project is done it is about a six month project, but if it is just the drainage portion that they do then it would only be a forty-five day project. He will go back to the contractor and have it broken down into two divisions and then bring back a recommendation of an award hopefully at their first meeting in July. Mr. Falls indicated that prior to doing that he would like to have a public meeting with the entire neighborhood to discuss their traffic issues. He is well aware of the speeding concerns that the neighbors have and a traffic calming policy has been drafted, but not been formally adopted. He explained what a traffic calming policy does is it attacks traffic calming in phases. The first phase would be lowering the speed limit. He knows just by putting a sign up does not affect the way people drive. What affects that is the enforcement of the signs and then continued measures. The next measure that they would recommend in addition to lowering the speed limit is the addition of speed tables or speed humps. These types of measures are supported by the Institute of Traffic Engineers. This would be his recommendation for the second phase and then see what kind of effect it will have in the neighborhood. Their goal is to slow traffic down.

Mrs. Carroll commented that not only is the neighborhood concerned about speeding, but their main concern was for life safety.

Mr. Falls agreed with her one hundred percent. He said that the lower the speeds are the greater there is for survival in a pedestrian atmosphere.

Mrs. Carroll added that they also need to take into consideration that there is a baseball facility and Park in this area and they need to be addressed.

Ms. Sharon Millikan, 4112 Indian River Blvd., was in favor of closing Live Oak Road. She said that if they put a sign up saying "no thru traffic" then someone would have to enforce it. She remembered when she was a child that the road was closed off and that needs to happen again.

Mr. Heady made a couple of suggestions. He said putting up no thru streets signs on either end of Live Oak Road might help. He explained as you drive south on A1A, if they could put a sign up just past Bethel Creek saying no left turn, then no one would be able to make a left hand turn off of A1A on to Live Oak Road. This would move the traffic down A1A instead of taking that pretty easy cut off. Then on Live Oak Road as you meet A1A, install a one-way sign at that point only out onto A1A and put a sign up saying right turn only. He said coming out of Live Oak Road you cannot make a left hand turn on to A1A to head north. He said that you would only be able to go right. He thinks that this would probably stop 90% or more of the thru traffic. He said that they can slow traffic down all they want, but he feels that if you cut to the chase the real problem in the neighborhood is the volume of traffic.

Mrs. Carroll recalled that she did discuss those options with Mr. Falls and listened to some of the people in the neighborhoods and the concerns were that by doing this, it would funnel traffic onto other streets in the neighborhood. She said that is why Mr. Falls wanted to have the neighborhood meeting to hear various ideas coming from the neighborhood.

Mr. Falls said that he planned to schedule this public neighborhood meeting within the next two weeks.

Mr. Fletcher felt that if they closed Live Oak Road, then the traffic would go to Gray Twig, Fiddlewood and Date Palm Roads. He asked Mr. Falls that the people in these neighborhoods also be notified of the public meeting.

Mr. Falls stated that he would send a notice out to the whole neighborhood and they would find a venue in the neighborhood to hold the meeting.

Mr. Robert Flag commented that he drives a truck for a living and is familiar with statistics. He feels the solution would be to have traffic flow from Beachland to A1A. He suggested having signs put up saying that fines will be imposed if people use Live Oak Road as a cut through road.

Mrs. Carroll asked if there were some statistics of accidents that have occurred in the neighborhood.

Mr. Bill Messersmith, Assistant City Engineer, reported that there was a fatality on Indian River Drive East (block south of the turn). He said that it was because someone lost control of their car. It did not involve pedestrians.

Mrs. Carroll asked if they put up signs saying “no thru traffic”, does the Police Department have the capability of fining people.

Mr. Coment explained that the Police Officer would have to follow the car and if they didn't stop, then he could give them a ticket. Mr. Coment would need to look at the State traffic laws. He could work on an Ordinance to implement the procedures in setting a fine.

Mr. Falls felt they should do something to physically restrict speed and make it less convenient for people to cut through there. He doesn't object to closing the road, but they have to look at traffic moving on to other roads (as mentioned earlier by Mr. Fletcher). He suggested that they move in phases. One phase would be to have speed tables and then if they don't see desired results, then they can come back and look at some other measures.

Mrs. Carroll asked if by Friday they could have the date selected for the public meeting and start mailing the notices out.

Mr. Fletcher instructed the City Manager to set up the meeting and send out the notices and to make sure that the meeting is held in the evening.

Mr. Heady knew that the City Manager could have these signs put up by noon time tomorrow. Then they will hear from the neighbors at the meeting about whether or not this works.

Mr. Richard Weidner thanked Council for discussing this issue and urged them to consider the entire neighborhood when considering this.

Mr. RJ McMillan stated that he has lived on Live Oak Road for fifty years. He said that the real problem is people are using this road as a short cut to get to the beach. He said that there are a lot of houses for sell on the street and there is a reason for this. He thanked staff for helping him in this matter. He was disappointed that a decision was not going to be made today. He distributed a petition that 54 people had signed in favor of closing the road. He reported that there was one person who did not sign the petition and the only other residents who did not sign it was either because the houses were for sale or there were just vacant lots. He made sure that Council received the twenty emails that were sent to them regarding this matter. He expressed that 61 people out of 75 people would like to have this road closed. He was in favor of either closing the road or doing

what has been suggested by Mr. Heady. He made it clear that Mr. Heady's suggestions have not been discussed by the neighborhood so he could not speak for all of the people who signed the petition. He was not in favor of installing a one block sidewalk. He didn't see how it would help the situation. He thanked the neighborhood for all of their help and asked anyone in the audience who came out just because of this agenda item to raise their hands. He told Mr. Falls that he could have the public meeting at his house in his front yard if he wanted to.

Mayor Kramer agreed with tabling this item, holding a public meeting and seeing what comes out of it.

Mr. Falls added that they will hear input from the neighborhood and come up with something that will work.

Mrs. Carroll told Mr. McMillan that this item was placed on the agenda per this document and they have tabled the matter so that they can discuss this matter with the neighborhood.

Mr. Heady made a motion to table this item. Mrs. Carroll seconded the motion and declared that she was a resident of Live Oak Road. The motion passed unanimously.

Mr. Jan Jelby, 615 Live Oak Road, was at today's meeting representing eight of his neighbors who could not be at the meeting. They were all in favor of closing the road and having a cul-de-sac installed. He said that this would be the best and least expensive way to handle the situation. He asked that the process of drainage be clarified.

Mr. Falls explained to Mr. Jelby that staff is going to recommend that the installation of the drainage be done. If the road is not raised, they will still experience flooding from time to time. He wanted to correct this problem. He again went over what he plans to do to slow the speed in this area. At the neighborhood meeting they will address the sidewalk issue. They want to complete the sidewalk for the length of the project to connect the Mockingbird Drive sidewalk to the State Road A1A sidewalk.

Mrs. Carroll commented that if they go forward with just the drainage improvements, that will close off Live Oak for a period of time and that will let everyone see if traffic increases on other streets in the neighborhood.

Mr. Heady commented that there were a lot of hands raised indicating that the neighborhood is ready to do something now. He said that it is not going to cost the City a lot of money to put a "no right hand turning" sign on A1A and a "not a thru street" sign up. This could be done by noon tomorrow. He suggested trying this. Then they will hear from the neighbors if it causes the traffic to go to Date Palm Road. In the meantime it gives these people asking for help a response that something is being done now without a big expense.

Mrs. Carroll asked if they could do this without any type of physical barrier.

Mr. Falls said that the signs could be put up. He said the effect of the signs without a fiscal barrier will be whatever the effect of the sign is.

Mrs. Carroll asked Mr. Coment if it would be legal to do this.

Mr. Coment said that they could put the sign up and then he would bring a Resolution to them to enforce the regulation for that particular intersection.

Mr. Robb Flagg agreed that installing a cul-de-sac would be more effective.

Mr. Messersmith reported that because State Road A1A is a State road, they would need to get permission from the State (Florida Department of Transportation) in order to put a sign up on A1A.

Mr. Heady went over again where the signs will be located.

Mrs. Carroll made a motion that they have the City create the two signs. The first one would be for no right hand turns from A1A and the other sign would be for no left hand turns from Live Oak Road onto A1A. Also, that they check with DOT to authorize the location of that sign on their State road and that they go forward with the Resolution at the next City Council meeting authorizing the placements of the signs.

Mr. Coment commented that they probably would have problems with DOT approving a sign that says “no right turn” on their right-of-way. He suggested going with the “no thru traffic” sign.

Mr. Heady stated that Mr. Falls understands what the public and Council wants.

Mr. Fletcher wanted to make sure that they received proper authorization from the State (DOT).

It was the consensus of Council to move forward in this matter. The motion died for lack of a second.

At 11:28 a.m., Council took a three-minute break.

At this time 6-C) was moved up on the agenda and heard.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – May 17, 2011**
- 2. Special Call City Council Minutes – May 24, 2011**
- 3. Central Beach Speed Limit Reduction – Requested by Acting City Engineer**
- 4. Utility Easement #2011-EG-0090 – McDonalds – 1925 US Highway 1 –**

Requested by Chief Surveyor

5. Agreement between the City of Vero Beach Recreation Department and the Indian River County School District

Mr. Coment asked that item 2D-5) be pulled from the consent agenda because there were some changes that needed to be made to the agreement.

Mrs. Turner made a motion to adopt the agenda with the deletion of item 2D-5). Mr. Fletcher seconded the motion and it passed unanimously.

Mr. Coment went over the changes that needed to be made to the agreement. He said that the first change is on Page 1 (D). The new sentence should read "Leisure Square for one day during the school year for each of the District's public schools for use for DARE graduations between the hours of 8:00 a.m. and 3:00 p.m." Then on Page 2 (A) the new sentence should read "Six (6) school buses from late May through mid-August for use by the Vero Beach Recreation Department to transport youths participating in City Recreation Department camps between the hours of 7:30 a.m. and 5:30 p.m. Use of the buses shall be for the transportation from designated pick-up locations to camp activity sites in Florida for City Recreation Department-sponsored programs and the return from City Recreation-sponsored programs to the designated pick-up locations. The District shall cover the fuel costs for the use of such buses, however, the combined mileage of the buses used shall not exceed 8,000 miles or \$14,000". He recommended that the agreement be approved with these two changes made.

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

3. PUBLIC HEARINGS

A) A Resolution of the City of Vero Beach, Florida, establishing fees associated with Pain Management Clinic permit applications and related appeals; providing for conflict and severability; providing for an Effective Date. – Requested by Planning and Development Director

The City Clerk read the Resolution by title only.

Mr. Tim McGarry, Planning and Development Director, recalled that at the last meeting when this Resolution was heard, Council asked him to change the submittal date for permit applications subject to no fee to be consistent with the County's date of July 18, 2011. He has done that and recommends approval of the Resolution.

Mrs. Carroll noted that at the last meeting, Mr. Coment mentioned that the State of Florida had some additional regulations that might impact the City and the County's Resolution. She asked Mr. Coment for an update.

Mr. Coment anticipated that changes would have to be made, but they would only affect the County Ordinance and not the Resolution that they are passing because this Resolution only deals with the fees that will be charged.

Mayor Kramer opened and closed the public hearing at 2:52 p.m., with no one wishing to be heard.

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

B) An Ordinance of the City of Vero Beach, Florida, amending Chapter 65, Article III, amendments to Comprehensive Plan and Land Development Regulations of the Code of the City of Vero Beach; providing for additional standards for amendments; providing for conflict and severability; providing for an Effective Date. – Requested by Planning and Development Director

The City Clerk read the Ordinance by title only.

Mr. McGarry explained that the purpose for passing this Ordinance was to strengthen criteria for rezoning applications and changing the advertising time for a public hearing from 14 days to 10 days.

Mayor Kramer opened and closed the public hearing at 2:54 p.m., with no one wishing to be heard.

Mrs. Turner made a motion to approve the Ordinance. Mr. Fletcher seconded the motion and it passed 5-0 with Mrs. Carroll voting yes, Mr. Heady yes, Mr. Fletcher yes, Mrs. Turner yes, and Mayor Kramer yes.

C) A Resolution of the City of Vero Beach, Florida, approving the transmittal to the State of Florida Department of Community Affairs of proposed City of Vero Beach Comprehensive Plan text amendments to the Land Use Element, Traffic Circulation Element and Capital Improvements Element; providing for conflict and severability; providing for an Effective Date. – Requested by the Planning and Development Director

An Ordinance of the City of Vero Beach, Florida, amending the text of the Land Use Element of the City of Vero Beach Comprehensive Plan by revising Policy 1.15 governing the relationship between Future Land Use Designations and Zoning Districts; providing for conflict and severability; providing for an Effective Date. – Requested by the Planning and Development Director

An Ordinance of the City of Vero Beach, Florida, amending the text of the Traffic Circulation Element and Capital Improvements Element of the City

of Vero Beach Comprehensive Plan by revising the level of Service Standard for a segment of State Route A1A from 17th Street to the South City limits; providing for conflict and severability; providing for an effective date. – Requested by the Planning and Development Director

The City Clerk read the Resolution and Ordinances by title only.

Mr. McGarry requested that Council pass the transmittal Resolution, which would allow him to send the two Ordinances to DCA for approval. The first Ordinance has to do with Policy 1.15 governing the relationship between Future Land Use designations and Zoning Districts and the second Ordinance has to do with revising the level of service standard for a segment of State road A1A from 17th Street to the South City limits. He also noted that there was a sign-up sheet in the back of the room if anyone wished to be notified by DCA concerning these revisions.

Mayor Kramer opened and closed the public hearing at 2:57 p.m., with no one wishing to be heard.

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

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution of the City of Vero Beach, Florida, certifying “As-Built” Costs and the Special Assessment amounts in connection with the installation of a Sewer System to replace an existing Lift Station for Ocean Towers of Vero Beach, Inc., Ocean Towers II of Vero Beach, Inc., and the Cardinal Drive Townhouses; providing for Completion Date; Date for Payment without Penalty and Interest; and Interest Rate.**

The City Clerk read the Resolution by title only.

Mr. Rob Bolton, Water and Sewer Director, reported that this project was started a year ago and he is happy to report that they have completed the project and they were able to charge the residents a lower fee than what was originally estimated. The residents have an option of paying the fee in a one lump payment or paying it over ten (10) years.

Mrs. Carroll wondered if there have been any problems with collecting the assessment fee from homeowners or associations.

Mr. Falls said not to his knowledge. He explained that a lien is placed on the resident’s property until the assessment has been fully paid.

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

- B) A Resolution of the City of Vero Beach, Florida, reconstituting the Airport Commission, Code Enforcement Board, Fire Pension Board, Marine Commission, Police Pension Board, Tree and Beautification Commission and Veterans Memorial Island Sanctuary Advisory Committee for consistency with the Code of Vero Beach as amended by Ordinance No. 2011-05; continuing, without interruption, the Terms of Office of Members currently appointed and serving; providing for an Effective Date.**

The City Clerk read the Resolution by title only.

Mr. Coment reported that this Resolution serves as an integral part of the City Council's efforts to amend the boards and commissions section of the Code by reconstituting the Airport Commission, the Code Enforcement Board, the Fire Pension Board, the Marine Commission, the Police Pension Board, the Tree and Beautification Commission and the Veterans Memorial Island Sanctuary Advisory Committee.

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

- C) A Resolution of the City Council of the City of Vero Beach, Florida, repealing Resolution 88-05 and discontinuing use of approximately 37,669 square feet of Municipal Airport real property by the City Water and Sewer Department; providing for payment from the Water and Sewer Fund into the Airport Fund for use of the property; establishing the amount of the payment; and providing for an Effective Date.**

The City Clerk read the Resolution by title only.

Mr. Falls explained that the following Resolutions are sister to each other and need to be passed for housekeeping measures.

Mr. Eric Menger, Airport Director, explained that whenever the Airport rents property to another department in the City that it requires that they do it by Resolution. He said that these Resolutions are to make modifications to the existing property. This Resolution would be to repeal the existing rent Resolution 88-05, to terminate the use of a specific parcel of Airport land by the City Water and Sewer Department, and to provide for payment of rent through June 30, 2011, when the Water and Sewer Department surrenders possession of the parcel.

Mrs. Turner noted that there have been issues with some leases in the past. She wanted to make sure that these three Resolutions being presented represent fair market value and meet the conditions of FAA standards.

Mr. Menger assured her that is the case. He said that an appraisal of the property was done in February 2011. Also, when the Aviation Boulevard project takes place, the removal of the tank could be part of the project.

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

D) A Resolution of the City Council of the City of Vero Beach, Florida, providing for the use of certain Municipal Airport Real property by the City Water and Sewer Department as part of the City Water Well Field and Water Pumping System; providing for payments from the Water and Sewer Fund into the Airport Fund for said use; establishing the amount of the payments and providing for adjustments thereto; Repealing Resolution 89-12; providing for an Effective Date.

The City Clerk read the Resolution by title only.

Mr. Menger reported that this Resolution would revise the amount of rent paid by the Water and Sewer Fund to the Airport Fund to compensate the Airport for the areas occupied by active raw water wells, air stripping tower, and raw water mains from the wells to the treatment plant, all located on Airport property. The new Resolution adjusts the rental rate down to easement rates, or one-half the normal rates for the classification of land affected.

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

E) A Resolution of the City Council of the City of Vero Beach, Florida, providing for the use of approximately 25.14 acres of Municipal Airport real property by the City Water and Sewer Department; providing for payments from the Water and Sewer Fund into the Airport Fund for said use; establishing the amount of payments and providing for adjustments thereto; providing for certain roadway maintenance by the Water and Sewer Department; repealing Resolution 89-11; and providing for an Effective Date.

The City Clerk read the Resolution by title only.

Mr. Menger reported that this Resolution is to revise the amount of charges paid by the Water and Sewer Fund to the Airport Fund to compensate the Airport for the expanded

water and sewer facilities site lying north of the existing water plant parcel and easterly of Airport North Drive. The existing Resolution 89-11 covers 18.1 gross acres and the revised parcel covers a total of 25.14 gross acres.

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

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

None

6. CITY CLERK'S MATTERS

A) New Alternates for the Tree and Beautification Commission and Veterans Memorial Island Sanctuary Advisory Committee

TREE AND BEAUTIFICATION COMMISSION

There is an opening for an alternate member on the Tree and Beautification Commission.

Mrs. Turner made a motion to appoint Ms. Cynthia Schwarz to the Tree and Beautification Commission. Mrs. Carroll seconded the motion and it passed unanimously.

Veterans Memorial Island Sanctuary Advisory Committee

There is an alternate position open on the Veterans Memorial Island Sanctuary Advisory Committee.

Mr. Fletcher made a motion to appoint Mr. Curtis Paulisin to the Veterans Memorial Island Sanctuary Advisory Committee. Mrs. Turner seconded the motion and it passed unanimously.

B) Municipal Elections Agreement

Mrs. Vock explained that this is the first Municipal Elections Agreement that the municipalities in Indian River County have ever had. She said that the new Supervisor of Elections felt that it was important that each municipality pass this agreement. The agreement has been reviewed by all the City Clerks and City Attorneys from the municipalities in Indian River County and with some minor changes made, this is the agreement that they all agreed on.

Mrs. Turner made a motion to approve the Municipal Elections Agreement. Mr. Fletcher seconded the motion and it passed unanimously.

C) Code Enforcement Board Case# 09-CE-724 is requesting a reduction of fine

This item was moved up on the agenda.

Mrs. Rebecca Annis, Attorney from the Law Firm of Stewart Evans and Emmons, was at today's meeting to ask that her client receive either a waiver or reduction of Code Enforcement Penalties in Case #09-CE-724. She said that if this does not happen, then the property will probably not be sold and will go into foreclosure.

Mr. Heady asked if foreclosure would end this type of lien.

Mr. Coment explained that this lien was established before foreclosure proceedings started so it is defensible. There is a provision in the Code whereby Code Enforcement Board liens are the same as taxes.

Mr. Fletcher mentioned that one of the reasons that Vero Beach is such a nice community is because they have tough codes. He is in favor of reducing the fine somewhat, but some punitive action needs to be enforced for people that refuse to take responsibility of their property.

Mr. McGarry reported that he took a look at the administrative costs and feels that \$525.00 will cover all of the costs. He was in favor of getting the property back on the tax rolls.

Mr. Fletcher made a motion to reduce the fine to \$2,500.

Mrs. Carroll wanted to make sure that Mr. McGarry was correct when he said that \$525.00 would cover the administrative costs. She noted that the Code Enforcement Officer documented 26 different times/activities that he did for this case.

Mr. McGarry explained that was for Mr. David Checchi's time.

Mr. Heady seconded the motion.

Mrs. Turner was concerned that they were not sending a clear message as far as Code Enforcement goes. However, she does want to see this property back on the tax rolls.

Mrs. Carroll questioned if they were setting precedence by doing this.

Mr. Heady stated that anything they do sets precedence.

The motion passed 4-1 with Mrs. Carroll voting no.

7. CITY MANAGER'S MATTERS

A) Live Oak Road Paving and Drainage Improvements – Recommendation of Award – City of Vero Beach Project No. 2005-09 – Bid No. 150-11/JV

This item was heard earlier in the meeting.

B) Final Payment for Vogt Power International – Superheater Module Replacement

Mr. Fletcher questioned why the project came in \$40,000 under budget.

Mr. Thomas Clark, Power Plant Project Coordinator, reported that the Unit 5 Heat Recovery Steam Generator Capital Project was two capital projects and the Power Plant Roof work came in lower than what was budgeted for and there were no change orders during the work. He said that the project went very smoothly.

Mr. Fletcher made a motion to approve final payment for Vogt Power International – Superheater Module Replacement. Mrs. Turner seconded the motion and it passed unanimously.

8. CITY ATTORNEY’S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

1. GAI Electrical Consulting Contract – Requested by Vice Mayor Turner

Mrs. Turner would like to see a progress report on the evaluation of the FPL offer and GAI expenditures to date.

Mr. Falls stated that he would be providing that to Council at their next meeting. He said to date he has only received one invoice from GAI.

Mrs. Carroll asked how much was the invoice for. Mr. Falls told her it was for the amount agreed upon, which was \$4,000. He expressed that they have not received May’s invoice yet.

Mrs. Turner wanted to know about their progress and what activities have they done since last month.

Mr. Falls recalled that GAI has met with OUC. They talked about some possibilities that OUC may be able to do. This involves how the penalty clause may or may not be assessed if certain other things happen and if OUC could be a partner to part of the deal.

Mrs. Turner wanted to know what they could tell the public on what progress is being made in evaluating the FPL offer.

Mr. Falls hoped to have some answers after tomorrow's meeting.

Mrs. Carroll referred to the meeting that GAI had with OUC. She asked if there was any staff present when that meeting took place. Mr. Falls answered no. Mrs. Carroll had some concerns about why the City Manager or the City Attorney were not in attendance at that meeting.

Mr. Coment explained that they just learned about their initial contact and will talk to GAI about this tomorrow. However, he knows that there will be future meetings with both entities.

Mrs. Turner expressed that Council (along with staff) needs to have a time line and the issues that GAI is involved in.

Mrs. Carroll commented that she did not know about the FPL meeting scheduled for tomorrow until the Press called her about it.

Mr. Fletcher wanted to make sure that Mrs. Carroll knows about all those meetings. She is the point person for the Council.

Mrs. Carroll added how important it is to have a representative from the City attend these meetings.

Mrs. Turner hoped that at their next meeting they will be provided with account expenditures to date, a time line and the issues that GAI is involved in.

2. Water and Sewer Regionalization – Requested by Vice Mayor Turner

Mrs. Turner wanted to have the progress on the evaluation and negotiations with the County concerning the water and sewer regionalization (backup material on file in the Clerk's office).

Mr. Falls noted that they were working on a draft list of questions that they will be sending to the County. He will review the questions and get them to Council by their next meeting.

Mrs. Turner hated to have to wait until their next meeting to present the questions to the County.

Mr. Fletcher felt that they all needed to read the questions and review them as a group.

Mrs. Turner commented on the amount of time that they have already let pass in getting these questions to the County.

Mr. Fletcher felt that the City Council should review the questions before they are sent to the County.

Mr. Heady suggested that the City Manager put the list of questions together and send them to Council. Let Council review the questions and if they have any further questions to add, then they can let Mr. Falls know and he can add them to the list. This way Mr. Falls will be able to send the list of questions over to the County in a timely manner (within two days).

Council asked if any invoices had been received from GAI concerning the water and sewer regionalization project that they are now working on. Mr. Falls said that he has not received anything yet. Mrs. Turner also wanted to see the time line from GAI on the water and sewer regionalization project.

3. Continuation of discussion, consideration of Charter Officer positions – Requested by Councilmember Heady

Mr. Heady commented that in order to have anything on the ballot in November, the item must be to the City Clerk by August. He said that there has been one meeting in July and one meeting in August that has been canceled. They have had preliminary discussions on Charter Officer positions, but he doesn't think that they made any final decisions. He wanted to know if Council wanted to pursue having the Finance Director become a Charter Officer. He would like to see that position added as a Charter Officer position.

Mrs. Carroll recalled that this is the third time this item has been brought forward to them and at neither of the two previous occasions did anyone second this and now they are seeing this for the third time and she does not believe that there is a second this time.

Mayor Kramer looked at this, but felt that that the position needs to stay under the City Manager, because that is a more stable position for the Finance Director to be under.

Mrs. Turner mentioned that they have an outside auditor and if they are looking at putting a Finance Director as a Charter Officer, then include the City Clerk as that position, which means it would be a finance position, as well as someone in charge of public records.

Mr. Heady had no interest in Mrs. Turner's suggestion. He felt that the City Clerk's office is probably handling as much as they can now. He was not interested in combining the two offices.

Mr. Fletcher recommended leaving things as they are.

Mrs. Carroll noted that the title of this item was "Continuation of discussion, consideration of Charter Officer positions." She made a motion that the City Council conduct an RFP to go forward with a search for a City Attorney.

Mayor Kramer said that he would like to see that as a New Business item.

Mrs. Carroll said that the item has been discussed by Mrs. Turner at two previous Council meetings. She wished for her motion to remain. Mayor Kramer told her that the item needs to be on the agenda. Mrs. Carroll told him that the agenda was consideration of Charter Officer positions, which she feels this falls under.

Mr. Heady told her in the backup material it specifically states discussion of the "Finance Director."

Mrs. Turner seconded the motion.

Mayor Kramer would like to see more backup on this item. He said that this has caught him off guard. When he looked at this item he thought that they would only be discussing the Finance Director and not putting an RFP out for a City Attorney.

Mrs. Carroll felt that at this point with the negotiations beginning, with meetings taking place without a City Attorney or City Manager present, that it is important that they move forward with a search for a City Attorney.

Mr. Heady stated that if there are meetings happening that they feel the City Attorney (Wayne Coment) should be attending, then Council should ask him to be at those meetings.

Mr. Coment told Council that he intended to speak with GAI tomorrow and tell them when they have meetings, such as the one with OUC, that staff needs to be at those meetings along with Mrs. Carroll.

Mayor Kramer expressed that he did not feel that this was the appropriate time to be discussing an RFP to hire a City Attorney. The item on the agenda has nothing to do with a City Attorney or RFP.

Mrs. Turner commented that without backup material provided, this topic is very vague and anything could be considered under it.

Mr. Heady stated that he does not have a problem with discussing anything that has to do with City business. He said to nitpick and say that he neglected to put "Finance Director" as opposed to Charter Officers is ridiculous. He understands the point made by the Mayor and felt that it was right on target. They started today's meeting by not allowing some of his items on the agenda and then further into the meeting they say they want to add this item. He does not have a problem adding a discussion for a Request for Proposal on finding a City Attorney. He never has a problem discussing items that are important to the City. But under discussion for a proposal for finding a City Attorney, he knows that he is personally capable of only doing so many things. He said that right now they have so many items that have stretched him to his limits. He said between the water and

electric, the new City Manager coming on, looking at budget hearings, etc., he just doesn't know if this is the right time to try to replace the Acting City Attorney, unless Mr. Coment is going to make an announcement that he is leaving. He was happy for the discussion, but opposed to adding more to his plate at this time.

Mayor Kramer did not see how the public would be properly notified that they would be discussing an RFP for a new City Attorney. He does not see why he should allow the motion to go forward.

Mrs. Carroll told Mayor Kramer if he is choosing to take this item off when this is a continuation of discussions, consideration of a Charter Officer position, which has been discussed by this Council at least twice, then that is the Mayor's decision and she will bring this forward at their next meeting. It will not be discussed under individual Councilmatters because a vote cannot take place.

Mr. Heady said in the past there have been votes taken under items for City Councilmembers.

Mr. Coment reminded the Mayor that there was a motion on the table that has been seconded.

Mr. Fletcher called the question.

Mrs. Carroll repeated her motion and it failed 3-2 with Mr. Heady voting no, Mr. Fletcher no and Mayor Kramer no.

B. New Business

1. City Manager Objectives – Requested by Vice Mayor Turner

Mrs. Turner requested that Council assemble some objectives for Mr. O'Connor and give them to the Clerk so that Council could discuss them at their next meeting. She understands that Mr. O'Connor will begin working with the City on July 25th.

2. Monthly Financial Report – Requested by Vice Mayor Turner

Mrs. Turner thanked the Finance Department for providing Council with the monthly financial report without having to ask for it. She asked that the April monthly financial report, as well as the quarterly report, be provided to the Finance Commission. The citizens need to know the financial status of the City. They are now seven months into their fiscal year and the General Fund has an operating deficit of \$726,000; the Electric Fund has a deficit of \$1.8 million dollars or 148% below the budget. However, they are continuing to lower their electrical rates. She would love to offer their ratepayers the best rate possible, but when they have a deficit like what they have in the Electric Fund, she did not think that it was a wise thing to be doing.

Mr. Steve Maillet, Finance Director, commented that he sent out the April statements in May and then next week he will be sending the May statements out. At the time that he sent the April statements out, he also emailed the Finance Commission and the Utilities Commission those same statements. He was not sure why the Finance Commission did not receive them. He said as far as the General Fund goes, some of the deficit has to do with the extra paycheck (explained in the backup material) and there are some additional expenditures in the General Fund this year that may not be covered by other revenue. He thought that they would be looking at between \$500,000 and a \$600,000 deficit in the General Fund.

Mr. John Lee, Customer Service Manager, reported that when they started out the year, they had approximately seventeen days of working capital. They did not have many major capital projects on the line and there were not any scheduled outages of the large units. Unfortunately, when you talk about large units, you are talking about Stanton 1, Stanton II and St. Lucie and every two years they have a two month scheduled outage. The early part of this year Stanton 1 and Stanton II, as well as St. Lucie had unplanned outages. This means that the City has to pay the base cost for those units and they have to go out in the market to buy power to supplement it. They are looking at the trend and have some calls into OUC to see what they are looking for in the summer. He said obviously when you are accumulating cash, you want to give it back to your customers and you give out more than you collect so it has to be negative. But, when that negative starts to build as fast as it appears to be growing now, what they have to do is see whether the first four months of this year are abnormal or is that what they are going to be looking at going forward. They are prepared to come back to Council in July with adjustments in their rates to deal with this.

Mrs. Turner continued by saying that as early as January there have been comments made under the Solid Waste section of the report that say they (City departments) are looking at budget shortfalls and that the Solid Waste Manager is reviewing operations to find more ways to cut cost and not service. Then looking at the report, it shows that they are 60% below in Solid Waste and she wanted to know what measures have been taken over the past six months to remedy this.

Mr. Maillet reported that Mr. Falls has been looking at some of the operations.

Mr. Falls commented that he has been looking at eliminating one of their residential routes, which would be a net reduction of some staff members, as well as equipment reduction.

Mrs. Carroll asked if he would institute the change immediately or in the new year.

Mr. Falls said that he needed to get with his staff and review this.

Mrs. Turner wondered how big a loss they needed to take before some action is initiated. They are already \$158,000 in the hole and have been saying the same thing for over five months.

Mr. Maillet explained that the difference is between the expected surplus of the year. They are still running in the black for the year, so Solid Waste will still end the year with a surplus.

Mrs. Carroll was concerned that the recession has been going on for three years now and she still sees in the monthly report that the Electric system and the Marina are down due to the recession. She said that this budget was built in a recession time period. She wanted to make sure that the budget is being built on the fact that they continue going through a recession.

3. Consideration of FPL offer – Requested by Councilmember Heady

Mr. Heady mentioned that these items were tabled and moved forward from the last meeting. However a consultant has been hired so they do not need to discuss this item.

4. Request for staff presentation on any errors in any electric utility presentation to City Council by an individual or group – Requested by Councilmember Heady

Mr. Heady commented that there has been a new record set under the Mayor's leadership in terms of time. What he means is that they have opened up and have public discussions. He thanked the Mayor for allowing this open discussion. They heard a presentation by a member of their Finance Commission this morning and then had a citizen activist give them some different opinions. He feels these things are very valuable because they have different information in front of them and as Councilmembers they can make their own decisions as to who they are going to believe. In the electric utility, he remembers for many months and prior to the four members on Council now getting elected, they had presentations from a couple of citizen activists with respect to the electric utilities. He has asked before that staff take a look at these presentations and give Council some counterpoints and tell Council their side of the story. This would allow Council to decide who they want to believe and which documents that they think are correct. He will continue to ask for this. This is information that the Council and the public needs to hear.

Mrs. Carroll asked Mr. Heady who did he want from staff to prepare this document.

Mr. Heady read his memo and said that he would like to see the electric staff put together a counterpoint. He knows that the City Manager is in charge of staff. The City Manager has heard his request and if there are errors or omissions in the reports that have been given to Council and the public, he wanted to have staff present to them what is wrong in those presentations. Otherwise, he is going to have to take the presentations that were given to him and say that they are correct and he will use those presentations in his decisions. However, if staff has other things that they think should be considered, then he would like to see the presentations.

Mayor Kramer knows that there have been several presentations made. He asked Mr. Heady if he was looking at a particular one.

Mr. Lee told Mr. Heady that this is an interesting question. He has seen Mr. Heran and Dr. Faherty's presentations including being in the room when they presented their documents to FPL. In his opinion they have a mixture of facts and assumption. The problem with attacking or picking on a presentation is that he agrees with them on the facts, but has problems with the assumptions.

Mr. Heady told Mr. Lee if there is something in the assumption category that he disagrees with, then he would like Mr. Lee to give them that. Mr. Lee explained that he could not do that because their assumptions are not identified as assumptions in fact.

Mr. Heady brought up the entitlements that they have. He said that he is hearing a lot of different things. He understands the concerns of the ratepayers in Indian River Shores and the areas outside the City where they say that this Council sets the rates, but they have no say in the City election. If FPL is to present them with a solid offer, he wants this Council to understand all of these different points. They should have these counter points to look at and they don't have them. He knows that some people discount Mr. Heran and Dr. Faherty's presentations as not being accurate. He does not discount anyone's presentation as not being accurate until he has the facts in front of him.

Mr. Lee commented that one thing in the LOI that he found interesting was that FPL was very careful in setting aside some very specific liabilities that the City has to address before moving forward. He said that in their (FPL's) due diligence up to date, they have identified some areas that they cannot address, but the City will have to. This is the reason that Council hired GAI.

5. Discussion of City Manager position – Requested by Councilmember Heady

Mr. Heady said that this item has been settled.

6. Charter Officers, existing conditions of employment – Requested by Councilmember Heady

Mr. Heady reported that Council voted 4-1 to put some things into the City Manager's contract that the other Charter Officers were not given.

7. Discussion of Response from advisory commissions – Requested by Councilmember Heady

Mr. Heady reported that this item was put on the agenda prior to the presentation given to the Council today from Mr. Winger who sits on the Finance Commission. He agreed with Mr. Fletcher that it was one of the most comprehensive reports he has ever seen and he agrees that it is a good and meaningful report. If everything is accurate in the report

remains to be seen. He received a response back from the Finance Commission which has ended his concerns in this matter.

Mrs. Carroll commented that many of these reports have things built into them and the numbers are not based in stone.

Mr. Heady agreed that they do need to find out the correct numbers in the reports brought up today by both Mr. Winger and Mr. Heran where they showed their numbers as being different.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Jay Kramer's Matters

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

Mayor Kramer reported that he attended National Day of Prayer, Two Dare Graduations, he talked to some Beachland Elementary School students about government, he spoke in front of the Treasure Coast Builders Association, he attended the Memorial Day Service, and the Tropical Night Luau for Youth Guidance.

B. Vice Mayor Pilar Turner's Matters

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

Mrs. Turner complimented staff on a wonderful Memorial Day Ceremony. She also attended the Youth Guidance Luau and encouraged the public to vote in the "This Place Matters" for the Heritage Center.

C. Councilmember Tracy Carroll's Matters

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

Mrs. Carroll reported that she attended a Tourism Development Council meeting. She went over some of the interesting things that the Chamber of Commerce has planned for this year and that the Cultural Council is working on some things of cultural interest for the City.

Mrs. Carroll also attended the Youth Guidance Luau and a Rotary International Convention that was held in New Orleans.

D. Councilmember Brian Heady's Matters

- 1. Correspondence**

2. **Committee Reports**
3. **Comments**

Mr. Heady mentioned that Mrs. Carroll talked about the bed tax and where tax dollars go to. He said for some time now, he has been trying to find out information about that and was told to get the information from the County. He went to the County, but was not successful in finding out the total tax dollars taken in from hotels located in the City. If this number is available, then he would appreciate it. He didn't want to add more work for Mr. Falls, but if someone knows where he can find those dollar amounts, he would be happy to do the leg work.

Mrs. Carroll said that she has the cumulative dollars, but she cannot break them down just from the City.

Mr. Heady mentioned that in the beginning of the meeting they spent a lot of time discussing whether or not they could add some things to the agenda and when adding something to the agenda there has to be a unanimous vote. He said that one of the things that he wanted to add was the conversation on thru streets, which happened anyway. The other item that he wanted to talk about was scanned items. He knows that the City Clerk sent out an item with a sticker on it pointing out where the scanned item for this particular document could be found, which was on the "O" drive. He thinks that is something that this Council might want to consider looking at. He would leave it up to the City Clerk on what items that she feels should be scanned and put on the computer.

Mrs. Carroll asked Mrs. Vock if there was a scanner available for these documents that does not require much employee time.

Mrs. Vock said that there is a scanner that they use. She also informed them that at budget time she would be asking them to start looking at going with a paperless agenda.

Mr. Heady brought up the lead issue. He said that in his discussions with Mr. Menger, the question he has asked is where did the lead come from. Did the lead come from airplanes or automobiles that drove for so many years prior to the lead and fuel regulations. He would agree with all of these things and could not convince Mr. Menger that his Airport budget should pay for a lead test. He said for \$1,000 this could be done. The issue that he keeps hearing is that there is a potential hazard to their children who play on the ballfields. There was one citizen who offered a matching grant of \$1,000 to do the lead test. It seems to him that for the amount of money it would be worth spending for a piece of mind. If the test comes back "bad" and these people are right then the health hazard to children would immediately justify this cost.

Mrs. Turner said her only issue was that for these people no amount of lead is acceptable. She said that they have stated it on many occasions. If they would be willing to accept the lead standards that EPA considers acceptable, it would be okay, but these people will not accept those standards.

Mrs. Carroll stated that soil has lead. She then asked Mr. Heady if he was in attendance at the January Airport Advisory Commission meeting. Mr. Heady said that any meeting that he does not personally attend he views at home or watches the replay on channel 13. Mrs. Carroll reported at that meeting there were presentations that the Health Department has no data that a child or an adult has lead poisoning in Indian River County. There were also discussions from the Recreation Department where testing was being asked for at one of the ballfields in the City and they were told that the soil at that ballfield is routinely scraped and taken away and repacked with new dirt. Therefore, soil testing at that field is irrelevant.

Mr. Heady explained that you wouldn't test the soil where you know that new dirt has been put down. He asked Council to let him get back with these people and ask them if the EPA level would be acceptable. If they say zero tolerance is acceptable, then they know the answer will be that nothing is acceptable to them. If that is the case, then they don't need to waste any more time on this.

Mr. Heady commented that coming up in August is a time for anyone that wants to throw their hat in the ring and run for City Council is welcome to do that. He knows that in the past the Council (in this case if he decides to run) has the advantage of being at the dais and saying whatever it is that they want to say. It gives them a bit of an advantage. He thinks that the citizens of this community should know more about the candidates and what they have to say or think about what is going on in the City. They have an opportunity to give any candidate that runs for this seat an opportunity for the citizens in this community to know exactly where they stand. There are a couple of ways of doing this and one way is to have a meeting to discuss different issues and this meeting would be televised and replayed. Another way would be from the end of August (September and October) under citizen's input, to make sure that the candidates have an opportunity to speak. This is a great opportunity to use a television channel that they already have and provide an educational experience for the voters.

Mr. Heady's last item was the document that the City Attorney had sent out with some changes to Sports Village. He said if they don't take some action at this meeting, it will require them to come back and have a Special Call meeting, which he thinks is a waste of taxdollars and he sees no reason to do that. He requested to have a vote on whether or not they agree to these changes. He made a motion to approve the changes and allow Sports Village to move forward.

Mrs. Carroll reminded Mr. Heady that he was the sole vote that took this item off of the agenda. She asked him if that was correct.

Mr. Heady told Mrs. Carroll that what is correct is that she was the person that refused to allow simple things to be added to the agenda. He said by doing this it would eliminate the need for a Special Call meeting.

Mr. Fletcher reminded the Mayor that Council took a vote that this item would be put on their next agenda.

E. Councilmember Craig Fletcher's Matters

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

Mr. Fletcher reported that he would be attending an MPO meeting tomorrow morning.

Mrs. Carroll asked him if they would be discussing the Twin Pairs.

Mr. Fletcher did not see it on the agenda.

11. ADJOURNMENT

Mr. Fletcher made a motion to adjourn today's meeting at 4:39 p.m. The motion was seconded the motion and it passed unanimously.

/tv



City Council Agenda Item Meeting of June 7, 2011

TO: Mayor Jay Kramer
Vice Mayor Pilar Turner
Councilmember Brian Heady
Councilmember Craig Fletcher
Councilmember Tracy Carroll

FROM: John Lee. – Acting Interim City Manager *JTL - 5/31/2011*

DATE: May 31, 2011

SUBJECT: Central Beach Speed Limit Reduction

REQUESTED BY: Assistant City Engineer

The following is requested as it relates to the above-referenced agenda item:

Request Council review and approval based on the attached supporting documentation.

Request Council review and possible action.

No action required. (Information only)



DEPARTMENTAL CORRESPONDENCE

TO: Monte K. Falls, Interim City Manager
DEPT: City Manager

FROM: William B. Messersmith, PE, Assistant City Engineer
DEPT: Public Works

DATE: May 25, 2011

RE: **Central Beach Speed Limit Reduction**

WBM
5/25/2011

Recommendation:

- Place this item on the City Council's Agenda for June 7, 2011;
- Reduce the speed limit in the Central Beach area from 30 mph to 25 mph.



Funding:

Cost for implementation is estimated at less than \$2,300 and includes twenty-three (23) signs at approximately \$100 per sign to post new speed limit. Salvage value for the existing speed limit signs is approximately \$900 (18 signs at \$50 per sign). Net cost is less than \$1,400. The project will be funded from the Public Works Traffic Division operating budget.

Background:

The speed limit in the Central Beach neighborhood is currently 30 mph. This is the posted speed limit on Mockingbird Drive, Azalea Lane, Camelia Lane, Dahlia Lane, Flamevine Lane, Gayfeather Lane, Cardinal Drive and Iris Lane and is the default (un-posted) speed limit on the remainder of the neighborhood streets – Bougainvillea Lane, Gardenia Lane, Hibiscus Lane, and Honeysuckle Lane (see attached map).

Since 2005, in response to neighborhood concerns about traffic and pedestrian safety, we have conducted several speed and volume studies in the subject area. Those studies showed the 85th percentile speed varied from 28mph to 33 mph, consistent with the speed limit of 30 mph. However, we still receive complaints about speeding and traffic.

Currently, Florida Statutes, Chapter 316.183 establishes the maximum residential speed limit in municipalities at 30 mph unless otherwise posted, but gives the local

jurisdiction the authority to reduce that speed limit to 25 or 20 mph if “an investigation determines that such a limit is reasonable”. Recent studies which have been previously presented to Council support a lower speed limit based on the following information.

- This neighborhood has a high volume of pedestrian traffic;
- Speed plays a major role in the pedestrian fatality rate;
- At 20 mph 5% of vehicular/pedestrian crashes result in fatalities;
- At 30 mph 50% of vehicular/pedestrian crashes result in fatalities;
- At 40 mph 80% of vehicular/pedestrian crashes result in fatalities;
- Florida’s fatality rate of 3 pedestrians per 100,000 population is twice the national average;
- The proposed request is consistent with the Vision Plan;
- Ticketable offenses are generally considered those where the measured speed is at least 5 mph over the posted speed limit.

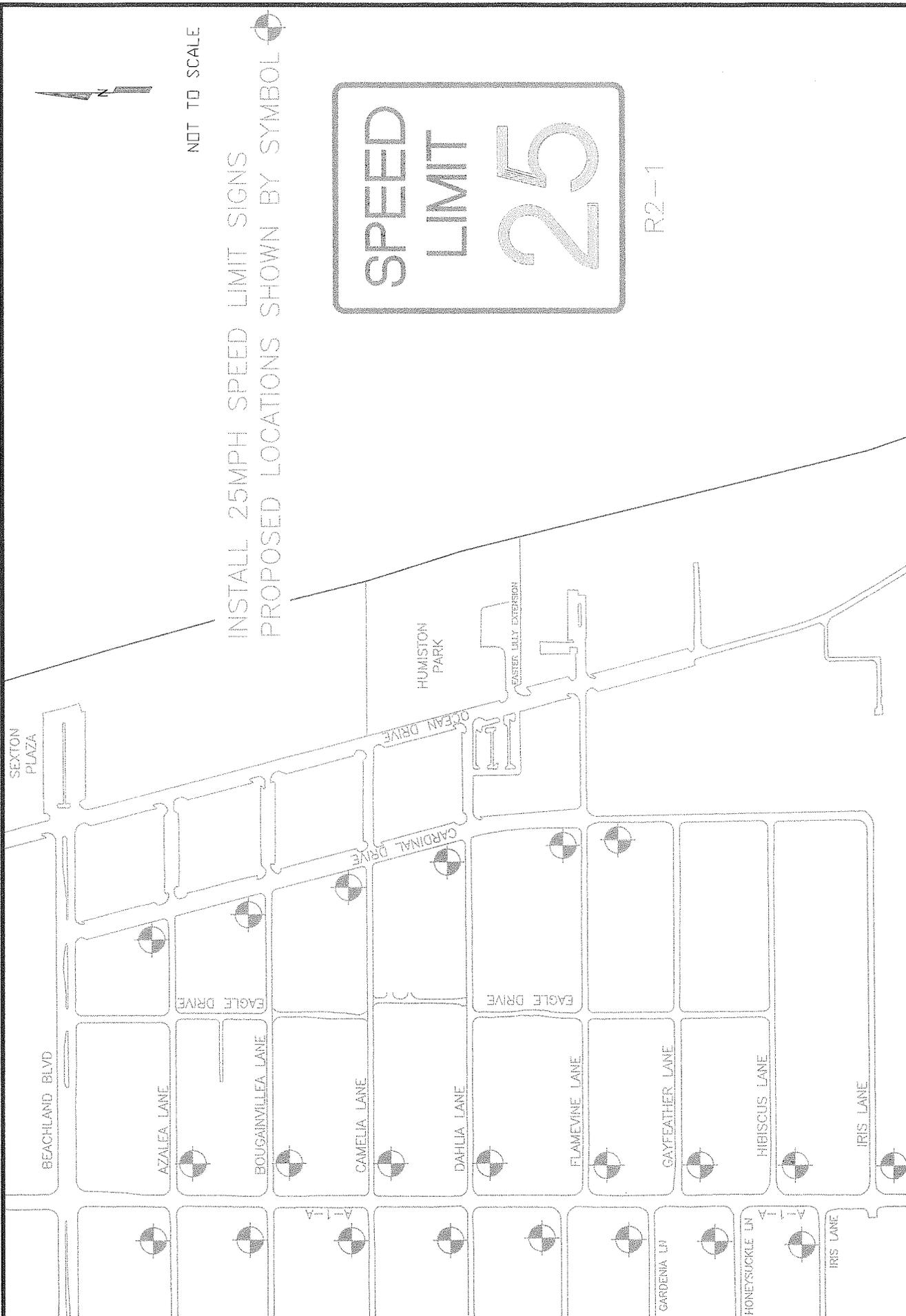
In April 2011 we conducted a poll of the neighborhood property owners and residents. The results of the poll (attached) show a majority of the respondents (66%, 190 in favor out of 289 total respondents) is in favor of the speed limit reduction from 30 to 25 mph.

Based on this information we recommend that the speed limit be reduced from 30 mph to 25 mph as shown on the attached map.

Please feel free to contact us at 978-4870 if you have any questions.

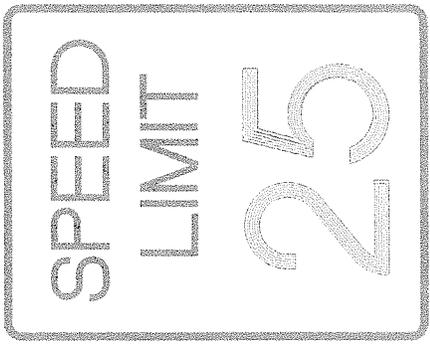
Attachments

WBM/ntn



NOT TO SCALE

INSTALL 25MPH SPEED LIMIT SIGNS
 PROPOSED LOCATIONS SHOWN BY SYMBOL



R2-1

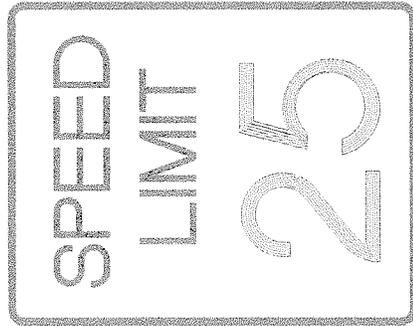


CITY OF VERO BEACH
 DEPARTMENT OF PUBLIC WORKS
 SURVEY DIVISION

INSTALL 23- 25 MPH SPEED LIMIT SIGNS
 SOUTH CENTRAL BEACH
 SOUTH OF BEACHLAND/ EAST & WEST OF A-1-A

DRAWN BY: BMM	DATE: 5/24/11
PAGE 1 OF 2	

INSTALL 25MPH SPEED LIMIT SIGNS
PROPOSED LOCATIONS SHOWN BY SYMBOL



R2-1



MOCKINGBIRD DRIVE

ACACIA ROAD

BEACHLAND BLVD

AZALEA LANE

BOUGAINVILLEA LANE

CAMELIA LANE

A-1-A

A-1-A

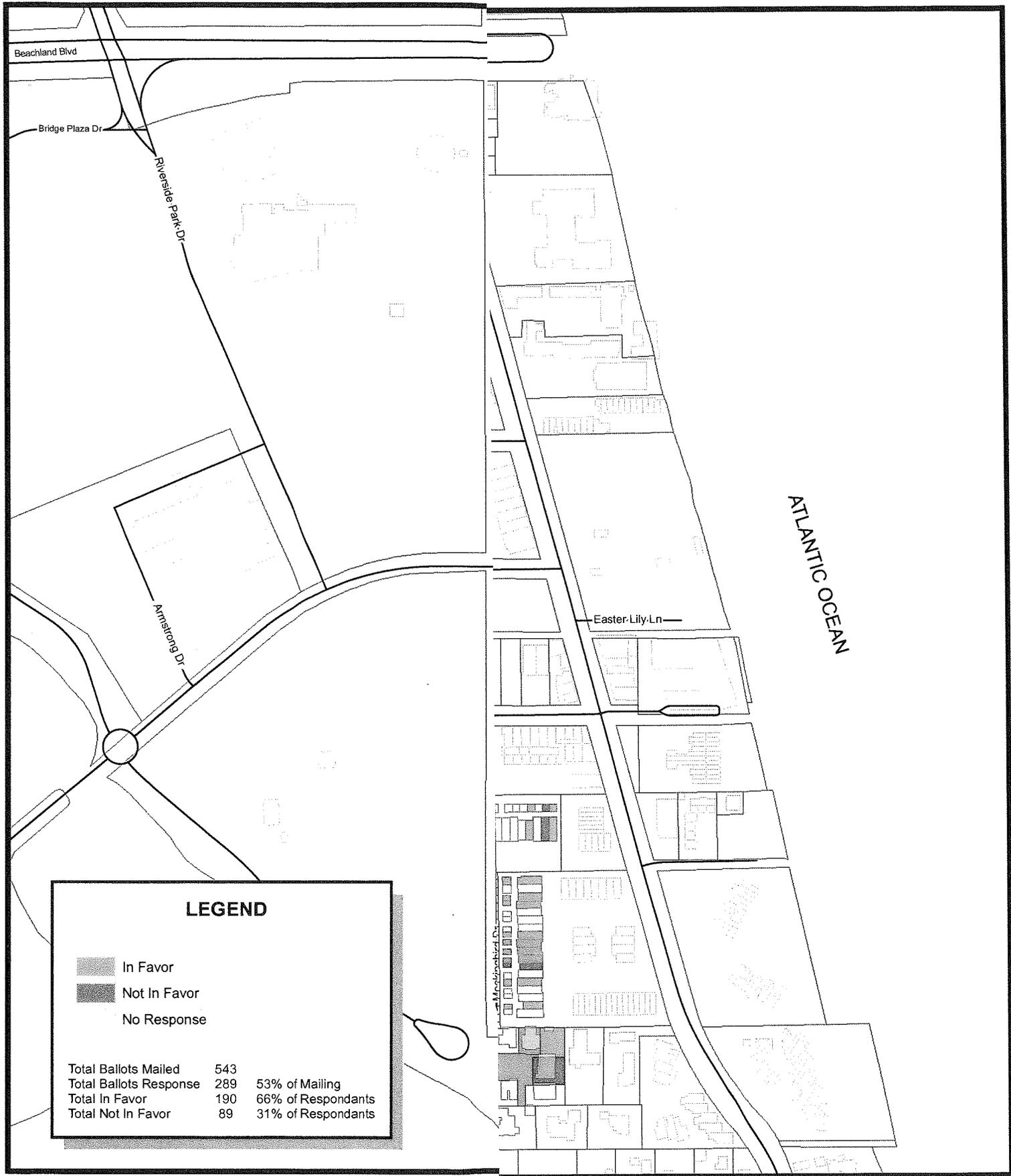
CITY OF VERO BEACH
DEPARTMENT OF PUBLIC WORKS
SURVEY DIVISION



INSTALL 23- 25 MPH SPEED LIMIT SIGNS
SOUTH CENTRAL BEACH
SOUTH OF BEACHLAND/ EAST & WEST OF A-1-A

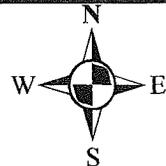
DRAWN BY: BMM

DATE:
5/24/11



Created by Terry Bishop, GISP
 City of Vero Beach
 Department of Public Works / GIS Division
 May 25, 2011

This map was prepared in response to a public records request and was produced solely for a specific project of the City of Vero Beach. The City of Vero Beach makes no responsibility for the use of this material by agencies or individuals other than the user. This material is strictly at the risk of the user.



2D-4)



City Council Agenda Item Meeting of June 7, 2011

TO: Mayor Jay Kramer
Vice Mayor Pilar Turner
Councilmember Brian Heady
Councilmember Craig Fletcher
Councilmember Tracy Carroll

FROM: John Lee – Acting Interim City Manager *JTL - 6/1/2011*

DATE: June 1, 2011

SUBJECT: Utility Easement #2011-EG-0090 – McDonald's – 1925 US Highway 1

REQUESTED BY: Chief Surveyor

The following is requested as it relates to the above-referenced agenda item:

Request Council review and approval based on the attached supporting documentation.

Request Council review and possible action.

No action required. (Information only)



CITY OF VERO BEACH
AGENDA ROUTING SLIP

Date: May 31, 2011

For City Council Meeting on June 7, 2011

- Originated by:**
(Check one)
- City Council, motion adopted on: _____
 - Council Member _____
 - City Manager
 - City Attorney
 - City Clerk
 - Public Works Department

Person to Contact: David Gay, Chief Surveyor

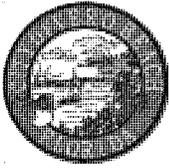
Telephone Number: 978-4870

Brief Description: Utility Easement Deed (2011-EG-0090)
McDonald's
1925 US 1

		<u>Initial/Date</u>
<u>Route for Signature to:</u> (Fill in Departments which should review this item.)	1. <u>City Attorney</u>	Dept. <u>WRG 5/31/11</u>
	2. <u>Public Works</u>	Dept. <u>WRG 5/31/11</u>
	3. <u>City Manager</u>	Dept. <u>WRG - 5/31/2011</u>
	4. _____	Dept. _____
	5. _____	Dept. _____
	6. _____	Dept. _____
	7. _____	Dept. _____
	8. _____	Dept. _____

- Return Completed
Agenda Item and
Slip to (check one):**
- City Attorney's Office
 - City Manager's Office

cc: Tammy K. Vock, City Clerk



DEPARTMENTAL CORRESPONDENCE

TO: Monte K. Falls, Interim City Manager

DEPT: City Manager

FROM: David R. Gay, PSM, Chief Surveyor *DRG*

DEPT: Public Works

DATE: May 31, 2011

RE: **Utility Easement #2011-EG-0090**
McDonald's
1925 US Highway 1

Recommendation:

- Place this item on the City Council's June 7, 2011 agenda;
- Approve and accept conveyance of the Deed of Easement over portions of Lots 4 and 5, Fanithia Place Subdivision which will be used for the placement of City electric facilities.

Funding:

There is no funding required for this item.

Background:

At the May 17, 2011 City Council meeting approval was given for the Release of Easement #2011-RE-0384 for easements on McDonald's property which were no longer required.

Attached to that item was a utility easement which McDonald's had proposed to grant the City over the area in which the new electric facilities were to be constructed as part of the McDonald's approved site plan. Soon after approval was given to accept the new utility easement I realized that the existing power pole that would feed the new facilities was not located in any of the previously granted easements. Though they could be considered to have an implied easement over the power pole and lines, it would be better to include this area in the new easement. I then discussed this with our City Attorney's office and representatives of McDonald's who all agreed to grant a new utility easement to replace the one City Council accepted at the May 17, 2011 meeting.

To accomplish this task we have not recorded the originally accepted easement, we sent McDonald's a revised easement document that included the entire easement needed by the City, received the revised executed easement document back from McDonald's corporate executives and have prepared it for acceptance at the June 7, 2011 City Council meeting. Please note that McDonald's also requested language be included in the new deed of easement in which all attempts to perform any future maintenance will be made as to not impact business and will be done during non-peak hours. We have agreed to their request.

We have attached the revised easement for City Council approval.

Cc: Randall McCamish, Director, T&D

DRG/jb

Prepared by and return to:
Office of the City Attorney
P.O. Box 1389
Vero Beach, FL 32961-1389

UTILITY EASEMENT DEED
(2011-EG-0090)

THIS INDENTURE made and entered into this 26 day of May 2011, by and between McDONALD'S CORPORATION, a foreign profit corporation (the "Grantor"), whose mailing address is One McDonald's Plaza, Oak Brook, IL 60523 and the CITY OF VERO BEACH, a Florida municipal corporation (the "Grantee"), whose mailing address is P.O. Box 1389, Vero Beach, FL 32961-1389:

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and their respective heirs, legal representatives, successors and assigns.)

WITNESSETH:

That Grantor is the owner in fee simple of that certain real property (the "Property") lying, situate and being in Indian River County, Florida and more particularly described as

Property conveyed by Warranty Deed as recorded in OR Book 327, Page 197 of the Public Records of Indian River County, Florida.

That Grantor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants to the Grantee, its successor and assigns, a public utility easement, which easement is more particularly described in Exhibit "A" (the "Easement Premises"), attached hereto and incorporated herein by reference, and which easement shall run with and be a burden upon the Property.

Grantor hereby reserves for itself, its successors, and assigns the right to use the Easement Premises for purposes not inconsistent with the Easements granted herein, including without limitation, the right of ingress, egress and passage by Grantor and its employees, agents, customers, and invitees, over, across, and through the Easement Premises.

Grantor further grants to the Grantee, its agents, employees, contractors, and assigns, a general ingress/egress easement over and across its driveways, parking, common and open areas of the Property for the purpose of access to, and/or maintenance of, any of the Grantee's improvements. Grantee shall not be otherwise responsible for maintenance of the Easement Premises.

The undersigned hereby covenants and warrants that Grantor owns the said land described herein and the undersigned, as or on behalf of Grantor, has the right to grant these easements. *** Grantee understands that the Easement Premises underlie Grantor's drive-thru area which is an integral part of Grantor's restaurant operations. As such, Grantee will use best efforts to not unreasonably disrupt Grantor's drive-thru operations and will exercise any Easement rights that may impact the drive-thru operations during "non-peak" hours as directed by Grantor.**

IN WITNESS WHEREOF, the Grantor has duly authorized and caused this Indenture to be executed in its name as of the day and year first herein written.

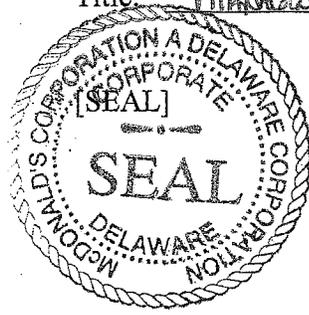
GRANTOR (McDONALD'S CORPORATION, a foreign profit corporation):

WITNESS:

Sign: [Signature]
Print: THOMAS R. PICKETT

Sign: [Signature]
Print: PADENE G. MALLOY
Title: MANAGING COUNSEL

Sign: [Signature]
Print: MICHAEL J. VANBUCKE



STATE OF ILLINOIS
COUNTY OF DUPAGE

The foregoing instrument was acknowledged before me this 24th day of MAY, 2011, by PADENE G. MALLOY, as MANAGING COUNSEL of McDonald's Corporation, as Grantor. He/She is [circle one] personally known to me OR produced [describe ID shown] as identification, and [circle one] did OR did not take an oath.

NOTARY PUBLIC
Sign: [Signature]
Print: PATRICIA HENSLE



State of Illinois at Large
My Commission No: 559109
My Commission Expires: 7.28.12

ACCEPTANCE OF CONVEYANCE

The foregoing conveyance is hereby accepted by the City of Vero Beach, Florida, as evidenced by the signature of the undersigned, who is authorized to accept this conveyance.

ATTEST:

CITY OF VERO BEACH

Tammy K. Vock
City Clerk

Jay Kramer
Mayor

[CITY SEAL]

Date: _____

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing Acceptance of Conveyance was acknowledged before me this ____ day of _____, 2011 by Jay Kramer, as Mayor, and attested by Tammy K. Vock, as City Clerk, of the City of Vero Beach, Florida. They are both known to me and did not take an oath.

NOTARY PUBLIC

Sign: _____
Print: _____
State of Florida at Large
My Commission No.: _____
My Commission Expires: _____

Approved as to form and legal sufficiency:

Wayne R. Coment
Acting City Attorney

Approved as conforming to municipal policy:

John T. Lee
Interim City Manager (Acting)

Approved as to technical requirements:

David R. Gay
Chief Surveyor

EXHIBIT "A"
PROPERTY DESCRIPTION
10' WIDE UTILITY EASEMENT #2011-EG-0090
PART OF LOTS 4 AND 5, FANITHIA PLACE SUBDIVISION
PARCEL #33-39-01-00013-0010-00001.0

Situated in the State of Florida, County of Indian River, City of Vero Beach, and being a part of Lots 4 and 5 of Fanithia Place Subdivision as Recorded in Plat Book 1, Page 96, of the Public Records of Indian River County, Florida and being more particularly bounded and described as follows:

Beginning at the Southwest corner of said Lot 5, Fanithia Place run North 00°56'59" West along the West line of Lot 5 for a distance of 41.00 feet;

Thence run North 89°03'01" East for a distance of 10.00 feet;

Thence run South 00°56'59" East for a distance of 8.44 feet:

Thence run North 52°55'46" East for a distance of 63.64 feet;

Thence run South 37°04'14" East for a distance of 10.00 feet;

Thence run South 52°55'46" West for a distance of 70.94 feet;

Thence run South 00°56'59" East for a distance of 20.18 feet to a point on the South line of said Lot 5;

Thence run South 89°03'01" West for a distance of 10.00 feet to the Point of Beginning;

Containing 1,083 square feet more or less.


David R. Gay, PSM#5973




SCALE 1"=40'

KING'S SUBDIVISION
LOT 27

FANITHIA PLACE S/D
PB 1, PG 96

LOT 5

LOT 4

LOT 1

LOT 2

MCDONALDS RESTAURANT
1925 US HWY #1
PARCEL # 33-39-01-00013-0010-00001.0

LOT 3

POINT OF BEGINNING
S.W. CORNER OF LOT 5
FANITHIA PLACE S/D

S37°04'14"E
10.00'

S00°56'59"E
8.44'

SUBJECT EASEMENT
S52°55'46"W 70.94'
N52°55'46"E 65.64'

N89°03'01"E
10.00'

N00°56'59"W
41.00'

S00°56'59"E
20.18'

S89°03'01"W
10.00'

THE WEST
74.85' OF TRACT "A"

EXISTING EASEMENT
O.R. BOOK 436, PG. 266
(WEST 10' OF TRACT "A")

FANITHIA PLACE S/D
PB 1, PG 96

1901 US HWY #1

TRACT "A"

ROGER'S SUBDIVISION

LOT 4

LOT 5

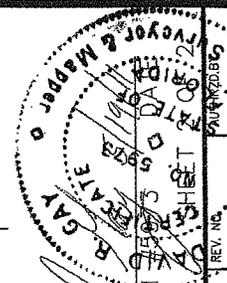
NOTE: EASEMENT WAS BASED ON A SURVEY SUBMITTED BY
FORTIN, LEAVY, SKILES, INC. DRAWING #2007-083

THIS SKETCH IS NOT A SURVEY

CITY OF VERO BEACH
DEPARTMENT OF PUBLIC WORKS
SURVEY DIVISION

SKETCH OF PROPERTY DESCRIPTION
UTILITY EASEMENT
LOTS 4 & 5, FANITHIA PLACE

EXHIBIT "A"	DAVID GAY, PSM	REV. NO.	DATE	DESCRIPTION
CITY PROJECT NO.	2011-EG-090	DATE	05/2011	ADDED ADDITIONAL AREA
DRWN BY	BMM	CHKD BY	DG	
DATE	05/2011	DESCRIPTION	DG	
REV. NO.	1	DATE	5/2011	
DRWN BY	BMM	CHKD BY	DG	
DATE	05/2011	DESCRIPTION	DG	



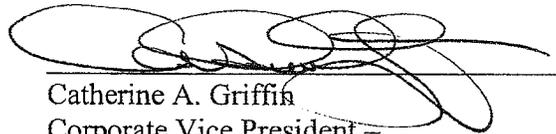
U.S. HIGHWAY #1

McDONALD'S CORPORATION
CERTIFICATE OF ASSISTANT SECRETARY

I, Catherine A. Griffin, an officer of McDonald's Corporation, a corporation organized under the laws of the State of Delaware (the "Company"), hereby certify as follows, as of the date hereof:

1. I am the duly appointed, qualified and acting Corporate Vice President – Deputy General Counsel and Assistant Secretary of the Company;
2. The Board of Directors of the Company duly adopted the McDonald's Corporation Corporate Governance Policy Regarding Authorizations, as amended, on December 4, 2008 (the "Authorization Policy"), that authorized the Chief Executive Officer to delegate signature authority for real estate documents to appropriate officers and employees of the Company, as part of the day-to-day operation of the business; and
3. Attached hereto as Exhibit A is a true, complete and correct copy of the CEO Authorization of Signature Authority, approved and executed by James A. Skinner, Vice Chairman and Chief Executive Officer of the Company, on July 6, 2010, pursuant to the Authorization Policy. The Authorization Policy and the CEO Authorization of Signature Authority have not been amended, modified, or rescinded in any way and remain in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand on this 13th day of May, 2011.



Catherine A. Griffin
Corporate Vice President –
Deputy General Counsel and Assistant Secretary

EXHIBIT A

McDonald's Corporation
CEO Authorization of Signature Authority
July 6, 2010

Pursuant to the authority granted to the Chief Executive Officer under McDonald's Corporation's (the "Company") Corporate Governance Policy Regarding Authorizations, as amended, approved by resolution of the Board of Directors on December 4, 2008, I authorize any of James Carras, Catherine A. Griffin, Denise Horne, Kathleen M. Kuta, Jerome N. Krulewitch, Michael D. Richard, Gloria Santona, Heather Smedstad, Padraic Molloy and Robert L. Switzer, all of whom are officers of the Company or McDonald's USA, LLC, and any attorney employed by the Company or McDonald's USA, LLC holding the title of Managing Counsel or Senior Counsel and practicing in the U.S. Legal Practice Group, to execute and deliver for and on behalf of the Company, contracts, leases, agreements, deeds, guarantees, mortgages, promissory notes and other documents relating to the purchase, sale, lease or transfer of the real property of the Company (including, but not limited to, beneficial interests in land trusts) and to perform all such acts and to execute such additional documents (including, but not limited to, powers of attorney or contracts and documents associated with the due diligence and investigation of a site) as may be necessary or appropriate in connection with such transactions.

I further authorize any attorney employed by the Company or McDonalds USA, LLC holding the title of Counsel and practicing in the U.S. Legal Practice Group to execute documents that are ancillary to real estate transactions but which do not convey any interest in real estate (including, but not limited to, memoranda of lease and non-disturbance agreements).

I further authorize any of the above signatories and any Assistant Secretary and any Assistant Treasurer of the Company or McDonald's USA, LLC to attest to the signatures on any real estate documents that have been executed pursuant to the foregoing authorizations (except that no individual may attest to his or her own signature).

The above authorizations supersede and replace the Authorization of Signature Authority for real estate documents, approved and executed by the undersigned as Vice Chairman and Chief Executive Officer of the Company on June 9, 2010, and all actions taken by the persons duly authorized therein and in conformity therewith are in all respects confirmed, adopted and ratified as the valid and subsisting acts of the Company, having full force and effect from and after the dates thereof.

2D-5)



City Council Agenda Item Meeting of June 7, 2011

TO: Mayor Jay Kramer
Vice Mayor Pilar Turner
Councilmember Brian Heady
Councilmember Craig Fletcher
Councilmember Tracy Carroll

FROM: John Lee - Acting Interim City Manager JTL 6/1/2011

DATE: June 1, 2011

SUBJECT: Agreement between the City of Vero Beach Recreation Department and the Indian River County School District

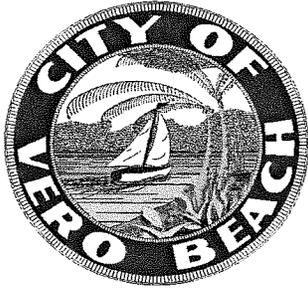
REQUESTED BY: Recreation Director

The following is requested as it relates to the above-referenced agenda item:

Request Council review and approval based on the attached supporting documentation.

Request Council review and possible action.

No action required. (Information only)



CITY OF VERO BEACH
AGENDA ROUTING SLIP

Date: 6/01/11

For City Council Meeting on June 7, 2011

Originated by:
(Check one)

- City Council, motion adopted on: _____
- Council Member _____
- City Manager
- City Attorney
- City Clerk
- Recreation** _____ Department

Person to Contact: Rob Slezak
Telephone Number: 567-2144

Brief Description: Agreement for Exchange of Use of Facilities and Equipment

		<u>Initial/Date</u>	
<u>Route for Signature to:</u> (Fill in Departments which should review this item.)	1.	<u>City Attorney</u> Dept.	<u>WRC 6/1/11</u>
	2.	Recreation Dept.	_____
	3.	_____ Dept.	_____
	4.	_____ Dept.	_____
	5.	_____ Dept.	_____
	6.	_____ Dept.	_____
	7.	_____ Dept.	_____
	8.	<u>City Manager</u> Dept.	<u>SLC 6/1/2011</u>

Return Completed Agenda Item and Slip to (check one):

- City Attorney's Office
- City Manager's Office

cc: Tammy K. Vock, City Clerk

Memo

To: Monte Falls, Interim City Manager
From: Rob Slezak, Recreation Director
CC: Wayne Coment, Acting City Attorney
Date: 6/1/2011
Re: Agreement between the City of Vero Beach Recreation Department and the Indian River County School District

Attached is the yearly agreement for exchange of use of facilities and equipment between the City of Vero Beach Recreation Department and the Indian River County School District. The current agreement will expire June 15, 2011 and we need to extend the contract until June 15, 2012.

The contents of the agreement have benefited both the City and the School District in many ways, the most important being cost savings. This is a vital partnership for the children of our community. Please consider renewal.

Thank you.

AGREEMENT FOR EXCHANGE OF USE OF FACILITIES AND EQUIPMENT

This Agreement for Exchange of Use of Facilities and Equipment (hereinafter "Agreement"), made the date last written below, by and between the **CITY OF VERO BEACH, FLORIDA**, a Florida municipal corporation (hereinafter "City"), whose address is 1053 20th Place, Vero Beach, Florida 32960, and the **SCHOOL DISTRICT OF INDIAN RIVER COUNTY, FLORIDA**, a constitutional subdivision of the State of Florida (hereinafter "District"), whose address is 1990 25th Street, Vero Beach, Florida 32960.

WITNESSETH:

WHEREAS, City, on behalf of the City of Vero Beach Recreation Department (hereinafter "Recreation Department"), and District desire to enter into an agreement for each party to provide to the other the use of particular facilities and equipment and to pay related costs, expenses or fees, for certain recreational or school activities and transportation needs; and

WHEREAS, the City and the District find that such an arrangement as set out herein is mutually beneficial;

THEREFORE, in consideration of the premises and mutual agreements, covenants, and understandings herein contained, together with other good and valuable consideration as provided for herein, the parties agree as follows:

1. Use of Facilities & Equipment Provided by City to District

City shall allow the use by and, except as otherwise provided, shall cover the costs for District to use the following:

- A. The Leisure Square swimming pool from mid-August through mid-November for use by the Vero Beach High School Swim Team for its swimming practices and swimming meets between the hours of 8:00 a.m. and 7:00 p.m.
- B. The Riverside Tennis Complex from January through mid-March for use by the Vero Beach High School Tennis Club for its practices and matches between the hours of 8:00 a.m. and 7:00 p.m.
- C. Bleachers and grandstands during the school year for use by District for school special events and ceremonies between the hours of 8:00 a.m. and 10:00 p.m. City will transport bleachers to and from the school.
- D. Leisure Square for one day during the school year for each of the District's public schools for use for either DARE graduations or Skip Days between the hours of 8:00 a.m. and 3:00 p.m.
- E. If and as availability allows, the District will be permitted the use of City rental facilities during the school year at no rental charge. The cleaning of any such facility after its use will be paid for by District.

- F. District will be responsible to repair any damage to City facilities and equipment used by the District, other than normal wear and tear, that is incurred as a result of such use.

2. Use of Facilities & Equipment Provided by District to City

District shall allow the use by and, except as otherwise provided, shall cover the costs for City to use the following:

- A. Six (6) school buses from late May through mid-August for use by the Vero Beach Recreation Department to transport youths participating in City Recreation Department camps between the hours of 7:30 a.m. and 5:30 p.m. Use of the buses shall be for transportation from designated pick-up locations to camp activity sites in Florida for City Recreation Department-sponsored programs and the return from City Recreation-sponsored programs to the designated pick-up locations. The District shall cover the fuel costs for the use of such buses, however, the combined mileage of the buses so used shall not exceed 8,000 miles.
- B. One-time use of one school bus for one day to Orlando and back for the annual City Recreation Department-sponsored Jr. Staff trip. District to absorb cost of fuel.
- C. It shall be the responsibility of District to inspect all buses prior to service.
- D. It shall be the responsibility of City to provide to the District contact person a dated Mileage Checklist and Log Sheet Report showing the beginning, ending and total mileage traveled by each bus.
- E. City shall, at its own expense, obtain all necessary permits and licenses and pay all fees and taxes required to comply with all local ordinances, state and federal law, rules and regulations applicable to the business to be carried on under this Agreement.
- F. City shall, at its own expense, hire and use off-duty bus drivers employed by District to operate all buses used in accordance with this Agreement.
- G. If and as availability allows, as determined by the District, the City will be permitted the use of one of the District's theaters during the month of December, for drama program, for a period of four (4) days at three hundred (\$300.00) per day. The cleaning of any such facility after its use will be paid for by City.
- H. City will be responsible to repair any damage, other than normal wear and tear, to a District school bus or facility used by the Recreation Department that is incurred as a result of such use.

3. General Conditions

- A. Each party shall be responsible for providing qualified supervision of its own activities.
- B. The parties shall maintain liability insurance for their respective property, equipment, and activities. Attached hereto as Exhibit ‘A’ is a copy of a Certificate of Insurance from City. Attached hereto as Exhibit ‘B’ is a copy of a Certificate of Insurance from District. Each party shall exchange copies of renewal certificates annually.
- C. Any matters pertaining to the use of District facilities and equipment should be directed to the Director of Human Resources for the District. Any matters pertaining to the use of City facilities and equipment should be directed to the Recreation Director for the City.
- D. This Agreement shall be effective for the period June 15, 2011 through June 15, 2012. The following representatives of the parties are hereby authorized to renew this Agreement for additional one (1) year periods by mutual agreement in writing:

For City:

City Manager
P. O. Box 1389
Vero Beach, FL 32960
Tel.: 772-978-5151

For District:

Superintendent
1990 25th Street
Vero Beach, FL 32960
Tel.: 772-564-3000

- E. This Agreement and any renewal hereunder may be executed in one or more counterparts, each of which shall be deemed an original and all which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals on the date indicated below.

ATTEST:

CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

By: _____
Jay Kramer
Mayor

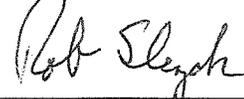
Approved as to form and legal sufficiency:


Wayne R. Coment
Acting City Attorney

Approved as conforming to municipal policy:


Monte Falls
Interim City Manager

Approved as to technical requirements:


Rob Slezak
Recreation Director

ATTEST:

SCHOOL DISTRICT OF INDIAN RIVER
COUNTY

Harry J. LaCava, Ed.D.
Superintendent and Secretary

By: _____
Matthew McCain
Board Chairman

DATE: _____

This instrument prepared in the
Office of the City Attorney
P. O. Box 1389
Vero Beach, FL 32961-1389

3-A)

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Jay Kramer and City Councilmembers
FROM: Timothy J. McGarry, AICP
DATE: May 20, 2011
SUBJECT: **Public Hearing on Adoption of Resolution Establishing Permit Fees for Pain Management Clinic Permits and Related Appeals [Update on May 9, 2011 Staff Report]**

Overview

Attached is the revised resolution for establishing a permit fee schedule for pain management clinics. The revised resolution reflects the direction to staff from City Council at the First Reading to change the submittal date for permit applications subject to no fee to be consistent with the County's date of July 18, 2011. These changes are reflected in items 1 and 2 under Section 1 of the resolution.

Recommendation

The staff recommends approval of the attached revised resolution.

TJM/tf
Attachment

RESOLUTION NO. 2011-_____

**A RESOLUTION OF THE CITY OF VERO BEACH, FLORIDA,
ESTABLISHING FEES ASSOCIATED WITH PAIN MANAGEMENT
CLINIC PERMIT APPLICATIONS AND RELATED APPEALS;
PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR
AN EFFECTIVE DATE**

WHEREAS, Indian River County Board of County Commissioners adopted an ordinance on May 17, 2011, regulating pain management clinics in unincorporated and incorporated Indian River County; and

WHEREAS, the ordinance requires the review and processing of pain management clinic applications and appeals by the County for applications within unincorporated Indian River County and by local governments for applications within their respective jurisdictions; and

WHEREAS, the costs to review and process pain management clinic applications and related appeals have been estimated by the City staff; and

WHEREAS, the City Council desires to properly assess the costs to review and process pain management clinic permits and related appeals; and

WHEREAS, the City Council desires to be consistent with the fee schedule approved by Indian River Board of County Commissioners and provide for uniformity in administration of the permit regulations county-wide; and

WHEREAS, the City staff has reviewed the County's fee schedule and finds that such schedule is consistent with the estimated costs for City staff review and processing of pain management clinic applications.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF VERO BEACH, THAT:**

Section 1.

In addition to a business tax receipt and all other applicable fees, the following fees are hereby established:

<u>Item</u>	<u>Fee</u>
1. Initial pain management clinic permit application submitted on or before July 18, 2011	No Fee
2. Pain management clinic permit application submitted after July 18, 2011	\$200.00
3. Renewal of pain management clinic permit	\$200.00
4. Appeal of pain management clinic permit denial	\$800.00
5. Appeal of pain management clinic permit suspension	\$800.00

Section 2. Conflict and Severability.

In the event any provision of this resolution conflicts with any provision of the Code or any ordinance or resolution of the City of Vero Beach on the subject matter of this resolution, the more strict provision shall apply and supersede. If any provision of this resolution is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this resolution, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 3. Effective Date.

This Resolution shall be effective upon adoption.

This Resolution was read for the first time on the _____ day of _____, 2011, and was advertised in the Press Journal on the _____ day of _____, 2011, as being scheduled for a public hearing to be held on the _____ day of _____, 2011, at the

conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

Mayor Jay Kramer	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Vice Mayor Pilar E. Turner	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Brian T. Heady	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember A. Craig Fletcher	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Tracy M. Carroll	<input type="checkbox"/> Yes	<input type="checkbox"/> No

ATTEST:

CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

Jay Kramer
Mayor

Approved as to form and legal sufficiency:

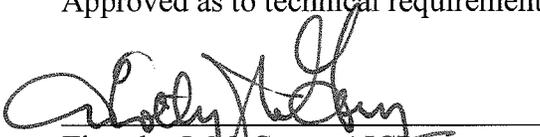
Approved as conforming to municipal policy:



Wayne Coment
Acting City Attorney

Monte K. Falls, PE
Interim City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director

3-B)

DEPARTMENTAL CORRESPONDENCE

TO: Monte K. Falls, PE
Interim City Manager

FROM: Timothy J. McGarry, AICP
Director of Planning and Development



DATE: May 9, 2011

SUBJECT: **First Reading on Proposed Ordinance to Amend Chapter 65, Article III,
Amendments to the Comprehensive Plan and Land Development
Regulations of the City Code**

Overview

The Planning and Development staff has prepared a draft ordinance to strengthen, clarify, codify and make consistent review standards for these types of amendments. The draft ordinance reflects changes requested by the Planning and Zoning Board and recommended for approval by that body at a public hearing on May 5, 2011. A staff report regarding the amendments is also attached.

Recommendation

The staff requests that the proposed ordinance be placed on the City Council's May 17, 2011, agenda for First Reading and the advertising of the adoption public hearing for June 7, 2011.

TJM/tf

Attachments

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Jay Kramer and
City Councilmembers

FROM: Timothy J. McGarry, AICP 
Director of Planning and Development

DATE: May 9, 2011

SUBJECT: **Proposed Amendments to Chapter 65, Article III, Amendments to Comprehensive Plan and Land Development Regulations of City Code [#Z11-000001-TXT]**

Overview

The draft ordinance proposes changes to existing regulations governing amendments to the comprehensive plan and land development regulations. The purpose of the recommended changes is to strengthen, clarify, codify and make consistent the standards for amendments.

Background

Recent review and discussion of the City's existing application submittal and review procedures for amending the comprehensive plan and land development regulations prompted the proposed changes outlined in the attached ordinance. In particular, the subsection that addressed standards for amendments revealed a need to revise the existing ordinance.

Proposed Amendments

The proposed revisions to the ordinance include a combination of: standards that are used by local governments to regulate land use and apply zoning regulations, and existing principles and standards that are part of the City's application to amend the comprehensive plan and land development regulations.

The proposed amendments, specifically found on pages 4, 5 and 6 of the attached ordinance, address the application submittal and review procedures and, in particular, the standards for amendments to the comprehensive plan and the land development regulations of the Code.

The more substantive proposed revisions to the attached ordinance reduce the advertising, public noticing, and posting requirements from 14 days to 10 days and add standards for review of zoning map amendments and include:

- consistency and compatibility with the comprehensive plan and land development regulations;
- protection of established neighborhoods;

- changes in conditions in the area or vicinity;
- maintenance of adopted level of service for facilities;
- natural environment protection;
- maintenance of orderly and logical development pattern;
- consistency with the public interest; and
- other matters that may be deemed appropriate.

Planning and Zoning Board Action

At its public hearing held on May 5, 2011, the Planning and Zoning Board recommended approval of the attached draft ordinance after making several revisions to the initial draft ordinance, a copy of which has been attached. The most significant revision to the initial draft ordinance was the revising of the advertising, posting, and noticing requirements in Section 65.22(h) from 14 days to 10 days, which was recommended by staff at the public hearing.

Recommendation

The Planning and Zoning Board and staff recommend approval of the draft ordinance by the City Council.

Attachments

ORDINANCE NO. 2011 – _____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING CHAPTER 65, ARTICLE III, AMENDMENTS TO COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF VERO BEACH; PROVIDING FOR ADDITIONAL STANDARDS FOR AMENDMENTS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City enacted Ordinance 2008-23 in November, 2008, amending Chapter 65, Planning and Zoning Authorities, Special Exceptions, and Amendments of the Vero Beach City Code, which established standards for review of amendments to the Comprehensive Plan and Land Development Regulations; and

WHEREAS, the Planning and Zoning Board held an advertised public hearing on this ordinance and made a recommendation to the City Council; and

WHEREAS, the City Council finds that the amendments provided for in this ordinance are necessary and are in the public interest in order to clarify, make consistent, and codify the standards for amendments to the comprehensive plan and land development regulations; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1- Amendment of Chapter 65, Article III.

Chapter 65, Article III, Amendments to Comprehensive Plan and Land Development Regulations, is hereby amended as follows:

ARTICLE III. AMENDMENTS TO COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Sec. 65.20. Purpose.

The purpose of this article is to set forth the minimum requirements for processing and considering amendments to the comprehensive plan and part III, land development regulations, of this Code. Unless specifically stated in this article, any reference to "comprehensive plan" shall mean to include the "future land use map" and any reference to "land development regulations" shall mean to include the "official zoning map."

Sec. 65.21. Authority to request amendments.

(a) *Text amendments.* Any person may file an application requesting a text amendment to the comprehensive plan or land development regulations.

(b) *Map amendments.* The city council, planning and zoning board, or planning director, collectively referred to as the "city," may file an application requesting amendments to the official zoning map and future land use map. All other persons may file an application for amendments to the official zoning map or future land use map only if the person is the owner of the subject property or the person has the property owner's written authorization.

Sec. 65.22. Application submittal and review procedures.

(a) *Application.* Where an amendment is proposed by a person other than the city, an application shall be submitted to the planning and development department on a form prescribed by the planning director and accompanied by a nonrefundable filing fee in an amount established from time to time by resolution of the city council to cover processing costs and notice requirements. For map amendments, only contiguous lots or parcels may be included under one application, except for city sponsored amendments.

(b) *Application completeness review.* The planning director shall evaluate the application for completeness within five working days or sooner of its receipt. If the application is determined to be incomplete, the planning director shall notify the applicant in writing specifying the application's deficiencies. The applicant shall thereafter correct the deficiencies and resubmit the application to the planning and development department within 30 days of the date of notification for further review, otherwise the application shall be deemed abandoned unless the planning director grants an extension of such time for good cause. If abandoned, the application shall be returned to the applicant and a copy retained by the planning and development department.

(c) *Application review procedures.* Upon determination of a complete application, the planning director shall prepare a written report based on the applicable

standards of (i) below with findings and recommendations for submittal to the planning and zoning board within 30 days or so of the date the application is determined to be complete. In preparing the written report, the planning director may request review comments from affected city departments and county agencies. Upon completion of the report, the planning director shall cause the application to be advertised and noticed pursuant to (h) below, and placed on the planning and zoning board's next available agenda for public hearing and consideration.

(d) *Planning and zoning board public hearing.* The planning and zoning board shall conduct a public hearing and make its findings and recommendations in writing to the city council based on the standards of (i) below. Subsequent to the planning and zoning board's public hearing, the planning director shall prepare for submittal to the city council a final report including the findings and recommendations of the planning and zoning board, recommendations of the planning and development department, and a draft amending ordinance approved by the city attorney.

(e) *First reading of proposed ordinance before city council.* Upon completion of the final report by the planning director and the draft amending ordinance, the city clerk shall cause the application to be placed on the city council's next available agenda for "First Reading."

(f) *First reading of ordinance before city council.* The city council shall take action as follows on the application at the "First Reading."

- (1) If the application is for a city sponsored text or map amendment to the comprehensive plan, a city sponsored text amendment to the land development regulations, or a city sponsored amendment to the official zoning map not requiring a quasi-judicial hearing, the city council shall approve the application or deny the application, with or without changes, to be scheduled for either a transmittal or adoption public hearing(s), as applicable pursuant to F.S. ch. 163.
- (2) If the application is for a text or map amendment to the comprehensive plan or a text amendment to the land development regulations sponsored by a person other than the city, the city council shall, without public input or council discussion of the facts or merits of the application, approve the application to be scheduled for either a transmittal or adoption public hearing(s), as applicable pursuant to F.S. ch. 163.
- (3) If the application is for an amendment to the official zoning map that requires a quasi-judicial hearing, the city council shall, without public input or council discussion of the facts or merits of the application, approve the application to be scheduled for public hearing(s).

(g) *City council public hearing.* The city council shall conduct a public hearing on the application. Upon conclusion of the final public hearing, the city council shall render a decision to deny, adopt, or adopt with revisions the proposed amending ordinance or transmittal resolution based upon the standards in (i) below.

(h) *Scheduling, advertising, and posting requirements for public hearings.*

(1) The scheduling, advertising, and notification requirements for public hearings on amendment applications shall comply with F.S. chs. 163 and 166 and the supplementary requirements of this article. Planning and zoning board and city council public hearings on proposed amendments shall be advertised in a local paper of general circulation at least 44 10 days prior to the public hearing.

(2) Except for city sponsored amendments to bring annexed property under the provisions of the city's land development regulations, any application proposing an amendment to the official zoning map designation for a specific property shall require posting of notice of the planning and zoning board and city council public hearings. The planning and development department shall place the notice on the property no less than 44 10 days, prior to the scheduled public hearing. The notice shall be a waterproof and fade proof sign of at least two by three feet in front surface area, which is lettered so as to be easily visible from all public rights-of-way abutting the property. A posting sign shall be placed on each perimeter of the subject property fronting public right-of-way. The specific information to be presented on the sign and the form of the sign shall be prescribed by the planning director.

(3) Except for city sponsored amendments to bring annexed property under the provisions of the city's land development regulations, any application proposing an amendment to the official zoning map designation for a specific property shall require that all owners of real property within 500 feet of the property, which is the subject of the application, be sent notice of the public hearing by regular mail no less than 44 10 days from the date of the public hearing before the planning and zoning board. The addresses of the property owners and properties shall be deemed as shown in the county property appraiser's records for purposes of said notice. The content and form of the notice shall be prescribed by the planning director. Failure of any landowner to receive such notice shall not invalidate any of the proceedings hereunder.

(i) *Standards for amendments.* The following are the standards that shall be followed in considering amendments to the comprehensive plan and the land development regulations of this Code:

- (1) The applicant proposing any amendment shall ~~have the burden for~~ justifying the amendment including specific reasons warranting the amendment.
- (2) Text amendments to the comprehensive plan shall be consistent with all the applicable requirements of F.S. ch. 163 and internally consistent with the goals, objectives, and policies of all the elements of the comprehensive plan that are not subject of the proposed amendment.
- (3) Text amendments to the land development regulations of this Code shall be consistent with the goals, objectives, and policies of all the elements of the comprehensive plan and internally consistent with the purposes, permitted uses, bulk regulations, and other criteria and standards of the land development regulations that are not subject of the proposed amendment.
- (4) Amendments to the future land use map shall be consistent with the goals, objectives, and policies of all the elements of the comprehensive plan and all applicable requirements of F.S. ch. 163.
- (5) Amendments to the official zoning map shall be consistent with the future land use map; ~~and the goals, objectives, and policies of all the elements of the comprehensive plan; the land development regulations; and zoning district standards and criteria, and all applicable requirements of F.S. ch. 163.~~ Proposed amendments shall be reviewed based on whether or not the following standards have been met:
 - a. Consistency with the land use element and all elements of the comprehensive plan, the land development regulations and zoning district standards and criteria;
 - b. Compatibility with the zoning map designations within the immediate vicinity of the proposed change;
 - c. Changed conditions to the property, the neighborhood, or the area in the vicinity in which the property is located that warrant an amendment;
 - d. Maintenance of adopted level of service on roadways, public school facilities, sanitary sewer, potable water, solid waste, drainage, and recreation;
 - e. Maintenance of an orderly and logical development pattern;
 - f. Consistency with the public interest, and is in harmony with the purpose and intent of the land development regulations; and

g. Other matters that may be deemed appropriate such as maintenance of police protection, fire protection, and emergency medical services.

(j) *Successive applications.*

(1) No application for an amendment to the comprehensive plan text or land development regulations sponsored by a person other than the city, which has been previously denied by the city, shall be accepted by the planning and development department unless the application is substantially and materially different than the denied application. This prohibition shall run for a period of one year from the date of denial of the previous amendment application.

(2) No application for an amendment to the future land use map or official zoning map to change the designation of a property(ies) sponsored by a person other than the city, which has been previously denied by the city, shall be accepted by the planning and development department for a period of two years from the date of denial of the previous amendment application.

Section 2 - Conflict and Severability.

In the event any provision of this ordinance conflicts with any provision of the Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this ordinance, the more strict provision shall apply and supersede. If any provision of this ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this ordinance, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 3 - Effective Date.

This ordinance shall become effective upon final adoption by the City Council.

This Ordinance was read for the first time on the _____ day of _____, 2011,
 and was advertised in the Indian River Press Journal on the _____ day of
 _____, 2011, as being scheduled for a public hearing to be held on the ____ day
 of _____, 2011, at the conclusion of which hearing it was moved for
 adoption by Councilmember _____, seconded by Councilmember
 _____, and adopted by the following vote:

Mayor Jay Kramer	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Vice Mayor Pilar E. Turner	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Brian T. Heady	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember A. Craig Fletcher	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Tracy M. Carroll	<input type="checkbox"/> Yes	<input type="checkbox"/> No

ATTEST:

CITY OF VERO BEACH, FLORIDA

 Tammy K. Vock
 City Clerk

 Jay Kramer
 Mayor

Approved as to form and legal sufficiency:

Approved as conforming to municipal
 policy:

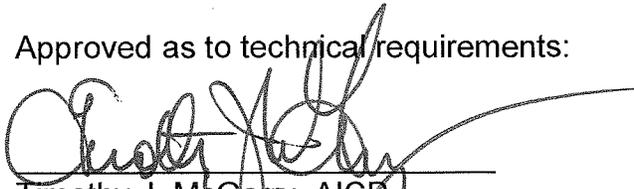


 Wayne Coment
 Acting City Attorney



 Monte K. Falls, PE
 Interim City Manager

Approved as to technical requirements:



 Timothy J. McGarry, AICP
 Planning and Development Director

CODING: Words stricken are deletions; words underlined are additions.

3-C)

DEPARTMENTAL CORRESPONDENCE

TO: Monte K. Falls, PE
Interim City Manager

FROM: Timothy J. McGarry, AICP *TJM*
Director of Planning and Development

DATE: May 6, 2011

SUBJECT: **First Reading on a Transmittal Resolution and Two Ordinances
Amending the Text of the Comprehensive Plan to be
Submitted to the Florida Department of Community Affairs (DCA)**

Overview

The attached proposed Transmittal Resolution and draft ordinances amending the text of the Comprehensive Plan are requested to be placed on the City Council's agenda for First Reading under a single agenda item. The staff sponsored text amendments to the Comprehensive Plan are as follows:

- o Amendment to Policy 1.15 of the Land Use Element to guide the rezoning of properties within the Residential Low (RL) future land use classification.
- o Amendment to Policy 1.1 of the Traffic Circulation Element and Table 9.1 of the Capital Improvements Element to revise the Level of Service standard from "D" to "D" plus 30% for the segment of SR A1A from 17th Street to the South City Limits

The staff reports for each proposed text amendment provide the background information and analyses are provided in Attachment A (Amendment to Policy 1.15) and Attachment B (Amendment to Revise Level of Service on SR A1A).

The Planning and Zoning Board recommended unanimous approval of the proposed comprehensive plan amendments at an advertised public hearing held on May 5, 2011.

Recommendation

The staff recommends that the transmittal resolution and draft ordinances be placed on the City Council's May 17, 2011, agenda for First Reading and the advertising of the transmittal hearing for the regularly scheduled City Council meeting on June 7, 2011.

TJM/tf
Attachments

RESOLUTION NO. 2011 – ___

A RESOLUTION OF THE CITY OF VERO BEACH, FLORIDA, APPROVING THE TRANSMITTAL TO THE STATE OF FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS OF PROPOSED CITY OF VERO BEACH COMPREHENSIVE PLAN TEXT AMENDMENTS TO THE LAND USE ELEMENT, TRAFFIC CIRCULATION ELEMENT AND CAPITAL IMPROVEMENTS ELEMENT; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council adopted the City of Vero Beach Comprehensive Plan on July 21, 1992; and

WHEREAS, the Planning and Zoning Board, acting as the Local Planning Agency, held a public hearing on the comprehensive plan amendment request on May 5, 2011, after due public notice; and

WHEREAS, the Planning and Zoning Board made a recommendation of approval to the City Council; and

WHEREAS, the Vero Beach City Council held a transmittal public hearing on _____, after advertising pursuant to F.S. 163.3184(15)(b)(1); and

WHEREAS, the City Council announced at the transmittal public hearing the intention to hold and advertise a final public hearing at the adoption stage of the plan amendment process.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1. Comprehensive Plan Amendments (Transmittal Phase)

The following proposed amendments, attached as Exhibit One and Exhibit Two, are approved for transmittal by the Planning and Development Director of the City of

Vero Beach, Florida, to the State of Florida Department of Community Affairs for review.

Section 2 - Conflict and Severability.

In the event any provision of this resolution conflicts with any provision of the Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this resolution, the more strict provision shall apply and supersede. If any provision of this resolution is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this resolution, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 3. Effective Date.

This Resolution shall be effective upon adoption.

This Resolution was read for the first time on the _____ day of _____, 2011, and was advertised in the Press Journal on the _____ day of _____, 2011, as being scheduled for a public hearing to be held on the _____ day of _____, 2011, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK.]

Mayor Jay Kramer

Yes

No

Vice Mayor Pilar E. Turner

Yes

No

Councilmember Brian T. Heady

Yes

No

Councilmember Craig Fletcher

Yes

No

Councilmember Tracy M. Carroll

Yes

No

ATTEST:

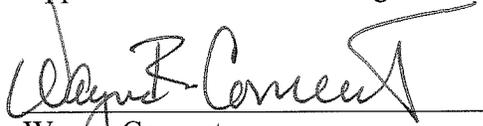
**CITY OF VERO BEACH,
FLORIDA**

Tammy K. Vock
City Clerk

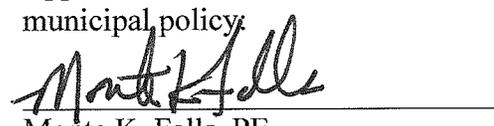
Jay Kramer
Mayor

Approved as to form and legal sufficiency:

Approved as conforming to
municipal policy:

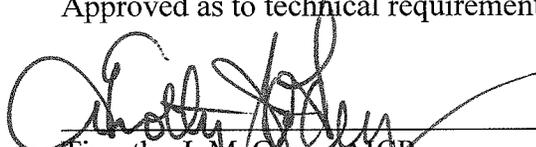


Wayne Coment
Acting City Attorney



Monte K. Falls, PE
Interim City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director



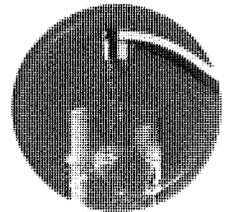
OFFICE OF THE CITY ATTORNEY

MEMORANDUM

To: Mayor Kramer and Members of the City Council
From: Wayne R. Coment, Acting City Attorney *WRC*
Subject: Lift Station and Sewer System Improvement Project, "As Built" Resolution
Date: June 1, 2011

Attached for your consideration is a resolution prepared at the request of the Water & Sewer Department. The proposed resolution establishes the final "as built" assessment amount for the benefited properties.

Attachment: Resolution



DEPARTMENTAL CORRESPONDENCE
WATER AND SEWER DEPARTMENT

To: Wayne Comment
Dept: Acting City Attorney

From: Robert J. Bolton, P.E., Director *RB*

Date: May 31, 2011

**RE: Lift Station and Sewer System Improvements Assessment Project
Ocean Towers of Vero Beach, Inc., Ocean Towers II of Vero Beach, Inc.
and Cardinal Drive Townhouses
Water and Sewer Project No. WS07007**

In accordance with Resolution No. 2009-06, an additional Resolution from the City certifying the "as-built" costs for the referenced project needs to be prepared. Please find attached a copy of the "Final Assessment Roll" along with one copy of the "Final Assessment Plat" which will be needed as attachments for said Resolution.

The preliminary project cost estimate was \$229,391.50. We are pleased to report a decreased final assessable project cost of \$135,602.66. Therefore, the reduced assessable amount is \$135,602.66 or \$1,695.03 per property owner as outlined in the attached Final Assessment Roll.

Should you have any questions, please contact me at ext. 5220.

RB/sp
Attachments

xc: Monte K. Falls, Interim City Manager, w/attachments
Javier Gonzalez, Assistant Finance Director, w/attachments
Tammy Vock, City Clerk, w/attachments
Terry Price, Finance, w/attachments

RESOLUTION NO. 2011 - _____

A RESOLUTION OF THE CITY OF VERO BEACH, FLORIDA, CERTIFYING "AS-BUILT" COSTS AND THE SPECIAL ASSESSMENT AMOUNTS IN CONNECTION WITH THE INSTALLATION OF A SEWER SYSTEM TO REPLACE AN EXISTING LIFT STATION FOR OCEAN TOWERS OF VERO BEACH, INC., OCEAN TOWERS II OF VERO BEACH, INC., AND THE CARDINAL DRIVE TOWNHOUSES; PROVIDING FOR COMPLETION DATE; DATE FOR PAYMENT WITHOUT PENALTY AND INTEREST; AND INTEREST RATE.

WHEREAS, on Tuesday, March 3, 2009, the City Council of the City of Vero Beach determined by **Resolution No. 2009-06** that the installation of a sewer system for units of Ocean Towers of Vero Beach, Inc., Ocean Towers II of Vero Beach Inc. and the Cardinal Drive Townhouses was necessary to protect the public health, safety, and welfare; and

WHEREAS, on Tuesday, March 3, 2009, by **Resolution No. 2009-07**, the City Council called for a properly-advertised public hearing to be held on April 7, 2009, at which owners of property to be assessed could appear before the Council and be heard as to the propriety and advisability of making such improvements; and

WHEREAS, on Tuesday, April 7, 2009, after such public hearing, the City Council adopted **Resolution No. 2009-14**, which confirmed the estimated special assessment cost of the project to the properties to be specially benefited in the amounts listed in the attachment to that resolution; and

WHEREAS, the project has now been completed and the construction costs finalized, with the "as-built" cost less than the estimated cost, making it necessary to adjust the estimated assessment amounts to the actual assessment amounts,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, AS FOLLOWS:

1. The City of Vero Beach certifies that the Completion Date of the project shall be the date this resolution is passed, and that the actual construction cost of the project is **\$135,602.66**, rather than the originally estimated cost of **\$229,391.50**. The City further certifies that the assessment per property owner shall be in the amount of **\$1,695.03**, instead of the originally-estimated **\$2,867.39**, and that the assessment roll as shown on Exhibit "A," attached hereto, is adopted as final.
2. If the special assessment for any particular property is paid in full within ninety (90) days after the Completion Date, there shall be no interest charged. If the special assessment is not paid in full within that time frame, then the assessment shall be paid by making forty (40) equal quarterly installments of principal plus interest on the remaining balance at the rate of **3.125%** per annum, the first payment being due ninety (90) days after the Completion Date, to which, if not paid when due, there shall be added a penalty at the rate of 1% per month of the principal not paid when due, compounded quarterly.
3. The estimated assessment roll, which has already been recorded in the public records of Indian River County, is now amended as shown on attached Exhibit "A," and, as so amended, shall stand confirmed, and continue to be, a legal, valid, and binding first lien against the property against which such assessment was made until paid.

This resolution was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted on the _____ day of _____, 2011, by the following vote:

Mayor Jay Kramer	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Vice Mayor Pilar E. Turner	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Tracy M. Carroll	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember A. Craig Fletcher	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Brian T. Heady	<input type="checkbox"/> Yes	<input type="checkbox"/> No

IN WITNESS WHEREOF, the City has caused these presents to be executed in its name by its Mayor, and attested to by its City Clerk, with the corporate seal duly authorized to be affixed hereunto.

Signed, sealed, and delivered
in the presence of:

**CITY OF VERO BEACH,
FLORIDA**

Sign: _____
Print: _____

Sign: _____
Print: Jay Kramer
Title: Mayor

Sign: _____
Print: _____

Sign: _____
Print: Tammy K. Vock
Title: City Clerk

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

I HEREBY CERTIFY, that on the _____ day of _____, 2011, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Jay Kramer and Tammy K. Vock, known to me to be the Mayor and City Clerk, respectively, of the City of Vero Beach, a municipal corporation under the laws of the State of Florida. They are personally known to me, and did not take an oath.

NOTARY PUBLIC

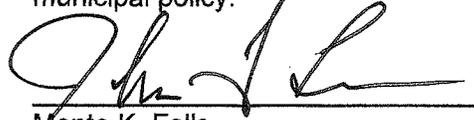
Sign: _____
Print: _____
State of Florida at Large
My Commission Expires:

Approved as to form and legal sufficiency:



Wayne R. Coment
Acting City Attorney

Approved as conforming to
municipal policy:


Monte K. Falls
Interim City Manager

Approved as to technical requirements:



Robert J. Bolton
Water & Sewer Director

Approved as to technical
requirements:



Stephen J. Maillet
Finance Director

Attachment: *Final Assessment Plat and Roll*

This instrument prepared by
and should be returned to the
Office of the City Attorney
City of Vero Beach
Post Office Box 1389
Vero Beach, Florida 32961-1389

Sewer Assessment Project: Ocean Towers, Ocean Towers II and Cardinal Drive Townhouses
Final Assessment Roll
City of Vero Beach Project No. WS07007

Exhibit "A"

OWNER(S) I	OWNER(S) 2	ADDRESS	PARCEL NO.	UNIT	ASSESSMENT AMOUNT
ALLEE, LAURA MARGARET (TR)(TOK)(H)		2804 CARDINAL DR	32403200021000000003.0	3	\$1,695.03
BALLARD, GREGORY T		2808 CARDINAL DR	32403200021000000005.0	5	\$1,695.03
BALLOU, PRISCILLA W		2810 CARDINAL DR	32403200021000000006.0	6	\$1,695.03
BOUNDS, TERRELL B & BEVERLY		2743 OCEAN DR	324032000170050000043.0	43E	\$1,695.03
BRITTON, SUSAN		2743 OCEAN DR	324032000170050000035.0	35E	\$1,695.03
BUTTERFIELD, PAULA* & DAVID H		2737 OCEAN DR	324032000170020000022.0	22B	\$1,695.03
CAMERON, MICHELE		2737 OCEAN DR	324032000170020000019.0	19B	\$1,695.03
CHAFFEE, DOROTHY F (TRS)		2820 CARDINAL DR	324032000210000000011.0	11	\$1,695.03
CHALLENGER, MATTHEW & *	GOODNIGHT, KRISTIA	2741 OCEAN DR	324032000170040000033.0	33D	\$1,695.03
CILIENTO, ROBERT & EILEEN		2743 OCEAN DR	324032000170050000045.0	45E	\$1,695.03
COPELAND, LEONARD T & MAUREEN E		2737 OCEAN DR	324032000170020000024.0	24B	\$1,695.03

OWNER(S) 1	OWNER(S) 2	ADDRESS	PARCEL NO.	UNIT	ASSESSMENT AMOUNT
COREY, SCOTT &	LANG, KELLEY	2732 CARDINAL DR	32403200014003000010.7		\$1,695.03
DANGERFIELD, MOLLIE PATRICIA (JOHNSON) &	CARMICHAEL, CONSTANCE & JOHNSON, G PAUL & CAROL	2741 OCEAN DR	32403200017004000034.0	34D	\$1,695.03
DENNISON, ELIZABETH K		2725 OCEAN DR	32403200017001000013.0	13A	\$1,695.03
DROGENDLIK, CORNELLS A. & SCHOT, CATHARINA		2735 OCEAN DR	32403200017001000018.0	18A	\$1,695.03
DWYER, PATRICK & PAMELA		2806 CARDINAL DR	32403200021000000004.0	4	\$1,695.03
DYKSTRA, JULIET P (TR)*		2743 OCEAN DR	32403200017005000039.0	39E	\$1,695.03
FIELD, JANET ISHAM		2812 CARDINAL DR	32403200021000000007.0	7	\$1,695.03
FITZ-HARRIS, RICHARD J & MIMI E		2739 OCEAN DR	32403200017003000029.0	29C	\$1,695.03
GILLON, JAMES W *		2743 OCEAN DR	32403200017005000049.0	49E	\$1,695.03
HACKNEY, CAROLINE E		2743 OCEAN DR	32403200017005000042.0	42E	\$1,695.03
HARRIS, TRACY		2743 OCEAN DR	32403200017005000046.0	46E	\$1,695.03
HARTZ, ELINORE F		2723 OCEAN DR	32403200017001000012.0	12A	\$1,695.03
HEYDT, STUART & JUDITH F		2743 OCEAN DR	32403200017005000041.0	41E	\$1,695.03

OWNER(S) I	OWNER(S) 2	ADDRESS	PARCEL NO.	UNIT	ASSESSMENT AMOUNT
HEYES, CATHERINE G		2711 OCEAN DR	32403200017001000006.0	6A	\$1,695.03
HORAN, PATRICIA G		2700 CARDINAL DR	324032000140030000008.0		\$1,695.03
HOUSTON, HUBERT T * & JOSEPHINE R		2737 OCEAN DR	324032000170020000021.0	21B	\$1,695.03
HUTCHINS, EDGAR S JR & RUBY B		2739 OCEAN DR	324032000170030000028.0	28C	\$1,695.03
HUTCHINS, EDGAR S. & RUBY B.		2739 OCEAN DR	324032000170030000027.0	27C	\$1,695.03
HUTCHINS, JAMES I & JANET B		2727 OCEAN DR	32403200017001000014.0	14A	\$1,695.03
JOHNSON, JOHN EDWARD & VANCE, SHARON KRISTINE		2737 OCEAN DR	324032000170020000026.0	26B	\$1,695.03
JOHNSON, LUTHER FURNISS & TOMMIE		2737 OCEAN DR	324032000170020000025.0	25B	\$1,695.03
JOHNSON, RONALD T* EILEEN		2729 OCEAN DR	32403200017001000015.0	15A	\$1,695.03
KAMPA, ARNOLD J & KATHERINE M		2824 CARDINAL DR	324032000210000000013.0	13	\$1,695.03
KENNEDY, STUART		2737 OCEAN DR	324032000170020000020.0	20B	\$1,695.03
KERR, RANDALL ALAN (TRS) & ROBIN DIANE (TRS)		2714 CARDINAL DR	324032000140030000008.7		\$1,695.03

OWNER(S) 1	OWNER(S) 2	ADDRESS	PARCEL NO.	UNIT	ASSESSMENT AMOUNT
KERR, RICHARD J & JANICE S		2712 CARDINAL DR	32403200014003000008.6		\$1,695.03
KIRBY, PHYLLIS D (TRS)		2743 OCEAN DR	324032000170050000044.0	44E	\$1,695.03
LANGHORNE, NANCY B.		2743 OCEAN DR	324032000170050000036.0	36E	\$1,695.03
LOPEZ, KENNETH		2743 OCEAN DR	324032000170050000047.0	47E	\$1,695.03
LORD, WILLIAM H * & MARY LOUISE		2822 CARDINAL DR	32403200021000000012.0	12	\$1,695.03
LURKEN, JOYCE B & PFIFFER, RUSSELL B & RICHARD D	GOODWIN, WENDY P & MARTIN, LYNN A	2706 CARDINAL DR	32403200014003000008.3		\$1,695.03
MAHLSTEDT, THOMAS F & JENNIFER CAROL		2722 CARDINAL DR	32403200014003000010.2		\$1,695.03
MCLAUGHLIN, CHRISTINE R		2726 CARDINAL DR	32403200014003000010.4		\$1,695.03
MEEHAN, PHOEBE T		2818 CARDINAL DR	32403200021000000010.0	10	\$1,695.03
MILLER, GLORIA BENNETT		2816 CARDINAL DR	32403200021000000009.0	9	\$1,695.03
MORAN, JAMES J		2724 CARDINAL DR	32403200014003000010.3		\$1,695.03
MORRIS, WILLIAM L & SUZANNE S		2743 OCEAN DR	324032000170050000050.0	50E	\$1,695.03
MORRISON, BARBARA M (TR)		2703 OCEAN DR	32403200017001000002.0	2A	\$1,695.03

OWNER(S) 1	OWNER(S) 2	ADDRESS	PARCEL NO.	UNIT	ASSESSMENT AMOUNT
MUENCH, STEVEN A. (TRS)		2743 OCEAN DR	32403200017005000048.0	48E	\$1,695.03
MUNSON, FRANK W. (TR)		2741 OCEAN DR	32403200017004000031.0	31D	\$1,695.03
NADEAU, RAYMOND		2734 CARDINAL DR	32403200014003000010.8		\$1,695.03
NOLAN, EDWARD J JR		2743 OCEAN DR	32403200017005000038.0	38E	\$1,695.03
PALMER, JUDITH R		2731 OCEAN DR	32403200017001000016.0	16A	\$1,695.03
PEARSON, MARY C		2730 CARDINAL DR	32403200014003000010.6		\$1,695.03
PEARSON, THOMAS J & *	PEARSON, THOMAS J & ELEANOR M	2708 CARDINAL DR	32403200014003000008.4		\$1,695.03
PEGG, NANCY H *		2704 CARDINAL DR	32403200014003000008.2		\$1,695.03
REIMER, DONNA W (TRS) &	REIMER, ERIC S & WINSLOW, PETER L	2814 CARDINAL DR	32403200021000000008.0	8	\$1,695.03
ROBB, BAYARD V JR		2720 CARDINAL DR	32403200014003000010.1		\$1,695.03
ROBERTS, SUSAN S		2728 CARDINAL DR	32403200014003000010.5		\$1,695.03
ROCKERMANN, DR CARL R & NANCY T		2705 OCEAN DR	32403200017001000003.0	3A	\$1,695.03
SCHMIDT, LILA (H) *		2741 OCEAN DR	32403200017004000032.0	32D	\$1,695.03

OWNER(S) I	OWNER(S) 2	ADDRESS	PARCEL NO.	UNIT	ASSESSMENT AMOUNT
SCHWANBECK, PAUL F *		2702 CARDINAL DR	32403200014003000008.1		\$1,695.03
SEITZ, HOWARD G (TRS) * FBO GORDON GRAHAM, JR.		2713 OCEAN DR	324032000170010000007.0	7A	\$1,695.03
SHEVLEN, COLIN JANE		2802 CARDINAL DR	32403200021000000002.0	2	\$1,695.03
SIBBLE, EDWARD M JR		2743 OCEAN DR	324032000170050000040.0	40E	\$1,695.03
SIRICH, JOHN HENRY (TRS) & MARGARET PHILLIPS		2719 OCEAN DR	324032000170010000010.0	10A	\$1,695.03
SMALL, RICHARD G. & JAMES S.		2733 OCEAN DR	324032000170010000017.0	17A	\$1,695.03
SMITH, W ELLERY * & ELIZABETH LEE		2717 OCEAN DR	324032000170010000009.0	9A	\$1,695.03
SORENSEN, MATILDE G		2800 CARDINAL DR	32403200021000000001.0	1	\$1,695.03
TILLER, JANET P		2716 CARDINAL DR	32403200014003000008.8		\$1,695.03
WANGEN, MICHAEL J * & PATRICIA M		2710 CARDINAL DR	32403200014003000008.5		\$1,695.03
WELCH, JEANNETTE B (LE) & THOMAS D		2721 OCEAN DR	324032000170010000011.0	11A	\$1,695.03
WHITE, PETER J & RITA M & TURNER, NORMAN L & ELEANOR M		2709 OCEAN DR	324032000170010000005.0	5A	\$1,695.03

OWNER(S) 1	OWNER(S) 2	ADDRESS	PARCEL NO.	UNIT	ASSESSMENT AMOUNT
WHITEHEAD, PAUL & MARY		2737 OCEAN DR	32403200017002000023.0	23B	\$1,695.03
WHITEHEAD, PAUL * & MARY		2707 OCEAN DR	324032000170010000004.0	4A	\$1,695.03
WYER, SALLY W		2715 OCEAN DR	324032000170010000008.0	8A	\$1,695.03
YOICHI (TR) & ASAKAWA, THELMA M. (TR)		2701 OCEAN DR	324032000170010000001.0	1A	\$1,695.03
YOUNG, MARGARET S (LE)	YOUNG, MARGARET S (TR)	2739 OCEAN DR	324032000170030000030.0	30C	\$1,695.03
ZDANIEWSKI, EDWARD & TERESA		2718 CARDINAL DR	324032000140030000010.0		\$1,695.03

2910

2901

Flamevine Ln

2855 OCEAN DR

PROJECT LIMITS

SCALE: 1" = 100'

1026 FLAMEVINE LN

2800 OCEAN DR

2824 2822 2820 2818 2816 2814 2812 2810 2808 2806 2804 2802 2800

2801 OCEAN DR

OCEAN TOWERS 2 CONDO

2700 2702 2704 2706 2708 2710 2712 2714 2716 2718 2720 2722 2724 2726 2728 2730 2732 2734

CARDINAL TOWNHOUSES WALTER KITCHING'S SUB.

2735 2733 2731 2729 2727 2725 2723 2721 2719 2717 2715 2713 2711 2709 2707 2705 2703R 2701

2737 OCEAN DR

2741 OCEAN DR

2739 OCEAN DR

OCEAN TOWERS 1 CONDO

2743 OCEAN DR

Cardinal Dr

Ocean Dr

2640 2644 2646 2648 2650

2685

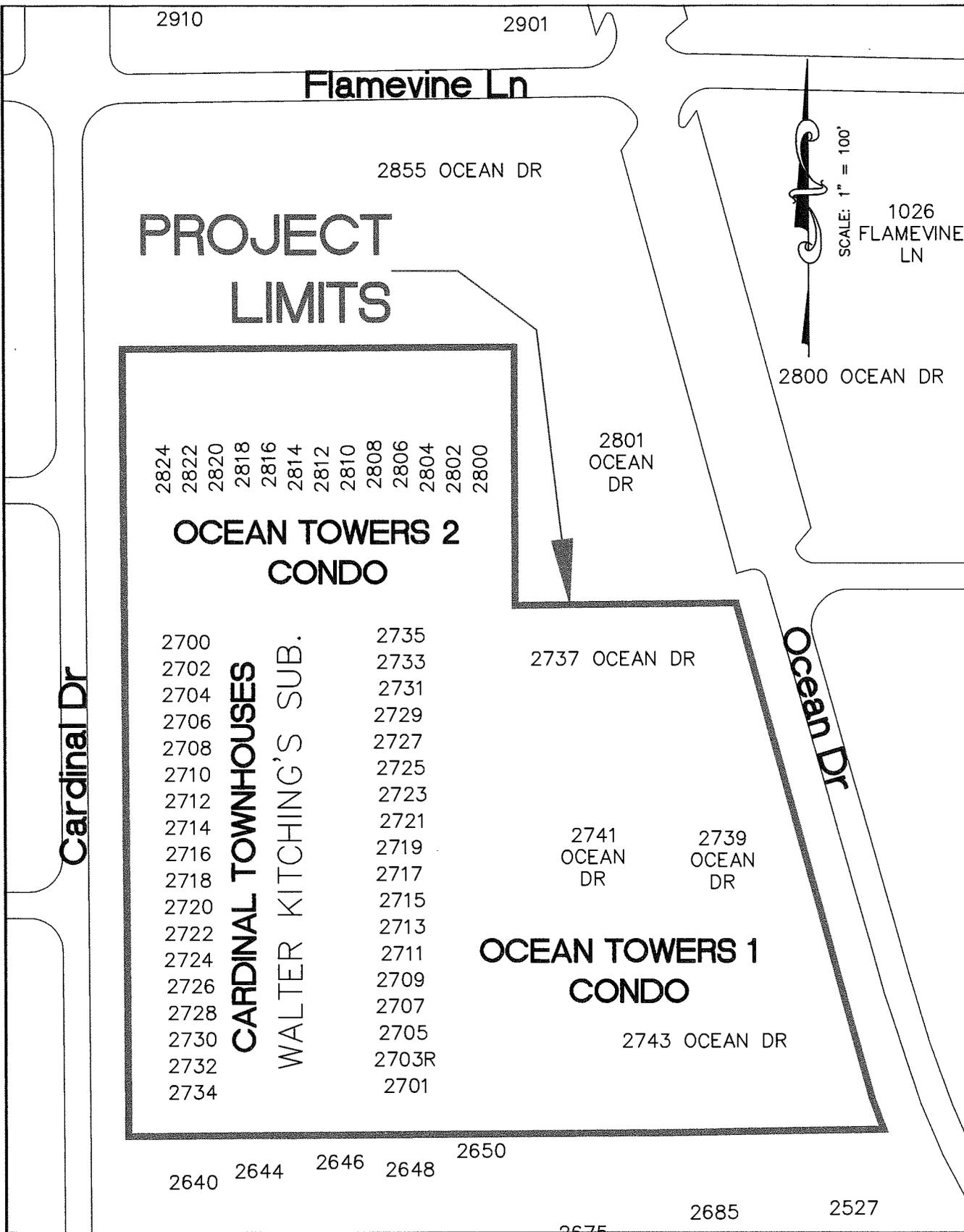
2527

CITY OF VERO BEACH WATER AND SEWER DEPARTMENT ENGINEERING DIVISION

FINAL ASSESSMENT PLAT OCEAN TOWERS, OCEAN TOWERS 2, AND CARDINAL TOWNHOUSES

DATE 2/23/09 APPR. R.J.B. REV. 5/24/2011

DRAWN BY: T.A.Y. DWG. NO. EX. A PAGE 1 OF 2



CITY OF VERO BEACH WATER AND SEWER DEPARTMENT ENGINEERING DIVISION	FINAL ASSESSMENT PLAT OCEAN TOWERS, OCEAN TOWERS 2, AND CARDINAL TOWNHOUSES	DATE 2/23/09	DRAWN BY: T.A.Y.
		APPR. R.J.B.	DWG. NO. EX. A
		REV. 5/24/2011	PAGE 2 OF 2



OFFICE OF THE CITY ATTORNEY

MEMORANDUM

To: Mayor and City Councilmembers
Via: Wayne Coment, Acting City Attorney
From: Peggy Lyon, Assistant City Attorney PL
Subject: Resolution reconstituting Commissions, Boards and Committee
Date: May 24, 2011

The proposed Resolution serves as an integral part of the City Council effort to amend the boards and commissions section of the Code by reconstituting the Airport Commission, the Code Enforcement Board, the Fire Pension Board, the Marine Commission, the Police Pension Board, the Tree and Beautification Commission and the Veterans Memorial Island Sanctuary Advisory Committee. The proposed resolution provides that the same regular and alternate members who are currently appointed and serving will continue in office. This resolution requires only one reading.

RESOLUTION NO. 2011- _____

A RESOLUTION OF THE CITY OF VERO BEACH, FLORIDA, RECONSTITUTING THE AIRPORT COMMISSION, CODE ENFORCEMENT BOARD, FIRE PENSION BOARD, MARINE COMMISSION, POLICE PENSION BOARD, TREE AND BEAUTIFICATION COMMISSION AND VETERANS MEMORIAL ISLAND SANCTUARY ADVISORY COMMITTEE FOR CONSISTENCY WITH THE CODE OF VERO BEACH AS AMENDED BY ORDINANCE NO. 2011-05; CONTINUING, WITHOUT INTERRUPTION, THE TERMS OF OFFICE OF MEMBERS CURRENTLY APPOINTED AND SERVING; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Vero Beach has adopted Ordinance No. 2011-05 reorganizing and clarifying the Commissions and Boards provisions of the Code of the City of Vero Beach to promote and improve efficiency in the operation of the city government; and

WHEREAS, the Airport Commission, the Code Enforcement Board, the Fire Pension Board, the Marine Commission, the Police Pension Board, the Tree and Beautification Commission and the Veterans Memorial Island Sanctuary Advisory Committee shall operate under the afore-mentioned Ordinance with the same regular and alternate members who are currently appointed and serving; and

WHEREAS, the afore-mentioned Ordinance requires that the City Council adopt a resolution reconstituting each respective commission, board and committee under the updated provisions as the final step in the reorganization process,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, AS FOLLOWS:

Section 1. Reconstitution of the Airport Commission, Code Enforcement Board, Fire Pension Board, Marine Commission, Police Pension Board, Tree and Beautification Commission and the Veterans Memorial Island Sanctuary Advisory Committee.

The City Council of the City of Vero Beach hereby reconstitutes the Airport Commission, Code Enforcement Board, Fire Pension Board, Marine Commission, Police Pension Board, Tree and Beautification Commission and the Veterans Memorial Island Sanctuary Advisory Committee pursuant to Ordinance No. 2011-05 of the City of Vero Beach, Florida.

Section 2. Continuation of the Terms of Office of Commissions, Boards and Committee Members Currently Appointed and Serving.

The terms of office of the Commissions, Boards and Committee regular and alternate members who are currently appointed and serving shall continue without interruption.

Section 3. Direction to City Clerk.

Pursuant to Section 2-201 of the Code, the City Clerk is hereby directed to include a copy of this Resolution, once adopted, and current rosters of the Commissions, Boards and Committee, in the official "City of Vero Beach Ordinances and Resolutions Establishing Boards and Commissions" binder.

Section 4. Conflict and Severability.

The provisions of this Resolution shall control over those provisions of previously adopted resolutions in conflict herewith. If any provision of this Resolution is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions.

Section 5. Effective Date.

This Resolution shall become effective upon adoption.

This resolution was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted on the _____ day of _____, 2011, by the following vote:

Mayor Jay Kramer	_____
Vice-Mayor Pilar E. Turner	_____
Councilmember Tracy M. Carroll	_____
Councilmember Craig Fletcher	_____
Councilmember Brian T. Heady	_____

ATTEST:

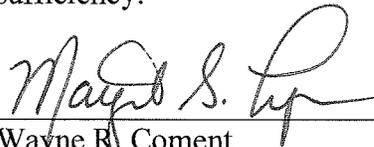
CITY OF VERO BEACH,
FLORIDA

Tammy K. Vock
City Clerk

Jay Kramer
Mayor

Approved as to form and legal
sufficiency:

Approved as conforming to
municipal policy:

fm-


Wayne R. Coment
Acting City Attorney



Monte K. Falls
Interim City Manager

JOHN T. LEE
ACTING FOR MONTE FALLS

This instrument prepared by the
Office of the City Attorney
City of Vero Beach
PO Box 1389
Vero Beach, FL 32961-1389

MEMORANDUM

4 - C)

TO: Monte K. Falls, Interim City Manager *576 6/1/2011*

VIA: Wayne R. Coment, Acting City Attorney *WRC*

VIA: Robert J. Bolton, Water and Sewer Director *RJB.*

FROM: Ericson W. Menger, Airport Director *EWS For:*

DATE: June 1, 2011

SUBJECT: RESOLUTION TO AMEND RENTAL TERMS BETWEEN THE VERO BEACH MUNICIPAL AIRPORT AND THE CITY WATER AND SEWER DEPARTMENT, TO REPEAL RESOLUTION 88-05, AND TERMINATE THE USE OF A SPECIFIED PARCEL OF AIRPORT LAND AS PROVIDED IN THE NEW RESOLUTION.

Attached for your review and consideration is a proposed Resolution to repeal the existing rent resolution 88-05, to terminate the use of a specific parcel of Airport land by the City Water and Sewer Department, and to provide for payment of rent through June 30, 2011, when the Water and Sewer Department surrenders possession of the parcel. Under Federal Law and FAA Grant Assurances, the Airport fund is required to receive fair market rental income for use of Airport land by private and public entities, including other departments within the City.

BACKGROUND:

On January 19, 1988, the Vero Beach City Council passed Resolution 88-05 which provided for the rental of 33,748 square feet of airport land to operate and maintain the existing bulk water storage tank as an integral part of the City water delivery system. The Water and Sewer Department has determined that there is no further need for the bulk storage tank or the water lines attached thereto and seeks to be relieved of further rent payments for the land so occupied. Staff has prepared the attached Resolution to address the continuation of rent through June 30, 2011, repeal of Resolution 88-05, and the termination of any further use of the land by the Water and Sewer Department.

RECOMMENDATION:

I respectfully request this item be placed on the June 7, 2011, City Council agenda. I recommend approval of the new Resolution.

EWM/jm

Attachment

cc: Airport Commission Members (via email and U.S. Mail)
 Steve Maillet, Finance Director (via email)
 Joyce Vonada, City Managers Office (via email)

RESOLUTION NO. 2011- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, REPEALING RESOLUTION 88-05 AND DISCONTINUING USE OF APPROXIMATELY 37,669 SQUARE FEET OF MUNICIPAL AIRPORT REAL PROPERTY BY THE CITY WATER AND SEWER DEPARTMENT; PROVIDING FOR PAYMENT FROM THE WATER AND SEWER FUND INTO THE AIRPORT FUND FOR USE OF THE PROPERTY; ESTABLISHING THE AMOUNT OF THE PAYMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Vero Beach owns and operates the Vero Beach Municipal Airport ("Airport") as a municipal enterprise fund and which Airport is subject to certain federal laws and regulations administered by the Federal Aviation Administration ("FAA"); and

WHEREAS, the City of Vero Beach also owns and operates the Vero Beach Municipal Water and Sewer Department ("Department") as a municipal enterprise fund and which Department has previously occupied and used certain Airport real property pursuant to Resolution 88-05 for the operation and maintenance of a previously constructed and existing water tank in exchange for payments into the Airport fund; and

WHEREAS, the Department no longer has a need for use of the water tank, connecting water mains, or any other related improvements or facilities on the site and has ceased occupation and use of the subject Airport real property and desires to terminate the payments to the Airport fund required under Resolution 88-05; and

WHEREAS, applicable federal laws and regulations of the FAA, through deed restrictions and grant assurances, require the City of Vero Beach to operate the Airport as a revenue producing facility and require the Airport enterprise fund to be paid fair market value for the use of Airport real property; and

WHEREAS, it is appropriate to terminate the obligation of the Department to pay into the Airport fund due to the Department no longer needing to occupy and use the subject Airport real property and to establish the fair market rental value for final payment from the Water and Sewer fund into the Airport fund in keeping with the applicable federal laws and regulations; and

WHEREAS, the final payment amount to be transferred from the Water and Sewer enterprise fund to the Airport enterprise fund provided for in this Resolution will ensure that the City of Vero Beach continues to comply with the applicable laws and regulations; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1. Incorporation of "Whereas" Clauses.

The preceding "Whereas" clauses are true and correct and are hereby incorporated into and made a part of this Resolution.

Section 2. Use of Airport Real Property Terminated.

The occupation and use of that certain Airport real property by the Department as provided for in Resolution 88-05 is hereby terminated effective July 1, 2011 at which time the Airport shall take possession.

Section 3. Payment to Airport Enterprise Fund.

The Department shall pay from the Water and Sewer Fund into the Airport Fund a final payment of **\$5,203.98** as fair market rental value for occupation and use of the subject real property through June 30, 2011.

Section 4. Repeal of Resolution 88-05.

Resolution 88-05 is hereby repealed effective July 1, 2011.

Section 5. Effective Date.

This Resolution shall be effective upon final adoption by the City Council.

This Resolution was read by title on the 7th day of June 2011 at which time it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the City Council by the following vote:

Mayor Jay Kramer	_____
Vice-Mayor Pilar E. Turner	_____
Councilmember Tracy M. Carroll	_____
Councilmember A. Craig Fletcher	_____
Councilmember Brian T. Heady	_____

ATTEST:

CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

Jay Kramer
Mayor

Approved as to form and legal sufficiency:

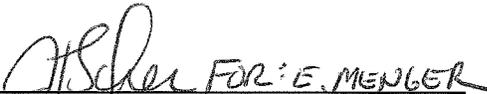
Approved as conforming to municipal policy:



Wayne R. Coment
Acting City Attorney

Monte K. Falls
Interim City Manager

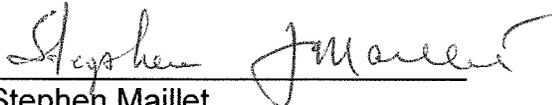
Approved as to technical requirements:


Ericson W. Menger
Airport Director

Approved as to technical requirements:


Robert J. Bolton
Water and Sewer Director

Approved as to technical requirements:


Stephen Maillet
Finance Director

Prepared by the City Attorney's Office
City of Vero Beach
PO Box 1389
Vero Beach, FL 32961-1389

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, OBLIGATING THE CITY OF VERO BEACH WATER AND SEWER FUND TO PAY TO THE AIRPORT FUND AN ANNUAL AMOUNT AS LAND RENTAL FOR PARCEL #43 AT THE VERO BEACH MUNICIPAL AIRPORT.

WHEREAS, the City of Vero Beach maintains a water storage tank at the Vero Beach Municipal Airport, and

WHEREAS, the City of Vero Beach owns and operates the Municipal Airport as a proprietary function of the City on an enterprise fund basis without recourse to general revenue funds, and

WHEREAS, the Federal Aviation Agency, which has certain jurisdiction over the Municipal Airport property under Federal Law and under the terms of the Agreement through which the City acquired title to the Airport Property, requires the City to pay to the Airport Fund the fair market value for the use of Airport land by the City, and

WHEREAS, in view of the foregoing, the Airport Fund shall be paid for the use of the Airport land by the City, and

WHEREAS, this Resolution shall amend and supersede Resolution 87-68.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1 - Legal Description.

The City shall use and hold as if a leasehold the following described real property:

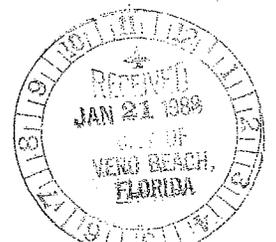
SEE ATTACHMENT "A"

Section 2 - Terms.

The above described parcel consists of approximately 33,748 square feet. The base rent shall be at the fair market value of .1258 dollars per square foot per annum, amounting to \$4,245.50 per year, effective November 17, 1987. Rental payments in the amount of \$353.79 shall be made on a monthly basis to the Airport Fund with the cost to be charged to the Water and Sewer Fund.

Section 3 - Automatic Rent Increase.

The rent of .1258 dollars per square foot per annum shall be adjusted yearly in accordance with the Consumer Price Index (CPI) as published by the U. S. Department of Labor, Bureau of Labor Statistics, using the all items for all urban customers, July to July Report. The CPI adjustment will be made October 1 of each year beginning in 1988.



THIS RESOLUTION was moved for adoption by Councilman J. Macht,
seconded by Councilman Winchester, and adopted on the 19th day of
January, 1988, by the following vote:

Mayor Acor	<u>yes</u>
Vice Mayor Howard	<u>yes</u>
Councilman Wodtke	<u>yes</u>
Councilman Macht	<u>yes</u>
Councilman Winchester	<u>yes</u>

ATTEST:

CITY OF VERO BEACH, FLORIDA

B. Phillip A. Seiberger
City Clerk

John D. Acor
Mayor

Approved as to form
and legal sufficiency:

[Signature]
City Attorney

Approved as to technical
requirements:

[Signature]
City Manager

Approved as to technical
requirements:

Richard B. [Signature]
Airport Director

ENGINEERS AND SURVEYORS

REPORTS
DESIGNS
SUPERVISION
APPRAISALS
CONSULTATIONS

ROBERT F. LLOYD
REGISTERED CIVIL ENGINEER 3538
REGISTERED LAND SURVEYOR 944

DARRELL E. MCQUEEN
REGISTERED CIVIL ENGINEER 21497

(305) 562-4112
1835 20TH STREET.
VERO BEACH, FLORIDA
32960

October 21, 1987

LEGAL DESCRIPTION
PARCEL 2

A parcel of land lying in Section 34, Township 32 South, Range 39 East, Indian River County, Florida, and being more particularly described as follows:

Commencing at the Northeast corner of Section 3, Township 33 South, Range 39 East,

thence, run N 89° 35' 43" W, 35.00 feet;

thence, run N 00° 00' 07" East, 60.00 feet;

thence, run N 89° 35' 43" W, 200.55 feet to the Point of Beginning (P.O.B.);

thence, run N 00° 00' 07" E, 25.00 feet;

thence, run S 89° 35' 43" E, 40.00 feet;

thence, run N 00° 24' 17" E, 147.39 feet to a point on the South right-of-way of Aviation Boulevard;

thence, run N 89° 35' 43" W, 232.13 feet along the South right-of-way of said boulevard;

thence, run S 00° 24' 17" W, 142.39 feet;

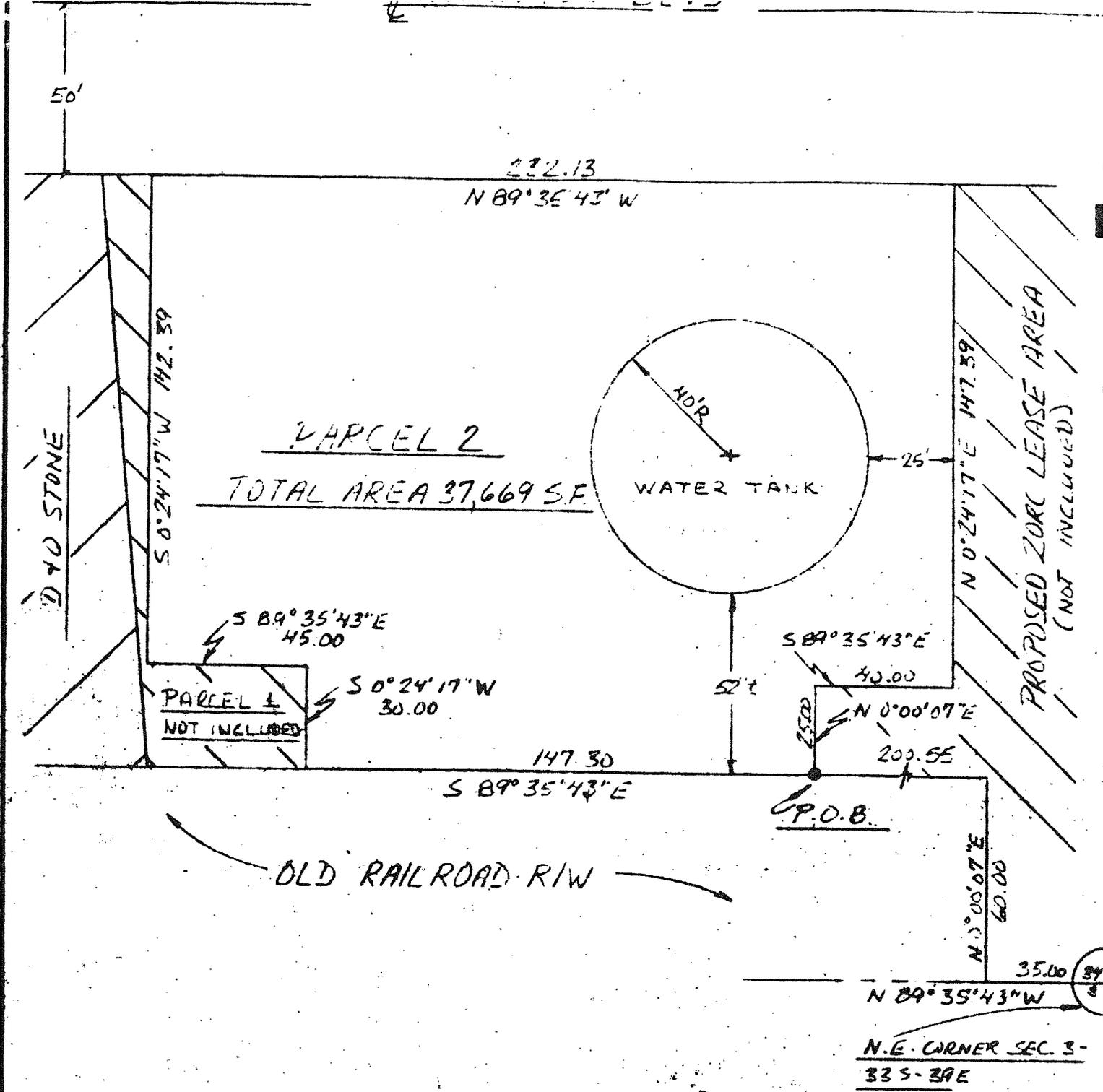
thence, run S 89° 35' 43" E, 45.00 feet;

thence, run S 00° 24' 17" W, 30.00 feet;

thence, run S 89° 35' 43" E, 147.30 feet to the Point of Beginning.

Said parcel of land containing 37,669.0 square feet.

PREPARED BY LLOYD & ASSOCIATES, INC.
VERO BEACH, FLORIDA



TYPE OF SURVEY PER FAC 2111-4.021 SKETCH OF INFORMATION

I, ROBERT FRANKS CLOW, do hereby certify that I am a duly licensed and practicing Registered Land Surveyor in the State of Florida, and that this sketch of survey meets the Minimum Technical Standards for a survey as set forth by the Florida Board of Land Surveyors, pursuant to Section 472.07, Florida Statutes, and that under my supervision and under an actual survey of:

LOT _____, BLOCK _____, SEE ATTACHED LEGAL DESCRIPTION

as shown in Indian River County records, PLAT 8008, and that said survey was actually made on the ground per record description and is correct to the best of my knowledge and belief and that there exists no encroachments either way across the property lines or building setback lines, except as shown on said sketch of survey.

LLOYD & ASSOCIATES, INC.
 ENGINEERS & SURVEYORS
 (305) 662-4112
 1825 20TH ST.
 VERO BEACH, FLORIDA 33580

CLIENT
CITY OF VERO BEACH

SCALE: 1"=40' DATE: 10-21-86
 DRAWN: LJC JOB NO: 86
 REVISED:

MEMORANDUM

4-D

TO: Monte K. Falls, Interim City Manager *JZL 6/1/2011*
VIA: Wayne R. Coment, Acting City Attorney *WRC*
VIA: Robert J. Bolton, Water and Sewer Director *RJB.*
FROM: Ericson W. Menger, Airport Director
DATE: June 1, 2011
SUBJECT: **RESOLUTION TO AMEND RENTAL TERMS WITH THE CITY WATER AND SEWER DEPARTMENT TO ADD WELLS AND RAW WATER MAINS, OR REMOVE WELL SITES FROM THE EXISTING RESOLUTION LEASE AND TO ADJUST THE RENTAL CHARGE FOR ALL ACTIVE WELLS AND MAINS.**

Attached for your review and consideration is a proposed Resolution to revise the amount of rent paid by the Water and Sewer Fund to the Airport Fund to compensate the Airport for the areas occupied by active raw water wells, air stripping tower, and raw water mains from the wells to the treatment plant, all located on Airport property. This new Resolution adjusts the rental rate down to easement rates, or one-half the normal rates for the classification of land affected.

BACKGROUND:

On February 7, 1989, the Vero Beach City Council passed Resolution 89-12 which provided for the rental of 643,570 square feet of airport land being used for 20 wells and the stripping tower. While reviewing and updating the Resolution Rental for these wells, staff made adjustments such as removing abandoned, inactive, wells, and wells now within the new plant site, adding wells not formerly accounted for, and adjusting the rental rate to the current market value rental charges. This new Resolution accounts for all or part of 25 well sites, the stripping tower site, and thousands of feet of raw water mains on Airport land. Under Federal Law and FAA Grant Assurances, the Airport fund is required to receive fair market rental income from private as well as public entities, including other departments within the City. Staff believes our proposed methodology satisfies those requirements.

It should be noted that the proposed Resolution compensates the Airport for land lying within a 100 foot radius of the raw water wells, which is the estimated area needed for the Water and Sewer Department to maintain the wells (same as the old Resolution). The same charge is applied to the thousands of feet of underground piping through and around the Airport property which interconnect these wells with the water treatment plant. No charge has been made for the numerous monitoring wells installed for the sole purpose of testing the public water well aquifer for the City of Vero Beach.

If the proposed Resolution is approved, the Water and Sewer Department's rent for the well system will decrease from **\$128,714.04** for fiscal year 2010-2011, to an annual rate of **\$125,597.63, (\$10,466.47 per month)**, beginning June 1, 2011, for the remainder of fiscal year 2010-2011. These amounts have already been considered in the proposed 2010-2011 budget.

Attached to this memorandum is a spreadsheet depicting the rental charges and allocations for the water well system operated on the Vero Beach Municipal Airport by the Water and Sewer Department. Also attached is a map indicating the various well locations, piping, and other relevant information.

RECOMMENDATION:

I respectfully request this item be placed on the June 7, 2011, City Council agenda. I recommend approval of the new Resolution.

EWM/jm

Attachments

cc: Airport Commission Members (via email and U.S. Mail)
Steve Maillet, Finance Director (via email)
Joyce Vonada, City Managers Office (via email)

RESOLUTION NO. 2011- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, PROVIDING FOR THE USE OF CERTAIN MUNICIPAL AIRPORT REAL PROPERTY BY THE CITY WATER AND SEWER DEPARTMENT AS PART OF THE CITY WATER WELL FIELD AND WATER PUMPING SYSTEM; PROVIDING FOR PAYMENTS FROM THE WATER AND SEWER FUND INTO THE AIRPORT FUND FOR SAID USE; ESTABLISHING THE AMOUNT OF THE PAYMENTS AND PROVIDING FOR ADJUSTMENTS THERETO; REPEALING RESOLUTION 89-12; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Vero Beach owns and operates the Vero Beach Municipal Airport ("Airport") as a municipal enterprise fund and which Airport is subject to certain federal laws and regulations administered by the Federal Aviation Administration (FAA); and

WHEREAS, the City of Vero Beach also owns and operates the Vero Beach Municipal Water and Sewer Department ("Department") as a municipal enterprise fund and which Department occupies and uses certain Airport real property for operation and maintenance of various facilities constructed thereon in exchange for payments into the Airport fund as previously provided in Resolution 89-11; and

WHEREAS, the facilities constructed on the subject Airport real property include certain raw water wells, monitoring wells, a stripping tower, various connecting water mains, pumps, and other equipment; and

WHEREAS, occasionally older water wells are permanently taken out of service and abandoned and new wells are sometimes installed to maintain supplies of raw water for the City's potable water system; and

WHEREAS, applicable federal laws and regulations of the FAA, through deed restrictions and grant assurances, require the City of Vero Beach to operate the Airport as a revenue producing facility and require the Airport enterprise fund to be paid fair market value for use of Airport real property; and

WHEREAS, the amount to be paid into the Airport enterprise fund for use of the Airport real property requires periodic recalculation of the fair market rental value in keeping with the applicable federal laws and regulations; and

WHEREAS, it is appropriate for the City Council to provide by resolution for use of Airport real property by the Department and establish the amount to be transferred from the Water and Sewer enterprise fund to the Airport enterprise fund in exchange for occupation and use of the Airport real property; and

WHEREAS, the amounts to be transferred from the Water and Sewer enterprise fund to the Airport enterprise fund provided for in this Resolution will ensure that the City of Vero Beach continues to comply with the applicable laws and regulations; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1. Incorporation of "Whereas" Clauses.

The preceding "Whereas" clauses are true and correct and are hereby incorporated into and made a part of this Resolution.

Section 2. Use of Airport Real Property; Description.

The Department is hereby authorized and shall occupy and use for the purposes indicated those areas of Airport real property consisting of active water well sites, stripping tower site, and all of the related piping easement areas described and

depicted in the *Adjusted Well Inventory & Billing Base Sheet, Well Field Map, and Raw Water Collection System Map* (cumulatively "Premises") which together are attached hereto and incorporated herein as Exhibit "A" and which detail the location of the currently active water wells, stripping tower, and various water mains and other equipment located on the Airport real property and utilized by the Department; and

Section 3. Payments to Airport Enterprise Fund.

Commencing June 1, 2011 there shall be paid from the Water and Sewer Fund into the Airport Fund the amount of **\$125,597.63** per year, which amount is based on the fair market rental value for use of the Premises. Said amount shall be paid in equal payments of **\$10,466.47** per month.

Section. 4. Payment Adjustments.

The City Manager is hereby authorized to administratively approve in writing the following adjustments to the amount of payments to the Airport Fund provided for herein without formal amendment of this Resolution:

(a) Well Inventory Adjustments. Commencing immediately the Department Director shall make recommendations for revisions to the Well Inventory upon the confirmed permanent plugging or abandonment of raw water wells or the stripping tower, or the addition of new wells or other facilities by or for the Department. Such recommended revisions to the Well Inventory shall be coordinated with the Airport Director and forwarded to the City Manager for approval and adjustment to the annual fair market rental value and the monthly payment to the Airport Fund.

(b) Annual Consumer Price Index (CPI) Adjustment. Beginning on October 1, 2011, and annually on each October 1st thereafter, the payment amount shall be

adjusted in accordance with the percentage change in the index known at the time this Resolution was adopted as the "United States Bureau of Labor Statistics Consumer Price Index (CPI) for All Urban Consumers," using the August to August report. This adjustment shall be referred to as "the CPI adjustment." If the CPI ceases to be published the successor index shall be used. In addition, the payment amount shall be re-examined at the end of each five (5) year period. At least three (3) months prior, but not more than six (6) months prior, to the five (5) year adjustment date, the Airport and the Department shall jointly procure and share the cost of a new MAI appraisal to aid in establishing the then current fair market rental value of the Premises, without consideration of any improvements made by or for the Department. If there is a deficiency of more than five (5%) percent as compared to the then effective payment amount, the payment amount shall be adjusted to equal the new fair market rental value. In no event shall the payment amount be less than that amount payable for the previous year.

Section. 5. Repeal of Resolution 89-12.

Resolution 89-12 is hereby repealed.

Section. 6. Effective Date.

This Resolution shall be effective upon final adoption by the City Council.

This Resolution was read by title on the 7th day of June 2011 at which time it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the City Council by the following vote:

Mayor Jay Kramer

Vice-Mayor Pilar E. Turner

Councilmember Tracy M. Carroll

Councilmember A. Craig Fletcher

Councilmember Brian T. Heady

ATTEST:

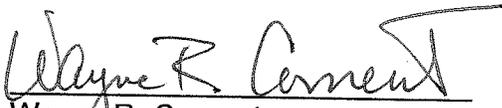
CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

Jay Kramer
Mayor

Approved as to form and legal
sufficiency:

Approved as conforming to
municipal policy:



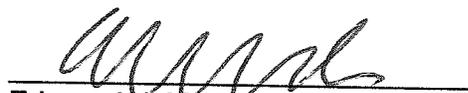
Wayne R. Coment
Acting City Attorney

 6/1/2011

Monte K. Falls
Interim City Manager

Approved as to technical requirements:

Approved as to technical requirements:

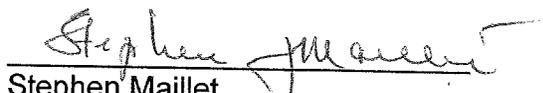


Ericson W. Menger
Airport Director



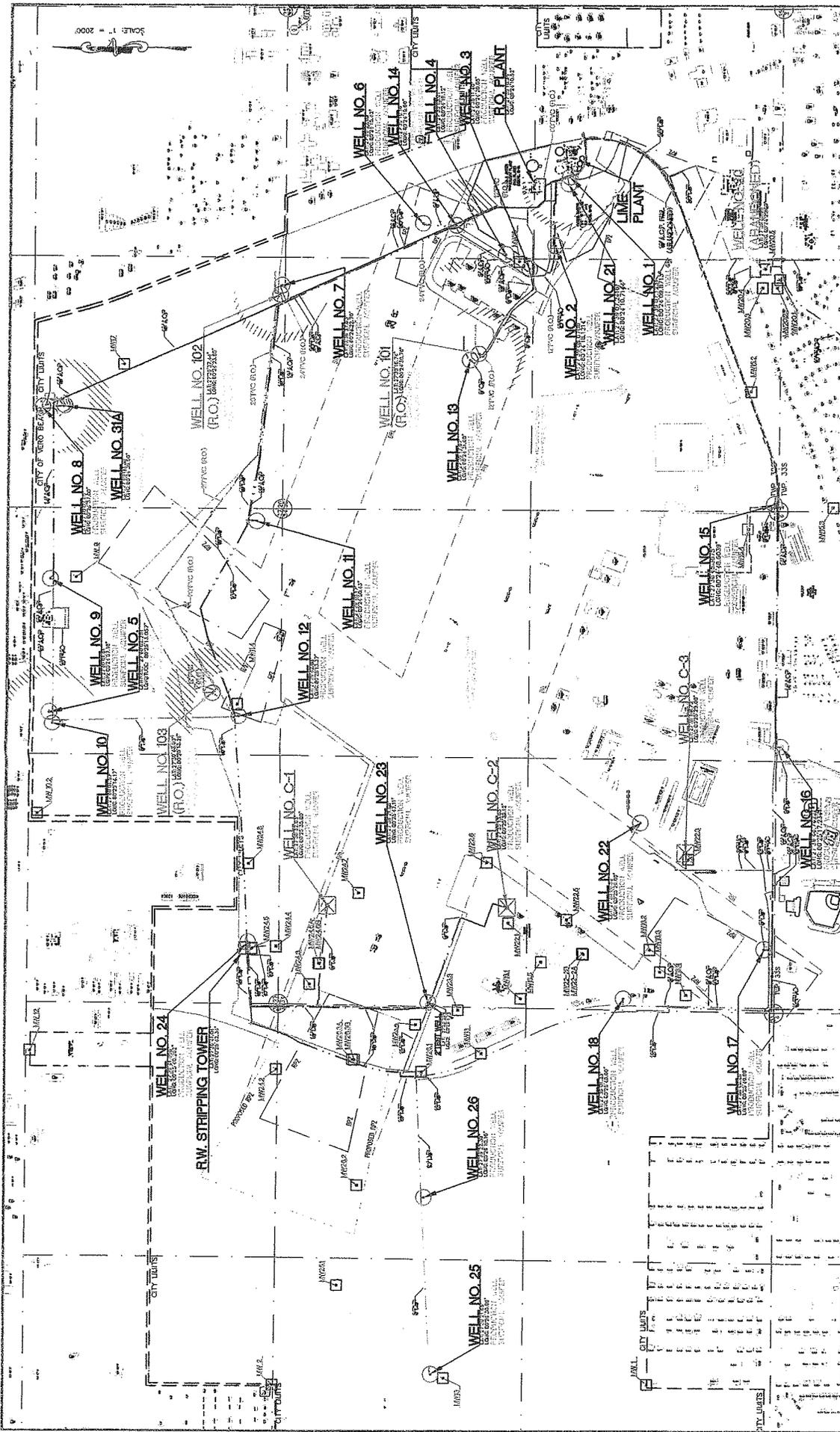
Robert J. Bolton
Water and Sewer Director

Approved as to technical requirements:



Stephen Maillet
Finance Director

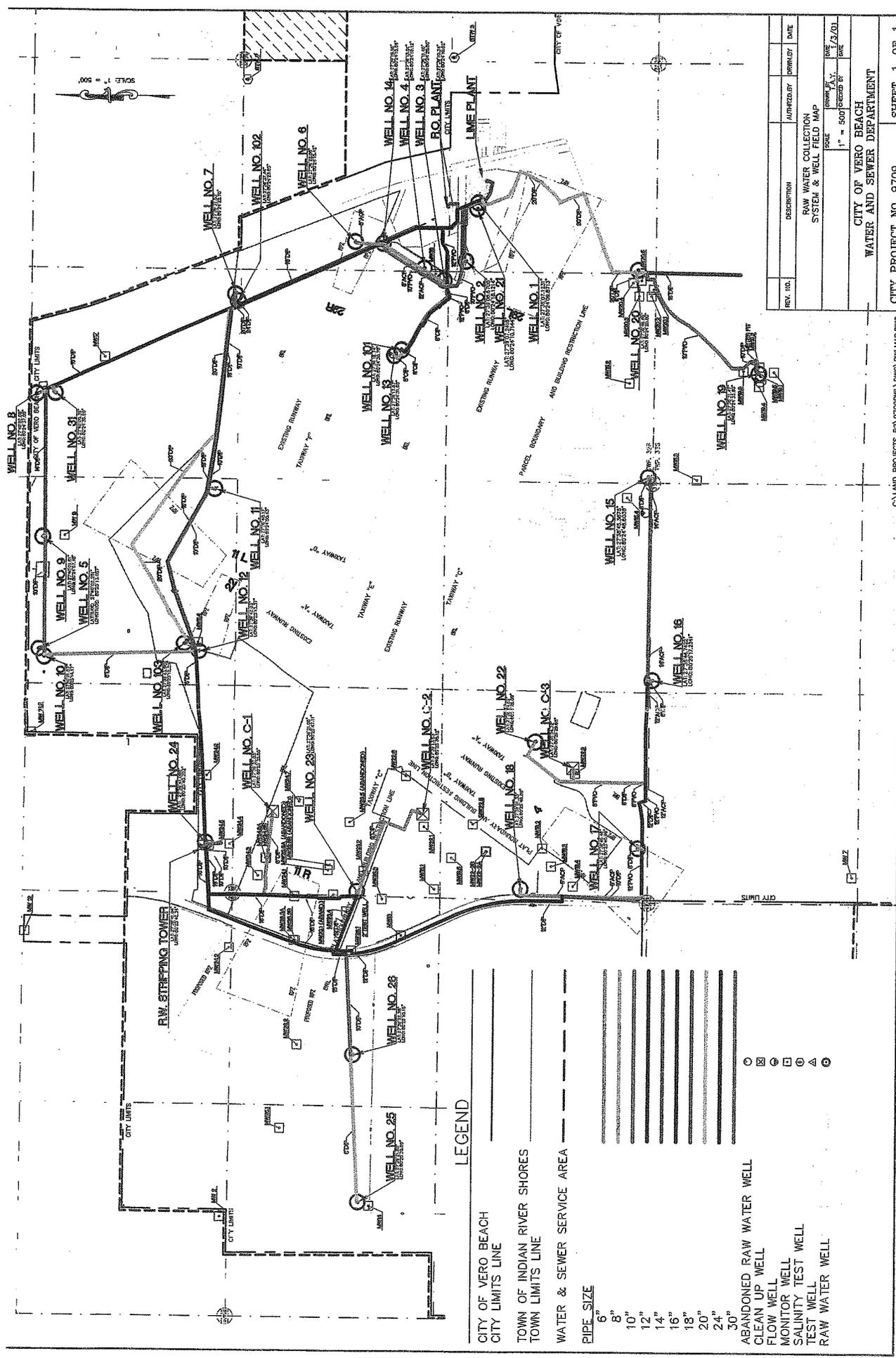
Prepared by the City Attorney's Office
City of Vero Beach
PO Box 1389
Vero Beach, FL 32961-1389



CITY OF VERO BEACH WATER AND SEWER DEPARTMENT	W.S. PAGE 1 OF 1
COVB. WATER AND SEWER DEPARTMENT WELL FIELD MAP	28 WELLS - 3 FOR NEW LEASE AREA (# 2, 3, 4)
APPROVED _____ DRAWN BY T.A.Y. DATE 9/15/05	REVISION _____ 25

ONLAND PROJECTS REN9709ULRVLMAPPING

EXHIBIT A



REV. NO.	DESCRIPTION	APPROVED BY	DATE
	RAW WATER COLLECTION SYSTEM & WELL FIELD MAP		
SCALE		DRAWN BY	DATE
1" = 500'			1/2/03
CITY OF VERO BEACH WATER AND SEWER DEPARTMENT			

C:\LAND PROJECTS\RA\9709RWL.DWG RWLMAP.DWG
 CITY PROJECT NO. 9709 SHEET 1 OF 1

EXHIBIT A

RESOLUTION NO. 89-12

A RESOLUTION OBLIGATING THE CITY OF VERO BEACH WATER AND SEWER FUND TO PAY TO THE AIRPORT AN ANNUAL AMOUNT AS LAND RENTAL FOR TWENTY (20) WELLS AND ONE STRIPPING TOWER LOCATED ON AIRPORT PROPERTY, TO BE USED AS PART OF THE CITY'S WELL FIELD AND WATER PUMPING SYSTEM.

WHEREAS, the City of Vero Beach maintains well field and water pumping facilities at the Vero Beach Municipal Airport, and

WHEREAS, the City of Vero Beach owns and operates the Municipal Airport as a proprietary function of the City on an enterprise fund basis and without recourse to general revenue funds, and

WHEREAS, the Federal Aviation Agency, which has certain jurisdiction over the Municipal Airport property under Federal Law, and under the terms of the Agreement by which the City acquired title to the Airport property, requires the City to pay to the Airport Fund the fair market rental value for the use of Airport land by the City, and

WHEREAS, in view of the foregoing, the Airport Fund shall be paid for the use of Airport land by the City's Water and Sewer Department,

WHEREAS, this Resolution shall supersede City of Vero Beach Resolution No. 2666.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1 - Legal Description.

(SEE EXHIBIT "A")

Section 2 - Terms.

The above described land consists of approximately 643,570 square feet. The base rent shall be at the fair market value of .1289 cents per square foot per year, amounting to \$82,956.12 per year, beginning September 1, 1988. The rent shall be payable monthly at the rate of \$6,913.01 per month. The cost shall be charged to the Water and Sewer Fund of the City of Vero Beach.

Section 3 - Automatic Rent Increase.

The rent of .1289 cents per square foot per year shall be adjusted yearly in accordance with the Consumer Price Index as published by the U.S. Department of Labor, Bureau of Labor Statistics, using the all items for all urban consumers, July to July report. The CPI adjustment will be made October 1st of each year.

RECEIVED

FEB 14 89

AIRPORT

Section 4 - Effective Date.

This resolution shall become effective upon adoption by the City Council.

THIS RESOLUTION was moved for adoption by Councilman Winchester, seconded by Councilman Howard, and adopted on the 7th day of February, 1989, by the following vote:

Mayor Macht	<u>yes</u>
Vice Mayor Winchester	<u>yes</u>
Councilman Howard	<u>yes</u>
Councilman Krause	<u>yes</u>
Councilman Wodtke	<u>yes</u>

ATTEST:

CITY OF VERO BEACH, FLORIDA

Phyllis A. F. Tubergen
City Clerk

Samuel P. Parnell
Mayor

Approved as to form and legal sufficiency:

Approved as to technical requirements:

[Signature]
City Attorney

[Signature]
City Manager

Approved as to technical requirements:

Approved as to technical requirements:

[Signature]
Finance Director

[Signature]
Airport Director

Approved as to technical requirements:

[Signature]
Water and Sewer Director

MEMORANDUM

4 - []

TO: Monte K. Falls, Interim City Manager *IZZ 6/1/2011*

VIA: Wayne R. Coment, Acting City Attorney *WRC*

VIA: Robert J. Bolton, Water and Sewer Director *RJB*

FROM: Ericson W. Menger, Airport Director

DATE: June 1, 2011

SUBJECT: **RESOLUTION TO AMEND LEASE TERMS WITH THE CITY WATER AND SEWER DEPARTMENT TO ACCOMMODATE THE EXPANSION OF THE WATER AND SEWER TREATMENT PLANT FACILITIES, WATER AND WASTEWATER STORAGE, AND INJECTION WELL INSTALLATION**

Attached for your review and consideration is a proposed Resolution to revise the amount of charges paid by the Water and Sewer Fund to the Airport Fund to compensate the Airport for the expanded water and sewer facilities site lying north of the existing water plant parcel and easterly of Airport North Drive. The existing Resolution 89-11 covers **18.1 gross acres** and the revised parcel covers a total of **25.14 gross acres**. Under Federal Law and FAA Grant Assurances, the Airport fund is required to receive fair market value for use of Airport land by private and public entities, including other departments within the City.

BACKGROUND:

On February 7, 1989, the Vero Beach City Council passed Resolution 89-11 which provided for the use of 18.1 gross acres of airport land to construct expanded water plant facilities north of the existing water treatment plant. Recently, the Water and Sewer Department has been further developing the area, constructing a new large storage tank, deep injection well, monitoring well, and 3 additional buildings on the existing site and additional lands in the vicinity. The new facilities have now been completed and staff has prepared the attached Resolution to address the changes.

The proposed new Resolution allocates current fair market value to the lands originally developed per Resolution 89-11, and applying the same market value to the areas added to the site due to the significant expansion of the improvements and facilities. The new fair market value was determined by a current MAI appraisal procured from the local appraisal firm of Armfield and Wagner Appraisal.

Based upon the adjusted site area and application of the new value, the Water and Sewer Department's payment will rise from **\$123,240.00** for fiscal year 2010-2011, to **\$125,717.00** per year beginning June 1, 2011 through September 30, 2011, an increase of **\$2,477.00 (2.0%)**. The site has increased in size by 7.04 acres, or 38.895%. Funding has already been included in the proposed 2010-2011 budget for both the Airport and the Water and Sewer Departments and will represent a substantial reduction in those budgets.

RECOMMENDATION:

I respectfully request this item be placed on the June 7, 2011, City Council agenda. I recommend approval of the new Resolution.

EWM/jm

Attachment

cc: Airport Commission Members (via email and U.S. Mail)
 Steve Maillet, Finance Director (via email)
 Joyce Vonada, City Managers Office (via email)

RESOLUTION NO. 2011- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, PROVIDING FOR THE USE OF APPROXIMATELY 25.14 ACRES OF MUNICIPAL AIRPORT REAL PROPERTY BY THE CITY WATER AND SEWER DEPARTMENT; PROVIDING FOR PAYMENTS FROM THE WATER AND SEWER FUND INTO THE AIRPORT FUND FOR SAID USE; ESTABLISHING THE AMOUNT OF THE PAYMENTS AND PROVIDING FOR ADJUSTMENTS THERETO; PROVIDING FOR CERTAIN ROADWAY MAINTENANCE BY THE WATER AND SEWER DEPARTMENT; REPEALING RESOLUTION 89-11; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Vero Beach owns and operates the Vero Beach Municipal Airport ("Airport") as a municipal enterprise fund and which Airport is subject to certain federal laws and regulations administered by the Federal Aviation Administration ("FAA"); and

WHEREAS, the City of Vero Beach also owns and operates the Vero Beach Municipal Water and Sewer Department ("Department") as a municipal enterprise fund and which Department occupies and uses certain Airport real property for operation and maintenance of various water and sewer facilities constructed thereon in exchange for payments into the Airport fund as previously provided for in Resolution 89-11; and

WHEREAS, applicable federal laws and regulations of the FAA, through deed restrictions and grant assurances, require the City of Vero Beach to operate the Airport as a revenue producing facility and require the Airport enterprise fund to be paid fair market value for the use of Airport real property; and

WHEREAS, the operations of the Department have required an expansion of the area of Airport real property utilized for its purposes from 18.1 gross acres to 25.14 gross acres in order to accommodate additional structures, a deep injection well and

associated equipment, several raw water wells, additional structures for administrative offices, maintenance building, and covered storage for equipment; and

WHEREAS, expansion of the area of Airport real property utilized by the Department requires recalculation of the fair market rental value to be paid into the Airport enterprise fund for use of the Airport real property in keeping with the applicable federal laws and regulations; and

WHEREAS, it is appropriate for the City Council to provide by resolution for use of Airport real property by the Department and establish the amount to be transferred from the Water and Sewer enterprise fund to the Airport enterprise fund in exchange for occupation and use of the Airport real property; and

WHEREAS, the amounts to be transferred from the Water and Sewer enterprise fund to the Airport enterprise fund provided for in this Resolution will ensure that the City of Vero Beach continues to comply with the applicable laws and regulations; and

WHEREAS, while Airport roadways are not generally part of the leasehold of Airport tenants nor their maintenance responsibility, that certain Airport roadway known as 33rd Street or "Beacon Road" adjacent to the Airport real property and other City-owned property no longer functions as a through street and serves primarily as the access driveway for the Department facilities; therefore it is appropriate for the Department to be responsible and pay for maintenance of said roadway and its right-of-way in addition to the payments provided for in this Resolution,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1. Incorporation of "Whereas" Clauses.

The preceding "Whereas" clauses are true and correct and are hereby

incorporated into and made a part of this Resolution.

Section 2. Use of Airport Real Property; Legal Description.

The Department is hereby authorized and shall occupy and use for its purposes that certain Airport real property ("Premises") described and depicted in Exhibit "A" attached hereto and incorporated herein.

Section 3. Payments to Airport Enterprise Fund.

Commencing June 1, 2011 there shall be paid from the Water and Sewer Fund into the Airport Fund the amount of **\$125,717.00** per year, which amount is based on the fair market rental value for occupation and use of the Premises. Said amount shall be paid in equal payments of **\$10,476.42** per month. The foregoing amount is based on the original **18.1 acres** of Airport real property and an additional **7.04 acres** of Airport real property improved with interior roadway access only, for a total of **25.14 acres (1,095,098 square feet)** at a current market value of **\$0.1148** per square foot. The Department shall maintain all of the real property and all existing storm water drainage facilities running through and across the Premises.

Section 4. Payment Adjustments.

Beginning on October 1, 2011, and annually on each October 1st thereafter, the payment amount shall be adjusted in accordance with the percentage change in the index known at the time this Resolution was adopted as the "United States Bureau of Labor Statistics Consumer Price Index (CPI) for All Urban Consumers," using the August to August report. This adjustment shall be referred to as "the CPI adjustment." If the CPI ceases to be published the successor index shall be used. In addition, the payment amount shall be re-examined at the end of each five (5) year period. At least three (3) months prior, but not more than six (6) months prior, to the five (5) year

adjustment date, the Airport and the Department shall jointly procure and share the cost of a new MAI appraisal to aid in establishing the then current fair market rental value of the Premises, without consideration of any improvements made by or for the Department. If there is a deficiency of more than five (5%) percent as compared to the then effective payment amount, the payment amount shall be adjusted to equal the new fair market rental value. These adjustments shall be made administratively in writing upon authorization of the City Manager and without any requirement to amend this Resolution. In no event shall the payment amount be less than that amount payable for the previous year.

Section 5. Maintenance of Beacon Road.

The Department shall be responsible for maintenance of Beacon Road and its right-of-way commencing at the east right-of-way boundary of Airport North Drive and continuing to its east terminus at the F.E.C. railroad right-of-way. Said maintenance shall be an expense of the Department and paid from the Water and Sewer Fund.

Section 6. Repeal of Resolution 89-11.

Resolution 89-11 is hereby repealed.

Section 7. Effective Date.

This Resolution shall be effective upon final adoption by the City Council.

This Resolution was read by title on the 7th day of June 2011 at which time it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the City Council by the following vote:

Mayor Jay Kramer _____
Vice-Mayor Pilar E. Turner _____
Councilmember Tracy M. Carroll _____
Councilmember A. Craig Fletcher _____
Councilmember Brian T. Heady _____

ATTEST:

CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

Jay Kramer
Mayor

Approved as to form and legal
sufficiency:

Approved as conforming to
municipal policy:



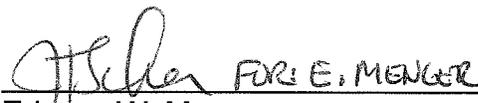
Wayne R. Coment
Acting City Attorney



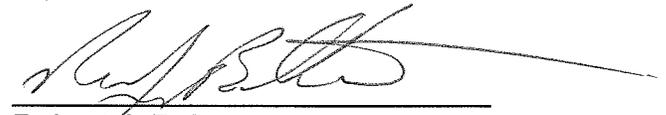
Monte K. Falls
Interim City Manager

Approved as to technical requirements:

Approved as to technical requirements:



Ericson W. Menger
Airport Director



Robert J. Bolton
Water and Sewer Director

Approved as to technical requirements:



Stephen Maillet
Finance Director

Prepared by the City Attorney's Office
City of Vero Beach
PO Box 1389
Vero Beach, FL 32961-1389

**ATTACHMENT "A"
PROPERTY DESCRIPTION
WATER TREATMENT PLANT LEASE
VERO BEACH MUNICIPAL AIRPORT**

Situated in the State of Florida, County of Indian River, City of Vero Beach, and being a part of Section 34, Township 32 South, Range 39 East and being more particularly bounded and described as follows:

Commencing at the Northeast corner of Section 35, Township 32 South, Range 39 East;

Thence North $89^{\circ}50'19''$ West along the said north line of Section 35 for a distance of 2,413.49 feet to a point on the west right-of-way of the Florida East Coast Railroad;

Thence South $12^{\circ}18'08''$ East along the said west right-of-way for a distance of 1,918.09 feet to the point of curvature of a circular curve concave to the west;

Thence Southeasterly along said curve having a radius of 2,814.77 feet and a delta angle of 4 degrees, 59 minutes and 18 seconds, a chord bearing of South 18 degrees, 48 minutes and 29 seconds East and a chord distance of 244.98 feet for a distance of 245.06 feet to the Point of Beginning of the Water Treatment Plant Lease Area;

Thence from the Point of Beginning continue Southeasterly along said curve having a radius of 2,814.77 feet and a delta angle of 3 degrees, 01 minute and 42 seconds, a chord bearing of South 14 degrees, 47 minutes and 59 seconds East and a chord distance of 148.76 for a distance of 148.78 feet to a Point of Tangency;

Thence South $13^{\circ}17'08''$ East along the said west right-of-way for a distance of 654.49 feet to an intersection with the north right of way of Beacon Road as it is now configured, and also being the former centerline of Beacon Road;

Thence South $89^{\circ}30'17''$ West along the north right of way of Beacon Road for a distance of 1369.23 feet to a point on the east right of way of Airport North Drive, said point also being on a circular curve convave to the east;

Thence Northerly along said curve having a radius of 393.12 feet, a delta angle of 57 degrees, 08 minutes and 35 seconds, a chord bearing of North 2 degrees, 44 minutes and 18 seconds East, and a chord distance of 376.02 feet for a distance of 392.07 feet to the Point of Tangency;

Thence North $31^{\circ}18'34''$ East along said east right-of-way of Airport North Drive for a distance of 637.16 feet to a Point of Curvature of a circular curve concave to the west;

Thence Northwesterly along said curve having a radius of 180.00 feet and a delta angle of 69 degrees, 03 minutes and 49 seconds, a chord bearing of North 3 degrees, 13 minutes and 2 seconds West, and a chord distance of 204.07 feet for a distance of 216.97 feet;

Thence North 52°14'45" East for a distance of 10.83 feet;

Thence South 67°58'13" East for a distance of 900.35 feet to the Point of Beginning;

Said Lease Area containing 1,095,100 square feet or 25.14 acres more or less.

Subject to the following described. Drainage Easement:

Commencing at the Northeast corner of the above described Water Treatment Plant Lease Area;

Thence North 67°58'13" West for a distance of 268.68 feet to the Point of Beginning of an eighty foot wide drainage easement lying 40 feet on each side of the following described lines:

Thence from the Point of Beginning run South 15°24'52" East for a distance of 249.47 feet;

Thence South 18°47'12" West for a distance of 171.13 feet;

Thence South 72°51'37" West for a distance of 288.30 feet;

Thence South 23°03'14" West for a distance of 101.32 feet;

Thence South 00°20'01" West for a distance of 196.26 feet to Point "A";

Thence from Point "A" run South 89°26'06" East for a distance of 43.61 feet;

Thence South 17°02'53" East for a distance of 114.97 feet to the Point of Terminus, said point being on the north right of way line of Beacon Road as it is now configured;

Together with an eighty foot wide drainage easement lying 40 feet on each side of the following described lines:

Beginning at point "A" run North 89°26'06" West for a distance of 662.94 feet to the Point of Terminus, said point being on the east right-of-way line of Airport North Drive;

Said Easement containing 142,985 square feet or 3.28 acres more or less.

Note: side lines of said easement are to be shortened or prolonged to meet at angle points, lot lines and right-of-ways.

Also subject to the following described easements and lease:

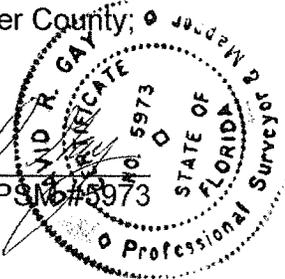
A 20 foot wide easement to the City of Vero Beach as shown and recorded in Official Record Book 499, page 152 of the public records of Indian River County;

A 20 foot wide easement to Indian River County as shown and recorded in Official Record Book 535, page 578 of the public records of Indian River County;

A 40 foot wide easement to Southern Bell as shown and recorded in Official Record Book 559, page 2092 of the public records of Indian River County;

A 50 foot by 50 foot lease area to Indian River County as shown and recorded in Official Record Book 535, page 570 of the public records of Indian River County;


David R. Gay, PSM #5973





RESOLUTION NO. 89-11

A RESOLUTION OBLIGATING THE CITY OF VERO BEACH WATER AND SEWER FUND TO PAY TO THE AIRPORT AN ANNUAL AMOUNT AS LAND RENTAL FOR 14.146 ACRES OF LAND LOCATED ON AIRPORT PROPERTY, TO BE USED IN CONJUNCTION WITH THE WATER TREATMENT PLANT.

WHEREAS, the City of Vero Beach maintains water treatment facilities at the Vero Beach Municipal Airport, and

WHEREAS, the City of Vero Beach owns and operates the Municipal Airport as a proprietary function of the City on an enterprise fund basis and without recourse to general revenue funds, and

WHEREAS, the Federal Aviation Agency, which has certain jurisdiction over the Municipal Airport property under Federal Law, and under the terms of the Agreement by which the City acquired title to the Airport property, requires the City to pay to the Airport Fund the fair market rental value for the use of Airport land by the City, and

WHEREAS, in view of the foregoing, the Airport Fund shall be paid for the use of Airport land by the City's Water and Sewer Department,

WHEREAS, this Resolution shall supersede City of Vero Beach Resolution No. 2813.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1 - Legal Description.

(SEE EXHIBIT "A")

Section 2 - Terms.

The above described parcel consists of approximately 616,200 square feet. The base rent shall be at the fair market value of .1289 cents per square foot per year, amounting to \$79,428.00 per year, beginning September 1, 1988. The rent shall be payable monthly at the rate of \$6,619.00 per month. The cost shall be charged to the Water and Sewer Fund of the City of Vero Beach.

Section 3 - Automatic Rent Increase.

The rent of .1289 cents per square foot per year shall be adjusted yearly in accordance with the Consumer Price Index as published by the U.S. Department of Labor, Bureau of Labor Statistics, using the all items for all urban consumers, July to July report. The CPI adjustment will be made October 1st of each year.

RECEIVED

FEB 14 89

AIRPORT

This resolution shall become effective upon adoption by the City Council.

THIS RESOLUTION was moved for adoption by Councilman Howard, seconded by Councilman Wodtke, and adopted on the 7th day of February, 1989, by the following vote:

Mayor Macht	<u>yes</u>
Vice Mayor Winchester	<u>yes</u>
Councilman Howard	<u>yes</u>
Councilman Krause	<u>yes</u>
Councilman Wodtke	<u>yes</u>

ATTEST:

CITY OF VERO BEACH, FLORIDA

Phyllis A. Y. Fuchsberger
City Clerk

Samuel H. Dool
Mayor

Approved as to form and legal sufficiency:

Approved as to technical requirements:

[Signature]
City Attorney

[Signature]
City Manager

Approved as to technical requirements:

Approved as to technical requirements:

[Signature]
Finance Director

Richard P. Brown
Airport Director

Approved as to technical requirements:

[Signature]
Water and Sewer Director

MEMORANDUM

TO: Mayor Jay Kramer and
City Councilmembers

FROM: Tammy K. Vock, MMC
City Clerk



DATE: June 1, 2011

SUBJECT: New Alternates for the Tree and Beautification Commission and
Veterans Memorial Island Sanctuary Advisory Committee

TREE AND BEAUTIFICATION COMMISSION

There are two alternate positions open on the Tree and Beautification Commission.

Applications on File:

Cynthia Schwarz
Alexander Snodgrass

VETERANS MEMORIAL ISLAND SANCTUARY ADVISORY COMMITTEE

There is one alternate position open on the Veterans Memorial Island Sanctuary Advisory Committee.

Applications on File:

Curtis Paulisin

/tv

6-C)

MEMORANDUM

TO: Mayor Jay Kramer and City Councilmembers
FROM: Tammy K. Vock, City Clerk *Tammy*
DATE: June 2, 2011
RE: Code Enforcement Board Case #09-CE-724 / 918 Coquina Lane

The Law Firm of Stewart Evans Stewart and Emmons are requesting a reduction or waiver of Code Enforcement Penalties in Case #09-CE-724 / Alexander M. Schaller. I have attached the backup information regarding this Case along with a breakdown of the total amount owed to the City. It is our understanding that a representative of Stewart Evans Stewart and Emmons will be present to state their request. Mr. McGarry will also be available to explain the history of this Case.

TKV/sp

**CODE ENFORCEMENT BOARD CASE #09-CE-724
ALEXANDER M. SCHALLER /
STEWART EVANS**

Original Fine	\$50.00
Enforcement Cost	\$90.46
Fine as of the date of the Code Enforcement Board Hearing (April 14, 2010)	\$6,550
Continuing Fine @ \$50 a day (x) 398 days (Date of Correction May 18, 2011)	\$19,900
Recording Cost for Order to Pay Civil Penalties And Costs and Imposing Continuing penalties For Uncorrected Violations	\$18.50
City Attorney Fee to do the Release of Lien	\$25.00
Recording Cost for the Release of Lien	\$18.50
TOTAL COST AS OF VIOLATION CORRECTION DATE (May 18, 2011)	\$26,652.46



**BEFORE THE CODE ENFORCEMENT BOARD
OF THE CITY OF VERO BEACH, FLORIDA
1053 20TH PLACE
VERO BEACH, FLORIDA 32960**

2062663
THIS DOCUMENT HAS BEEN
RECORDED IN THE PUBLIC RECORDS
OF INDIAN RIVER COUNTY FL
BK: 2416 PG: 595, Page 1 of 3
04/29/2010 at 12:04 PM
JEFFREY K BARTON, CLERK OF COURT

CITY OF VERO BEACH

CASE No.: **09-CE-724**

vs.

Citation No.: **325D**

Alexander M. Schaller
462 7th Avenue
Brooklyn, NY 11215

ORDER
TO PAY CIVIL PENALTIES AND COSTS AND IMPOSING
CONTINUING PENALTIES FOR UNCORRECTED VIOLATIONS

VIOLATIONS: City of Vero Beach Code ("Code") section 38-31(b)(1), weeds, grass and undergrowth at a height of more than 12 inches.

LOCATION: Parcel #33400500012008000003.0 — Coquina Lane, Vero Beach, Indian River County, Florida 32960.

The above styled case having come before the Code Enforcement Board of the City of Vero Beach ("Board") on the 14th day of April 2010 on request of the issuing code enforcement officer for an order to pay civil penalties and costs on continuing violations in this case and the Board having heard the report of the code enforcement officer, on motion made and approve, found that:

1. The citation, notice of assessment and notice of this hearing issued in this case were served as provided by law.
2. The violators did not appeal the issuance of the code enforcement citation or the notice of assessment issued in this case within the time allowed and therefore waived the right to a hearing before the Board to contest the issuance of the citation and to contest the issuance the notice of assessment.
3. The violators' waivers of hearing are deemed an admission of the violations of Code section 38-31(b)(1), weeds, grass and undergrowth over 12 inches, as alleged in the code enforcement citation and the amount of the civil penalties and costs assessed in the notice of assessment.
4. The violators have not corrected the violations and remain in violation as of the time of this hearing.
5. The violators have not paid the civil penalty of \$50.00 assessed on the citation or the continuing civil penalties assessed in the notice of assessment, which now total \$6,550.00 as of the date of this hearing, for total civil penalties of \$6,600.00 now due and payable as of the date of this hearing.

**THIS IS TO CERTIFY THAT THIS IS A
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN THIS OFFICE.**

SHERRI PHILO

BY: Sherril Philo, D.C.

DATE: April 26 2010

6. The City has incurred enforcement costs of \$90.46 in this case which the City is entitled to recover, together with all costs of recording the Board's orders in this case and satisfying and recording the resulting liens.

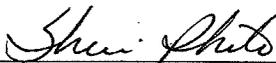
IT IS THEREFORE ORDERED AND ADJUDGED BY THE BOARD THAT:

The violators are deemed to have committed the violations of Sections 38-31(b)(1), weeds, grass, and undergrowth at a height of more than 12 inches, as specified on the citation, and are hereby ordered to pay to the City Clerk, within thirty (30) days from the date of this order, the accrued civil penalties of \$6,600.00, together with a continuing civil penalty of \$50.00 per day for each day the violations remain uncorrected after April 14, 2010, together with enforcement costs of \$90.46 and all costs of recording the Board's orders in this case and recording and satisfying the resulting liens.

DONE AND ORDERED at Vero Beach, Indian River County, Florida this 26th day of April, 2010.

ATTEST:

CODE ENFORCEMENT BOARD
OF THE CITY OF VERO BEACH



Sherri Philo
As Board Clerk



Kirk Noonan
As Chairman

Approved as to form and legal sufficiency:



Wayne R. Coment
As Board Attorney

IMPORTANT INFORMATION

Correction of Violations: AFTER CORRECTING THE VIOLATIONS YOU MUST NOTIFY THE CODE ENFORCEMENT OFFICER at Telephone # 772-978-4551 or at the Code Enforcement Office, City Hall, 1053 20th Place, Vero Beach, FL 32960, in order to suspend accrual of the continuing civil penalties.

Payment of Civil Penalties and Costs: You must contact the City Clerk's Office at 772-978-4700 for the total amount of civil penalties, enforcement costs, recording and other costs required to satisfy this order and lien. Civil penalties and costs may be paid in person at the City Clerk's Office located at City Hall, 1053 20th Place, Vero Beach, Florida 32960, Monday through Friday between 8:30 A.M. and

5:00 P.M., or by mailing a check or money order to said address, payable to "City of Vero Beach." Do not mail cash!

Repeat Violation: Repeat violation of the same Code provision by the violator, even if committed at a different location, can result in the issuance of a code enforcement citation and assessment of increased civil penalties for the repeat offense.

Notice of Right to Appeal Board Decision: You have the right to appeal the Board's order to the Circuit Court in Indian River County, Florida. A written notice of appeal, together with a copy of the order appealed, must be filed with the Clerk of the Code Enforcement Board and with the Clerk of the Circuit Court within thirty (30) days after the date of this order or the right to appeal is waived. An appeal is limited to appellate review of the record of the proceedings created before the Code Enforcement Board. (F.S. 26.012(1); Florida Rules of Appellate Procedure, 9.030(c)(1)(C); 9.110(c).

Cc: Suntrust (Lender)
Foreclosure Dept. RVW3064
1001 Semmes Avenue, 4th Floor
Richmond, VA 23224



BEFORE THE CODE ENFORCEMENT BOARD
OF THE CITY OF VERO BEACH, FLORIDA
1053 20TH PLACE
VERO BEACH, FLORIDA 32960
Telephone (772) 978-4700

CITY OF VERO BEACH

CASE No.: 09-CE-724

vs.

Citation No.: 325D

Alexander M. Schaller

NOTICE OF ASSESSMENT OF CONTINUING PENALTIES

TO: Alexander M. Schaller
462 7th Avenue
Brooklyn, NY 11215

YOU ARE HEREBY NOTIFIED that the officer issuing the attached code enforcement citation has reported to the Code Enforcement Board of the City of Vero Beach that the violation cited was not corrected within the time given for correction and a written request for a hearing to contest the citation was not received within the time allowed. Failure to timely file a written request for a hearing on the citation waived the right to a hearing and such waiver is deemed an admission of the violation cited. The violation having been admitted and having not been corrected as required in the citation, the Code Enforcement Board has directed the issuance of this Notice assessing the following civil penalties and costs against you:

1. The Civil Penalty of \$50.00 specified on the citation for the initial violation; and
2. Enforcement Costs of \$90.46; and
3. A Civil Penalty of \$50.00 per day for each day of continuing violation commencing December 5, 2009 (the day after the date given on the citation for correction of the violation) and currently equaling \$3,400.00 for 68 days as of February 10, 2010.

TOTAL CURRENTLY DUE: \$3,540.46

EACH DAY THE VIOLATION REMAINS UNCORRECTED IS A SEPARATE VIOLATION. THE CIVIL PENALTY OF \$50.00 PER DAY WILL CONTINUE TO ACCRUE DAILY AND BE ADDED TO THE ABOVE-STATED PENALTIES UNTIL THE VIOLATION IS CORRECTED!

RIGHT TO HEARING OR TO CORRECT AND PAY: Within the time specified below, you must either file a written request for a hearing to appeal the amount of penalties and costs assessed in this Notice **OR** correct the violation and pay the penalties and costs accrued *through the date the violation was corrected*. You must contact the Board Clerk at 772-978-4700 for the total amount due. Payment may be made at the **City Clerk's Office, City Hall, 1053 20th Place, Vero**

Beach, Florida 32960. Checks should be made payable to "City of Vero Beach." Do not mail cash! **IF A HEARING ON THIS NOTICE OF ASSESSMENT IS DESIRED, YOUR WRITTEN REQUEST FOR A HEARING MUST BE RECEIVED WITHIN TEN (10) DAYS (excluding Saturdays, Sundays, and legal holidays) OR THE RIGHT TO A HEARING IS WAIVED AND DEEMED AN ADMISSION THAT THE AMOUNT OF THE PENALTIES AND COSTS STATED HEREIN ARE CORRECT, DUE, AND PAYABLE TO THE CITY.** The issues for determination at a hearing on this Notice of Assessment will be strictly limited to the amount of the continuing penalties based solely upon the length of time the violation continued to exist and the amount of the costs incurred by the City. If, after the hearing, the penalties and costs stated in this Notice are found correct, you may also be liable for costs of the hearing and any additional costs incurred by the City as a result of the enforcement action.

Further information regarding this case and how to comply with this Notice and the citation may also be obtained by calling the issuing officer at the telephone number specified on the citation or at the Code Enforcement Division office at City Hall, 1053 20th Place, Vero Beach, Florida 32960.

Failure to comply with this Notice of Assessment as specified above within the time allowed may result in report of non-compliance to the Code Enforcement Board or Special Magistrate and issuance of an order having the force of law to command action necessary to correct the violation, together with imposition of civil penalties, costs, and all expenses incurred by the City to correct the violation, which assessments will be a lien against the property on which the violation exists and all other property of the violator.

FOR THE CODE ENFORCEMENT BOARD

Date Issued: February 15, 2010

By: 
Board Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Notice of Assessment of Continuing Penalties was provided to the above-named violator by first class U.S. Mail addressed to the above-specified address this 15th day of February 2010.


Board Clerk



CITY OF VERO BEACH, FLORIDA
Code Enforcement
1053 20th Place, Vero Beach, FL 32960

CODE ENFORCEMENT CITATION

No. 325D / 09-CE-724

STATE OF FLORIDA, COUNTY OF INDIAN RIVER, CITY OF VERO BEACH,

In the name of the City of Vero Beach, Florida: The undersigned officer certifies that he/she has just and reasonable grounds to believe, and does believe that on **Oct 06, 2009** at **3:45 PM**

Name: **ALEXANDER M SCHALLER**
of: **462 7TH AVE**
BROOKLYN, NY 11215

at (violation address): **Parcel # 33400500012008000003.0 COQUINA LN** in the City of Vero Beach, Florida committed the following civil offense: **WEEDS, GRASS, OR UNDERGROWTH AT A HEIGHT OF MORE THAN 12 INCHES.**

Violation of code provision(s): 38-31(B)(1)

Facts constituting violation: PRIOR WRITTEN WARNING UNHEEDED. TALL WEEDS AND GRASS THROUGHOUT PROPERTY. PROPERTY MUST BE CUT AND MAINTAINED BELOW 12 INCHES AT ALL TIMES.

CIVIL PENALTY: \$50.00

PAY BY DATE: 12/04/2009

REPEAT VIOLATION

WARNING. This is a warning notice and no civil penalty is assessed. If correction of the violation is required, it must be corrected by the date specified below. Failure to correct the violation by the date specified, or a repeat of the same violation, even if the violation occurs at a different location, will result in issuance of a citation assessing civil penalties against you.

CORRECTION REQUIRED BY: 12/04/2009. This is a correctable violation and must be corrected by the date specified. Each day that the violation remains uncorrected after the date specified is a separate violation and additional civil penalties and costs may be assessed against you without issuance of additional citations. You must contact the issuing officer and request re-inspection once the violation is corrected or if you need additional time to correct the violation. If you do not correct the violation by the date specified the City may also take action to correct the violation and assess the costs of correction plus administrative fees as a lien against the property on which the violation was corrected in addition to any lien for civil penalties or costs.

Issued by: David Checchi
Department: Code Enforcement Officer

Date Issued: 11/13/2009
Telephone: 772-978-4551

RIGHT TO HEARING OR TO PAY REDUCED PENALTY: You must either file a written request for a hearing to contest this citation **OR** pay the reduced civil penalty specified above at: **City Clerk's Office, City Hall, 1053 20th Place, Vero Beach, Florida 32960. WRITTEN REQUEST FOR A HEARING MUST BE RECEIVED WITHIN TEN (10) DAYS (excluding Saturdays, Sundays, and legal holidays) OR YOUR RIGHT TO A HEARING IS WAIVED AND DEEMED YOUR ADMISSION OF THE VIOLATION.** Make checks payable to "City of Vero Beach." Do not mail cash! If correction of the violation is required above, the timely filing of a request for a hearing will toll the accrual of continuing violation penalties pending outcome of the hearing. Your right to pay the reduced penalty specified above is waived if you elect to contest the citation and, if after the hearing you are found to be responsible for the violation, a civil penalty of up to \$500 (\$1,000 for contracting violations) may be assessed against you for each day of violation, plus administrative and enforcement costs.

Your signature below acknowledges receipt of a copy of this citation and is **NOT** an admission of the violation. Willful refusal to sign and accept this citation is a misdemeanor criminal offense punishable as provided by law.

Date: _____

Signature of Individual

CLERK COPY - 09-001061

Certified Mail Receipt: 70031010000154273525

**BEFORE THE CODE ENFORCEMENT BOARD
OF THE CITY OF VERO BEACH, FLORIDA**

CITY OF VERO BEACH

vs.

Alexander M Schaller
Violator

Case Number: 09-724 / File # 09-001061 / Citation #'s 311D & 325D

AFFIDAVIT OF COSTS

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

I, David Checchi, being first duly sworn, upon personal knowledge and information, depose and state that I am a code enforcement or police officer for the City of Vero Beach, Florida and I have personal knowledge of and certify that the City of Vero Beach has incurred the following administrative and prosecution costs in investigation, enforcement, testing or monitoring relating to the above-styled code enforcement case against the named violator and that the City of Vero Beach is entitled to recovery of said fees and costs from the violator pursuant to the code enforcement ordinance:

<u>Officer</u>	<u>Activity</u>	<u>Date</u>	<u>Time</u>	<u>Rate</u>	<u>Amount</u>
DC	Complaint Intake				inc
DC	Initial Investigation	10/5/09	3.67	23.14	84.92
DC	Ownership/occupant invest				inc
DC	Initial inspection				inc
DC	Violator conference				N/A
DC	Telephone conference				N/A
DC	Hearing attendance				inc
DC	Notice of violation preparation				inc
DC	Notice of hearing preparation				inc
DC	Photo/exhibit preparation				inc
DC	Re-inspection				inc

Additional Costs and Supplies:	inc
Postage	5.54
Notices (mailed and posted)	inc
Long Distance Telephone	N/A
Photographs	inc
Vehicle Mileage	N/A

Total Costs _____ \$90.46

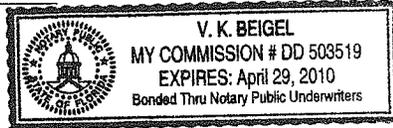


 Affiant
 Officer DAVID CHECCHI

Before me, the undersigned authority, personally appeared the Affiant, David Checche, who was duly sworn, and who states that he/she has read the foregoing Affidavit of Costs and that the contents are true and correct.

Sworn to and subscribed before me this 10th day of February 2010 by David Checche, who is personally known to me OR _____ produced _____ as identification.

V. K. Beigel
 NOTARY PUBLIC
 Print Name:
 Commission No.:
 My Commission Expires:



7003 1010 0001 5427 3527

CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only. No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

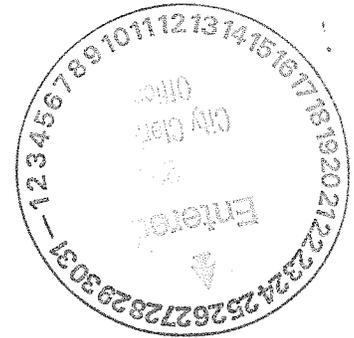
Postage	\$	
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	5.54

NOV 16 2009
 Here

Sent To: Schaller 385D
 Street, Apt. No., or PO Box No. 52D
 City, State, ZIP+4: Cheech

PS Form 3800, June 2002 See Reverse for Instructions

City Council
City of Vero Beach
1053 20th Place
Vero Beach, FL 32960



RE: Lot 3 Ocean Corp, 918 Coquina Lane, Vero Beach, FL 32963

Dear City Council;

I am writing this letter to explain the reasons why I was not up keeping the lawn maintenance at 918 Coquina Lane, Vero Beach, FL and I kindly ask your consideration in eliminating the code violation fines.

Originally when the lot was purchased it was bought with a group of people (Four) who all contributed to the bills. I was more or less a silent partner who just had the property in my name. I was not ever made aware of the lawn needs nor did I ever receive any notices. The address listed with the City of Vero was a Brooklyn address which I never lived at, therefore never received any notices so I was never aware of the situation at hand. I have always resided in Stamford, CT. I did not receive any notices from the Code Enforcement authority regarding lawn care for this vacant lot since they were not addressed to my home or business, nor were they forwarded to me.

As the economy worsened all of the partners went into bankruptcy leaving just me trying to support the bills on this lot. At the current state the property is in pre foreclosure and we are currently working with Attorney Jennifer Peshke of Stewart Evans Stewart and Emmons who will appear on my behalf at the June 7th City Council meeting for a short sale due to my limited finances. This is how I became aware of the issue with the maintenance on the property. I have proven to the lender that I have exhausted all of my funds, I am near bankruptcy, and we are close to a short sale approval by SunTrust Bank. I have no funds to pay the fine and SunTrust Bank will not pay the fine as a result of the Short Sale process at closing.

Upon immediately finding this out I contracted a landscaper who has thoroughly cleared all the debris and has brought the property back to where it needs to be and the property will be properly maintained during my ownership.

I kindly ask that you please consider the circumstances outlined and eliminate the fine which I am unable to pay. If you do not eliminate the fine the property cannot be sold as a Short Sale. I will receive NO MONEY from the closing, as it is a short sale. I will not gain from this request and I do not have the funds to pay it. My current economic situation is very bleak, I have exhausted all of my savings, and there is no way for me to pay that amount

I have arranged for a landscaper to maintain the lawn until the short sale closing. The new buyers are ready to submit building plans to gain a permit to build a single family home.

Thank You in advance for your consideration.

Kind Regards,

A handwritten signature in cursive script, appearing to read "Alex Schaller", written over a horizontal line.

Alexander Schaller
3 Brantwood Lane
Stamford, CT 06903
(914)-450-7364
AlexMGS@aol.com

Philo, Sherri

From: Checchi, David
Sent: Tuesday, May 24, 2011 3:43 PM
To: Philo, Sherri
Cc: Coment, Wayne
Subject: RE: CEB Letter

Sherri,

I'll have the backup ready for you this week.

I double checked and cross-referenced all the Schaller addresses, and confirmed no discrepancies. Property Appraiser, Tax Records, and Deed all list the same NY address we sent all notices to. Taxes are also paid up through 2011.

David

From: Philo, Sherri
Sent: Tuesday, May 24, 2011 1:45 PM
To: Checchi, David
Subject: CEB Letter

<< File: SCAN1748_000.pdf >>

Philo, Sherri

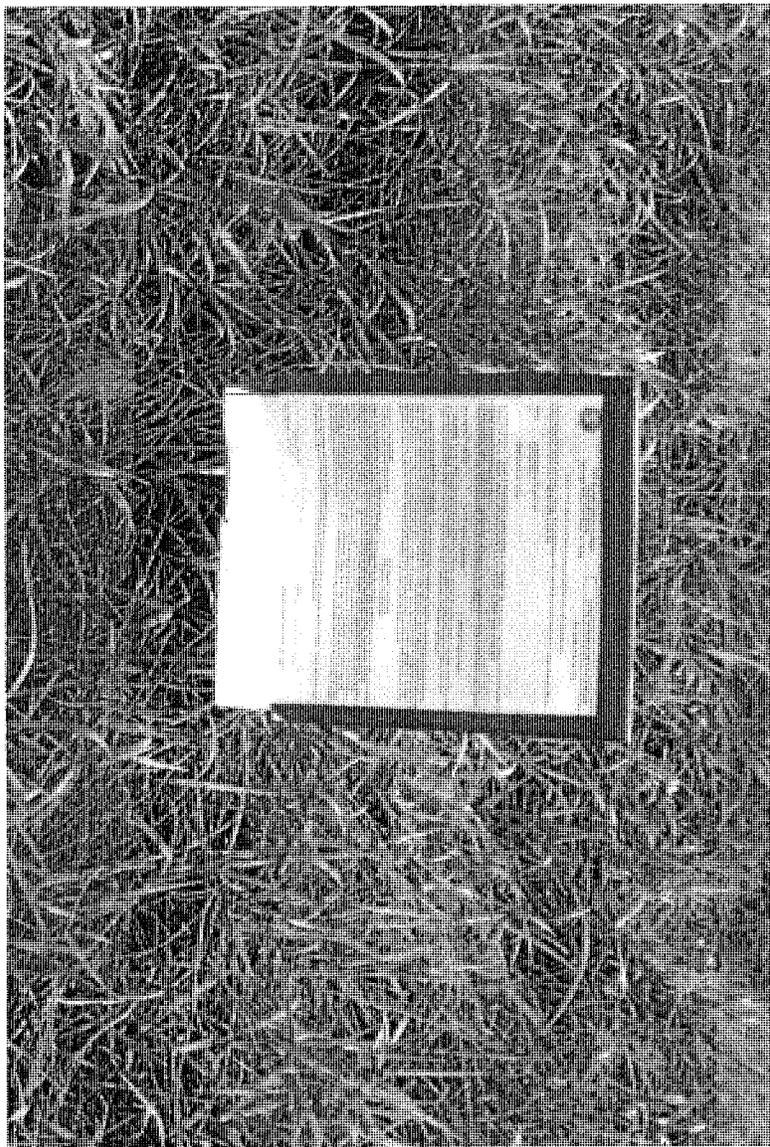
From: Checchi, David
Sent: Wednesday, May 18, 2011 4:40 PM
To: Philo, Sherri
Subject: June CEB

Sherri,

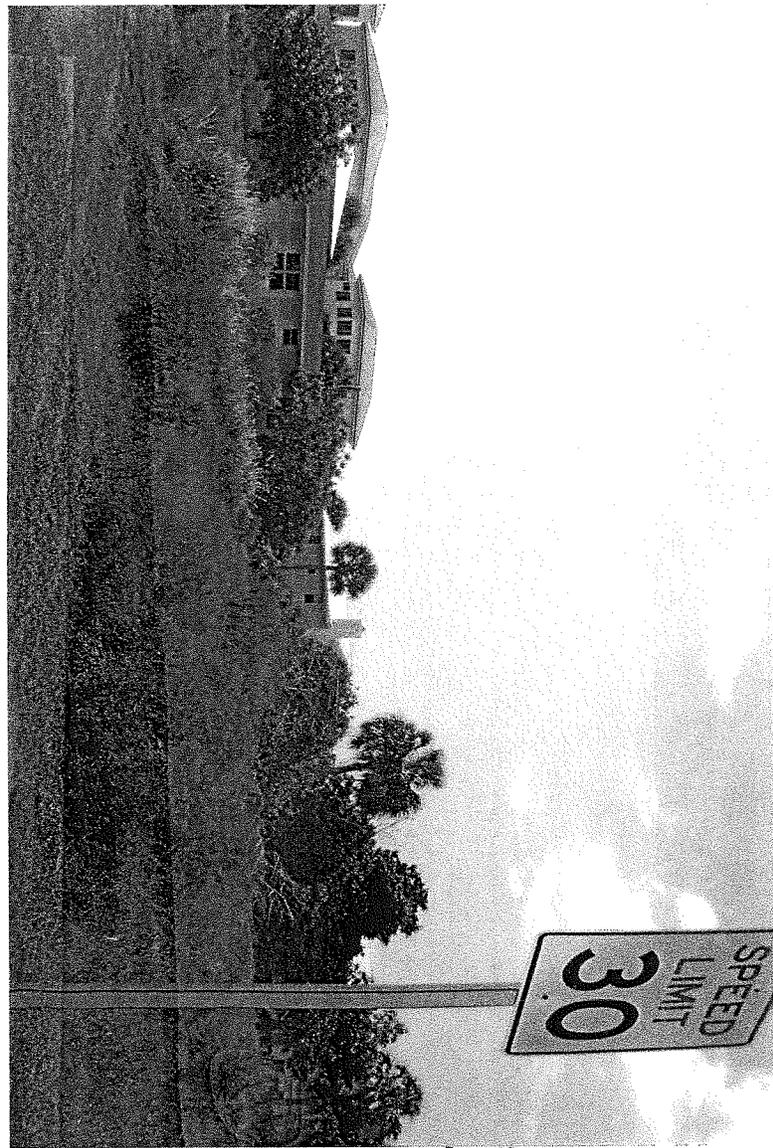
Please put Alexander Schaller case #09-724 on the June CEB agenda for complied but unpaid fines. Final compliance date: 5/18/11.

David

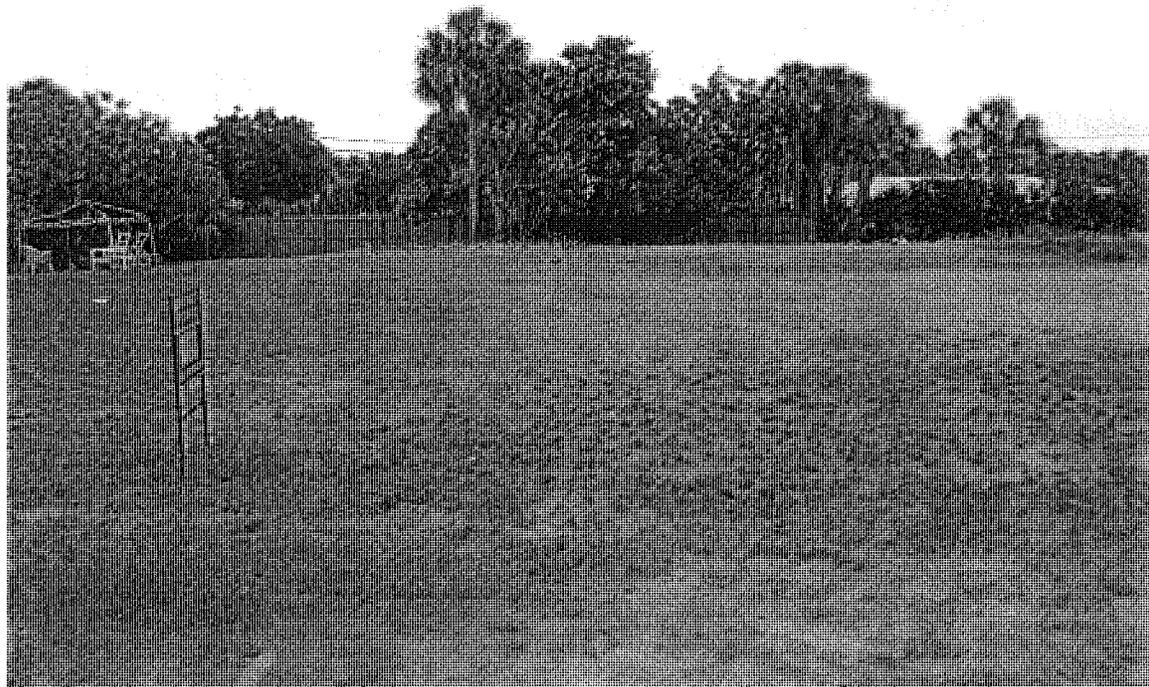
David Checchi | Code Enforcement Officer
City of Vero Beach, Florida
772-978-4551 | 772-538-4482 (cell)
772-778-3856 (fax)
dchecchi@covb.org
www.covb.org



CITATION POSTING



VIOLATION PHOTO



COMPLIANCE PHOTO

Edit
Category
File

File # 09-001061 History Contacts Activities Documents Violation

Description:

Overgrown lot

Address:

Parcel # 33400500012008000003.0
COQUINA LN

Parcel Number:

33400500012008000003.0

District/Neighborhood: Beach

How Received: Phone

Property Owner:

ALEXANDER M SCHALLER
462 7TH AVE
BROOKLYN NY 11215

Phone Number:

Area #:

Responsible User: David Checchi
772-978-4551

Type: Code Enforcement

Priority: Normal

Status: Open

Disposition:

Open Date: Oct 06, 2009

Close Date:

Categories:

Overgrown grass

Add
Activity
Contact
Document
Multiple Docs
Email
Letter
Note
Route
Violation

View

Alerts

Reports

Other

Legal Description: OCEAN CORPORATION SUB BLK 8 LOT 3 PBI 3-9

Approx. Loc:

CE Year:

CE Number:

724

Tenant:

VACANT LOT

Total Amount Currently Due:

As of Date:

Activity Type	Department	User	Assigned	Due	Completed	Status
Miscellaneous	Code Enforcement	David Checchi	May 26, 2011	Jun 07, 2011		X
Description: Council hearing 9:30 am for fine reduction appeal.						
Miscellaneous	Code Enforcement	David Checchi	May 24, 2011		May 24, 2011	Complete X
Description: rec'd copy of letter from Mr Schaller to Clerks office requesting hearing for reduction of fines, states never rec'd notices and has never lived at NY address. Checked tax records, Property Appraiser records, still list same NY addresses all notices sent to, also lists same NY address in 2009 when case opened.						
Telephone Conference	Code Enforcement	David Checchi	May 20, 2011		May 20, 2011	Complete X
Description: Spoke with Jessica from Stewart & Evans Attny. representing seller in land sale, discussed placing item on agenda for fine reduction. Forwarded to Clerk's office to initiate.						
Follow Up	Code Enforcement	David Checchi	May 12, 2011	Jun 15, 2011	May 18, 2011	Complete X
Description: Follow up						
Inspection	Code Enforcement	David Checchi	May 18, 2011		May 18, 2011	Complete X
Description: Drove by property on 5/18. noticed lot was freshly mowed. Final compliance date 5/18/11. Report to CEB.						
Miscellaneous	Code Enforcement	David Checchi	May 11, 2011		May 11, 2011	Complete X
Description: Rec'd request for payoff thru Attorneys office, drove out to site, still in violation						
Follow Up	Code Enforcement	David Checchi	Feb 21, 2011	Apr 21, 2011	Apr 21, 2011	Complete X
Description: Follow up						
Follow Up	Code Enforcement	David Checchi	Dec 16, 2010	Jan 31, 2011	Jan 31, 2011	Complete X
Description: Follow up; Nothing done, no contact.						
Follow Up	Code Enforcement	David Checchi	Oct 26, 2010	Dec 15, 2010	Dec 16, 2010	Complete X
Description: Follow up inspection. Property still overgrown. No contact.						
Follow Up	Code Enforcement	David Checchi	Aug 10, 2010	Oct 25, 2010	Oct 25, 2010	Complete X
Description: Follow up for status check; On site, still in violation.						
Follow Up	Code Enforcement	David Checchi	Aug 06, 2010		Aug 06, 2010	Complete X
Description: Drove by for status check, property still in violation, nothing done.						
Follow Up	Code Enforcement	David Checchi	Jun 01, 2010	Jul 30, 2010	Jul 30, 2010	Complete X
Description: Follow up for status check only.						
Follow Up	Code Enforcement	David Checchi	Apr 14, 2010	May 31, 2010	Jun 01, 2010	Complete X
Description: Follow up if complied. Final order issued, fines accruing. Status check only. *6/1/10 -- STILL IN VIOLATION*						
Citation	Code Enforcement	David Checchi	Nov 13, 2009	Dec 04, 2009	May 13, 2010	Fine X
Description: Per David hold off giving file to Sherri until we receive conformation back from USPS. 12/4/09 rh Property was posted fine still not paid assigned file to Sherri 12/21/09. rh						

	Description:	CEB Hearing for final order, motion for final order \$50 per day continue, still non-compliant. No contact from owners.					
Inspection	Code Enforcement	David Checchi	Mar 26, 2010		Mar 26, 2010	Complete	X
	Description:	Property remains in violation. No contact.					
Follow Up	Code Enforcement	David Checchi	Feb 11, 2010	Feb 25, 2010	Feb 25, 2010	Complete	X
	Description:	follow up for 10 day NOA. (Still in vio 2/25)					
Miscellaneous	Code Enforcement	VB Engineering I	Dec 31, 2009	Feb 10, 2010	Feb 10, 2010	Complete	X
	Description:	No further contact info. Schedule to February 2010 CEB for non compliance/unpaid fine.					
Prepared Legal Documents	Code Enforcement	David Checchi	Feb 10, 2010		Feb 10, 2010	Complete	X
	Description:	Prepared cae file for CEB. Affidavits					
Miscellaneous	Code Enforcement	David Checchi	Feb 10, 2010		Feb 10, 2010	Complete	X
	Description:	CEB Hearing. Motion to issue NOA and cost of prosecution \$90.46					
Research property file	Code Enforcement	David Checchi	Dec 31, 2009		Dec 31, 2009	Complete	X
	Description:	Checked address against deed, confirmed. No Lis Pendence filed either. No further info on ZABA search.					
Property Posted	Code Enforcement	David Checchi	Dec 16, 2009		Dec 16, 2009	Complete	X
	Description:	Property posted. Affidavits on file.					
Investigation	Code Enforcement	David Checchi	Dec 16, 2009		Dec 16, 2009	Complete	X
	Description:	Researched IRC clerks records, name/address on deed matched address sent on citation. Prepared for posting, affidavits.					
Follow Up	Code Enforcement	VB Engineering II	Dec 07, 2009		Dec 07, 2009	Complete	X
	Description:	Certified letter \$50 citation returned "attempted not known". Investigate other possible addresses.					
Follow Up	Code Enforcement	David Checchi	Nov 04, 2009		Nov 04, 2009	Complete	X
	Description:	On site 4 days after compliance date. Nothing done.					
Citation	Code Enforcement	David Checchi	Oct 15, 2009	Oct 30, 2009	Oct 15, 2009	Warning	X
	Description:						

- To Do List
- Quick Add ►
- Add Wizard
- Find ►
- Enter New Citizen
- Reports
- Admin
- MySoftware
- Help
- Logoff

Parcel # 33400500012008000003.0 CO

- Edit
- Category
- File # 09-001061
- History
- Contacts
- Activities
- Documents
- Violation

Add	Source	File Name	Permit Number	Created By	Created Date	Size	
Activity	Other	doc20110526154811.pdf		David Checchi	05/24/2011	211170	X
Contact		Description: Fine reduction request					
Document	Other	FL-IndianRiver-TaxCollector.mht		David Checchi	05/24/2011	127934	X
Multiple		Description: Tax record: Paid up through 2011					
Docs	Other	RecordCard.pdf		David Checchi	05/24/2011	279038	X
Email		Description: Property Appraiser record					
Letter	Other	09CE724Schaller2010.pdf		Sherri Philo	04/26/2010	86641	X
Note		Description: CEB final order					
Route	Other	Schaller 09-724 Notice of Assessment feb 10.doc		Sherri Philo	02/12/2010	80896	X
Violation		Description:					
View	Other	Affidavit Costs feb 08.docx		David Checchi	02/10/2010	15086	X
Alerts		Description: affidavit of costs for CEB					
Reports	Other	doc20091230171146.pdf		David Checchi	12/30/2009	182406	X
Other		Description: VOID**\$50 citation and affidavit non compliance VOID** (wrong case)					
	Photo	12-16-09 001.jpg		David Checchi	12/16/2009	2685590	X
		Description:					
	Other	doc20091216165131.pdf		David Checchi	12/16/2009	75479	X
		Description: citation posting affidavit. Posted 12/16 & sent 1st class mail.					
	Letter	doc20091211103500.pdf		David Checchi	12/11/2009	108732	X
		Description: returned \$50 citation front					
	Letter	doc20091211103510.pdf		David Checchi	12/11/2009	110040	X
		Description: returned \$50 citation back					
	Merge document	Citation.htm		David Checchi	11/13/2009	43869	X
		Description: Citation - Citation					
	Fax	Citation.htm		David Checchi	10/15/2009	43153	X
		Description: Citation - Warning Citation					
	Other	doc20100210105603.pdf		David Checchi	10/01/2009	11501	X
		Description: complaint note from Planning					

COMPLAINANT

2 Properties

CALL -

Marjorie Williams

231-9528

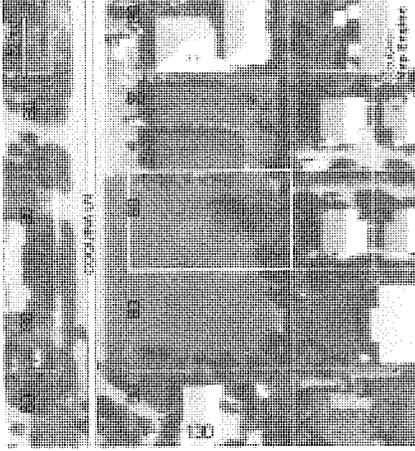
916 Coquina

Overtgrown -

fire hazard

vacant - to the east

No image found.



GENERAL PARCEL INFORMATION

Owner ALEXANDER M SCHALLER
 Property Address COQUINA LN, VERO BEACH, FL 32963
 Mailing Address 462 7TH AVE

Legal Description BROOKLYN, NY 11215
 OCEAN CORPORATION SUB
 BLK 8
 LOT 3
 PBI 3-9

Property Use 0000 - VAC RES,MH,MFAM,POI,AGZN
 TaxCode 8
 Neighborhood 090060.00 -
 Appraiser/Date - -

LAND	Rec Land Use	Zoning	Acres	Units	Unit Type	Front	Depth	Adj. Code
001	00E - V RES-MULTI-	RM-10/12	10400	10400	S - SQUARE	80	130	NA

ASSESSMENT HISTORY							
Year	PUse	VBy	Land JV	Bldg Val	Misc Val	CAMA Val	Taxes
2010	0000	C	\$158,080	\$0	\$0	\$158,080	\$2,695.78
2009	0000	C	\$197,600	\$0	\$0	\$197,600	\$3,233.46
2008	0000	C	\$316,160	\$0	\$0	\$316,160	\$4,934.06
2007	0000	C	\$320,320	\$0	\$0	\$320,320	\$5,090.70

SALES

Date	Price	Grantor	Book	Page	Code	Vac/Imp
4/15/2005	\$475,000	SIMMENS BLDG OF IND	01858	00644	00	V

MISCELLANEOUS IMPROVEMENTS

BUILDING PERMIT SUMMARY

Tax Record

Last Update: 5/26/2011 3:45:38 PM EDT

Details

Tax Record

» Print View

Legal Desc.
 Appraiser Data
 Tax Payment
 Payment History

Searches

Account Number
GEO Number
 Owner Name
 Property Address
 Mailing Address

Site Functions

Disclaimer
Tax Search
 Contact Us
 County Login
 Home

Ad Valorem Taxes and Non-Ad Valorem Assessments

The information contained herein does not constitute a title search and should not be relied on as such.

Account Number	Tax Type	Tax Year			
920550	REAL ESTATE	2010			
Mailing Address SCHALLER ALEXANDER M 462 7TH AVE BROOKLYN NY 11215		Property Address COQUINA LN VER GEO Number 33-40-05-00012-0080-00003/0			
Exempt Amount	Taxable Value				
See Below	See Below				
Exemption Detail NO EXEMPTIONS	Millage Code 8	Escrow Code 0323			
Legal Description (click for full description) 33-40-05-00012-0080-00003/0 COQUINA LN OCEAN CORPORATION SUB BLK 8 LOT 3 PBI 3-9					
Ad Valorem Taxes					
Taxing Authority	Rate	Assessed Value	Exemption Amount	Taxable Value	Taxes Levied
CITY OF VERO BEACH	1.9367	158,080	0	\$158,080	\$306.15
EMERGENCY SERV DIST	1.7148	158,080	0	\$158,080	\$271.08
FLORIDA INLAND NAVIG	0.0345	158,080	0	\$158,080	\$5.45
COUNTY GENERAL FUND	3.0892	158,080	0	\$158,080	\$488.34
HOSPITAL DISTRICT	0.9386	158,080	0	\$158,080	\$148.37
MOSQUITO CONTROL	0.2650	158,080	0	\$158,080	\$41.89
LAND ACQUISITION BND	0.0681	158,080	0	\$158,080	\$10.77
SCHOOL BOND	0.3300	158,080	0	\$158,080	\$52.17
SCHOOL LOCAL					
CAPITAL IMPROVEMENT	1.5000	158,080	0	\$158,080	\$237.12
LOCAL EFFORT	0.7480	158,080	0	\$158,080	\$118.24
CRITICAL OPERATING	0.2500	158,080	0	\$158,080	\$39.52
SCHOOL - STATE LAW	5.4220	158,080	0	\$158,080	\$857.11
ST JOHNS RIVER WATER	0.4158	158,080	0	\$158,080	\$65.73
LAND ACQUISITION BND 04	0.3406	158,080	0	\$158,080	\$53.84
Total Millage		17.0533	Total Taxes		\$2,695.78
Non-Ad Valorem Assessments					
Code	Levying Authority	Amount			
Total Assessments					\$0.00
Taxes & Assessments					\$2,695.78
If Paid By				Amount Due	
				\$0.00	

Date Paid	Transaction	Receipt	Item	Amount Paid
11/18/2010	PAYMENT	9701216.0001	2010	\$2,587.95

[Prior Years Payment History](#)

Prior Year Taxes Due
NO DELINQUENT TAXES

[Print](#) | << First < Previous Next > Last >>

Powered by
MANATRON

Prepared by and return to:
Michael J. Garavaglia, Esq.
756 Beachland Boulevard
Vero Beach, FL 32963

Parcel ID Number: 33-40-05-00012-0080-00003/0

Warranty Deed

This Indenture, Made this 8th day of April, 2005 A.D., Between Simmens Building of Indian River, Inc., a corporation existing under the laws of the State of Florida of the County of Indian River, State of Florida, grantor, and Alexander M. Schaller

whose address is: 462 7th Avenue, Brooklyn, NY 11215

of the County of Kings, State of New York, grantee.

Witnesseth that the GRANTOR, for and in consideration of the sum of

-----TEN DOLLARS (\$10)----- DOLLARS, and other good and valuable consideration to GRANTOR in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said GRANTEE and GRANTEE'S heirs, successors and assigns forever, the following described land, situate, lying and being in the County of Indian River State of Florida to wit:

Lot 3, Block 8, THE OCEAN CORPORATION SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 3, Page 9, of the Public Records of Indian River County, Florida.

Subject to restrictions, reservations and easements of record, if any, and taxes subsequent to 2004.

and the grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantor has hereunto set its hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Marla J. Reuter
Printed Name: Marla J. Reuter
Witness

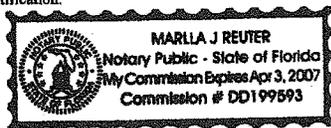
Michael J. Garavaglia
Printed Name: Michael J. Garavaglia
Witness

Simmens Building of Indian River, Inc.
By: Joseph F. Simmens (Seal)
Joseph F. Simmens, President
P.O. Address: 2209 E. Ocean Oaks Lane, Vero Beach, FL 32963

(Corporate Seal)

STATE OF Florida
COUNTY OF Indian River

The foregoing instrument was acknowledged before me this 8th day of April, 2005 by Joseph F. Simmens, President of Simmens Building of Indian River, Inc., a Florida Corporation, on behalf of the corporation who is personally known to me or has produced FL Drivers License as identification.



Marla J. Reuter
Printed Name: _____
Notary Public
My Commission Expires: _____



CITY OF VERO BEACH, FLORIDA
Code Enforcement
1053 20th Place, Vero Beach, FL 32960

CODE ENFORCEMENT CITATION

No. 311D / 09-CE-724

STATE OF FLORIDA, COUNTY OF INDIAN RIVER, CITY OF VERO BEACH,

In the name of the City of Vero Beach, Florida: The undersigned officer certifies that he/she has just and reasonable grounds to believe, and does believe that on **Oct 06, 2009 at 3:45 PM**

Name: **ALEXANDER M**
of: **462 7TH AVE**
BROOKLYN, NY 11215

at (violation address): **N/A COQUINA LN** in the City of Vero Beach, Florida committed the following civil offense: **Weeds, grass, or undergrowth at a height of more than 12 inches**

Violation of code provision(s): 38-31(b)

Facts constituting violation: Tall grass on vacant lot. Neighbor complaint.

CIVIL PENALTY: \$0.00

PAY BY DATE:

REPEAT VIOLATION

WARNING. This is a warning notice and no civil penalty is assessed. If correction of the violation is required, it must be corrected by the date specified below. Failure to correct the violation by the date specified, or a repeat of the same violation, even if the violation occurs at a different location, will result in issuance of a citation assessing civil penalties against you.

CORRECTION REQUIRED BY: 10/30/2009. This is a correctable violation and must be corrected by the date specified. Each day that the violation remains uncorrected after the date specified is a separate violation and additional civil penalties and costs may be assessed against you without issuance of additional citations. You must contact the issuing officer and request re-inspection once the violation is corrected or if you need additional time to correct the violation. If you do not correct the violation by the date specified the City may also take action to correct the violation and assess the costs of correction plus administrative fees as a lien against the property on which the violation was corrected in addition to any lien for civil penalties or costs.

Issued by: David Checchi
Department: Code Enforcement Officer

Date Issued: 10/15/2009
Telephone: 772-978-4551

RIGHT TO HEARING OR TO PAY REDUCED PENALTY: You must either file a written request for a hearing to contest this citation OR pay the reduced civil penalty specified above at: **City Clerk's Office, City Hall, 1053 20th Place, Vero Beach, Florida 32960. WRITTEN REQUEST FOR A HEARING MUST BE RECEIVED WITHIN TEN (10) DAYS (excluding Saturdays, Sundays, and legal holidays) OR YOUR RIGHT TO A HEARING IS WAIVED AND DEEMED YOUR ADMISSION OF THE VIOLATION.** Make checks payable to "City of Vero Beach." Do not mail cash! If correction of the violation is required above, the timely filing of a request for a hearing will toll the accrual of continuing violation penalties pending outcome of the hearing. Your right to pay the reduced penalty specified above is waived if you elect to contest the citation and, if after the hearing you are found to be responsible for the violation, a civil penalty of up to \$500 (\$1,000 for contracting violations) may be assessed against you for each day of violation, plus administrative and enforcement costs.

Your signature below acknowledges receipt of a copy of this citation and is **NOT** an admission of the violation. Willful refusal to sign and accept this citation is a misdemeanor criminal offense punishable as provided by law.

Date: _____

Signature of Individual

VIOLATOR COPY - 09-001061

Certified Mail Receipt:



CITY OF VERO BEACH, FLORIDA
Code Enforcement
1053 20th Place, Vero Beach, FL 32960

CODE ENFORCEMENT CITATION

No. 325D / 09-CE-724

STATE OF FLORIDA, COUNTY OF INDIAN RIVER, CITY OF VERO BEACH,

In the name of the City of Vero Beach, Florida: The undersigned officer certifies that he/she has just and reasonable grounds to believe, and does believe that on **Oct 06, 2009** at **3:45 PM**

Name: **ALEXANDER M SCHALLER**
of: **462 7TH AVE**
BROOKLYN, NY 11215

at (violation address): **Parcel # 33400500012008000003.0 COQUINA LN** in the City of Vero Beach, Florida committed the following civil offense: **WEEDS, GRASS, OR UNDERGROWTH AT A HEIGHT OF MORE THAN 12 INCHES.**

Violation of code provision(s): 38-31(B)(1)

Facts constituting violation: PRIOR WRITTEN WARNING UNHEEDED. TALL WEEDS AND GRASS THROUGHOUT PROPERTY. PROPERTY MUST BE CUT AND MAINTAINED BELOW 12 INCHES AT ALL TIMES.

CIVIL PENALTY: \$50.00

PAY BY DATE: 12/04/2009

REPEAT VIOLATION

WARNING. This is a warning notice and no civil penalty is assessed. If correction of the violation is required, it must be corrected by the date specified below. Failure to correct the violation by the date specified, or a repeat of the same violation, even if the violation occurs at a different location, will result in issuance of a citation assessing civil penalties against you.

CORRECTION REQUIRED BY: 12/04/2009. This is a correctable violation and must be corrected by the date specified. Each day that the violation remains uncorrected after the date specified is a separate violation and additional civil penalties and costs may be assessed against you without issuance of additional citations. You must contact the issuing officer and request re-inspection once the violation is corrected or if you need additional time to correct the violation. If you do not correct the violation by the date specified the City may also take action to correct the violation and assess the costs of correction plus administrative fees as a lien against the property on which the violation was corrected in addition to any lien for civil penalties or costs.

Issued by: David Checchi
Department: Code Enforcement Officer

Date Issued: 11/13/2009
Telephone: 772-978-4551

RIGHT TO HEARING OR TO PAY REDUCED PENALTY: You must either file a written request for a hearing to contest this citation OR pay the reduced civil penalty specified above at: **City Clerk's Office, City Hall, 1053 20th Place, Vero Beach, Florida 32960. WRITTEN REQUEST FOR A HEARING MUST BE RECEIVED WITHIN TEN (10) DAYS (excluding Saturdays, Sundays, and legal holidays) OR YOUR RIGHT TO A HEARING IS WAIVED AND DEEMED YOUR ADMISSION OF THE VIOLATION.** Make checks payable to "City of Vero Beach." Do not mail cash! If correction of the violation is required above, the timely filing of a request for a hearing will toll the accrual of continuing violation penalties pending outcome of the hearing. Your right to pay the reduced penalty specified above is waived if you elect to contest the citation and, if after the hearing you are found to be responsible for the violation, a civil penalty of up to \$500 (\$1,000 for contracting violations) may be assessed against you for each day of violation, plus administrative and enforcement costs.

Your signature below acknowledges receipt of a copy of this citation and is **NOT** an admission of the violation. Willful refusal to sign and accept this citation is a misdemeanor criminal offense punishable as provided by law.

Signature of Individual

Date: _____

**CODE ENFORCEMENT BOARD
CITY OF VERO BEACH, FLORIDA**

IN THE MATTER OF: ALEXANDER M SCHALLER

CASE #: 325D / 09-CE-724

**AFFIDAVIT OF POSTING CODE ENFORCEMENT CITATION
AND MAILING FIRST CLASS**

BEFORE ME, the undersigned authority, personally appeared David Checchi, Code Enforcement Officer for the City of Vero Beach, Florida, who after being duly sworn deposes and says:

1. That, David Checchi confirms that Code Enforcement citation(s) were posted at the following locations;

➤ Parcel # 33400500012008000003.0 on 12-16-09.

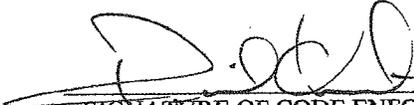
AND,

2. That the citation(s) were mailed first class on 12-16-09

➤ 462 7th Ave, Brooklyn, NY 11215

FURTHER AFFIANT SAYETH NOT.

DATED this 16th day of DECEMBER., 2009.



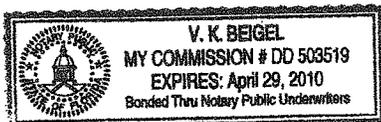
SIGNATURE OF CODE ENFORCEMENT OFFICER

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

SWORN TO and SUBSCRIBED before me this 16th day of December, 2009.

V. K. Beigel

NOTARY PUBLIC - STATE OF FLORIDA





BEFORE THE CODE ENFORCEMENT BOARD
OF THE CITY OF VERO BEACH, FLORIDA
1053 20TH PLACE
VERO BEACH, FLORIDA 32960
Telephone (772) 978-4700

CITY OF VERO BEACH

CASE No.: 09-CE-724

vs.

Citation No.: 325D

Alexander M. Schaller

NOTICE OF ASSESSMENT OF CONTINUING PENALTIES

TO: Alexander M. Schaller
462 7th Avenue
Brooklyn, NY 11215

YOU ARE HEREBY NOTIFIED that the officer issuing the attached code enforcement citation has reported to the Code Enforcement Board of the City of Vero Beach that the violation cited was not corrected within the time given for correction and a written request for a hearing to contest the citation was not received within the time allowed. Failure to timely file a written request for a hearing on the citation waived the right to a hearing and such waiver is deemed an admission of the violation cited. The violation having been admitted and having not been corrected as required in the citation, the Code Enforcement Board has directed the issuance of this Notice assessing the following civil penalties and costs against you:

1. The Civil Penalty of \$50.00 specified on the citation for the initial violation; and
2. Enforcement Costs of \$90.46; and
3. A Civil Penalty of \$50.00 per day for each day of continuing violation commencing December 5, 2009 (the day after the date given on the citation for correction of the violation) and currently equaling \$3,400.00 for 68 days as of February 10, 2010.

TOTAL CURRENTLY DUE: \$3,540.46

EACH DAY THE VIOLATION REMAINS UNCORRECTED IS A SEPARATE VIOLATION. THE CIVIL PENALTY OF \$50.00 PER DAY WILL CONTINUE TO ACCRUE DAILY AND BE ADDED TO THE ABOVE-STATED PENALTIES UNTIL THE VIOLATION IS CORRECTED!

RIGHT TO HEARING OR TO CORRECT AND PAY: Within the time specified below, you must either file a written request for a hearing to appeal the amount of penalties and costs assessed in this Notice **OR** correct the violation and pay the penalties and costs accrued *through the date the violation was corrected*. You must contact the Board Clerk at 772-978-4700 for the total amount due. Payment may be made at the **City Clerk's Office, City Hall, 1053 20th Place, Vero Beach, Florida 32960.** Checks should be made payable to "City of Vero Beach." Do not mail

cash! IF A HEARING ON THIS NOTICE OF ASSESSMENT IS DESIRED, YOUR WRITTEN REQUEST FOR A HEARING MUST BE RECEIVED WITHIN TEN (10) DAYS (excluding Saturdays, Sundays, and legal holidays) OR THE RIGHT TO A HEARING IS WAIVED AND DEEMED AN ADMISSION THAT THE AMOUNT OF THE PENALTIES AND COSTS STATED HEREIN ARE CORRECT, DUE, AND PAYABLE TO THE CITY. The issues for determination at a hearing on this Notice of Assessment will be strictly limited to the amount of the continuing penalties based solely upon the length of time the violation continued to exist and the amount of the costs incurred by the City. If, after the hearing, the penalties and costs stated in this Notice are found correct, you may also be liable for costs of the hearing and any additional costs incurred by the City as a result of the enforcement action.

Further information regarding this case and how to comply with this Notice and the citation may also be obtained by calling the issuing officer at the telephone number specified on the citation or at the Code Enforcement Division office at City Hall, 1053 20th Place, Vero Beach, Florida 32960.

Failure to comply with this Notice of Assessment as specified above within the time allowed may result in report of non-compliance to the Code Enforcement Board or Special Magistrate and issuance of an order having the force of law to command action necessary to correct the violation, together with imposition of civil penalties, costs, and all expenses incurred by the City to correct the violation, which assessments will be a lien against the property on which the violation exists and all other property of the violator.

FOR THE CODE ENFORCEMENT BOARD

Date Issued: _____

By: _____
Board Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Notice of Assessment of Continuing Penalties was provided to the above-named violator by first class U.S. Mail addressed to the above-specified address this _____ day of _____ 20_____.

Board Clerk

**BEFORE THE CODE ENFORCEMENT BOARD
OF THE CITY OF VERO BEACH, FLORIDA**

CITY OF VERO BEACH

vs.

Alexander M Schaller
Violator

Case Number: 09-724 / File # 09-001061 / Citation #'s 311D & 325D

AFFIDAVIT OF COSTS

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

I, David Checchi, being first duly sworn, upon personal knowledge and information, depose and state that I am a code enforcement or police officer for the City of Vero Beach, Florida and I have personal knowledge of and certify that the City of Vero Beach has incurred the following administrative and prosecution costs in investigation, enforcement, testing or monitoring relating to the above-styled code enforcement case against the named violator and that the City of Vero Beach is entitled to recovery of said fees and costs from the violator pursuant to the code enforcement ordinance:

<u>Officer</u>	<u>Activity</u>	<u>Date</u>	<u>Time</u>	<u>Rate</u>	<u>Amount</u>
DC	Complaint Intake				inc
DC	Initial Investigation	10/5/09	3.67	23.14	84.92
DC	Ownership/occupant invest				inc
DC	Initial inspection				inc
DC	Violator conference				N/A
DC	Telephone conference				N/A
DC	Hearing attendance				inc
DC	Notice of violation preparation				inc
DC	Notice of hearing preparation				inc
DC	Photo/exhibit preparation				inc
DC	Re-inspection				inc

Additional Costs and Supplies:	inc
Postage	5.54
Notices (mailed and posted)	inc
Long Distance Telephone	N/A
Photographs	inc
Vehicle Mileage	N/A
Total Costs	\$90.46

Affiant
Officer

Before me, the undersigned authority, personally appeared the Affiant, _____, who was duly sworn, and who states that he/she has read the foregoing Affidavit of Costs and that the contents are true and correct.

Sworn to and subscribed before me this ____ day of _____ 20__ by _____, who _____ is personally known to me OR _____ produced _____ as identification.

NOTARY PUBLIC

Print Name:
Commission No.:
My Commission Expires:



**BEFORE THE CODE ENFORCEMENT BOARD
OF THE CITY OF VERO BEACH, FLORIDA
1053 20TH PLACE
VERO BEACH, FLORIDA 32960**

CITY OF VERO BEACH

CASE No.: **09-CE-724**

vs.

Citation No.: **325D**

Alexander M. Schaller
462 7th Avenue
Brooklyn, NY 11215

ORDER
TO PAY CIVIL PENALTIES AND COSTS AND IMPOSING
CONTINUING PENALTIES FOR UNCORRECTED VIOLATIONS

VIOLATIONS: City of Vero Beach Code ("Code") section 38-31(b)(1), weeds, grass and undergrowth at a height of more than 12 inches.

LOCATION: Parcel #33400500012008000003.0 — Coquina Lane, Vero Beach, Indian River County, Florida 32960.

The above styled case having come before the Code Enforcement Board of the City of Vero Beach ("Board") on the 14th day of April 2010 on request of the issuing code enforcement officer for an order to pay civil penalties and costs on continuing violations in this case and the Board having heard the report of the code enforcement officer, on motion made and approve, found that:

1. The citation, notice of assessment and notice of this hearing issued in this case were served as provided by law.
2. The violators did not appeal the issuance of the code enforcement citation or the notice of assessment issued in this case within the time allowed and therefore waived the right to a hearing before the Board to contest the issuance of the citation and to contest the issuance the notice of assessment.
3. The violators' waivers of hearing are deemed an admission of the violations of Code section 38-31(b)(1), weeds, grass and undergrowth over 12 inches, as alleged in the code enforcement citation and the amount of the civil penalties and costs assessed in the notice of assessment.
4. The violators have not corrected the violations and remain in violation as of the time of this hearing.
5. The violators have not paid the civil penalty of \$50.00 assessed on the citation or the continuing civil penalties assessed in the notice of assessment, which now total \$6,550.00 as of the date of this hearing, for total civil penalties of \$6,600.00 now due and payable as of the date of this hearing.

6. The City has incurred enforcement costs of \$90.46 in this case which the City is entitled to recover, together with all costs of recording the Board's orders in this case and satisfying and recording the resulting liens.

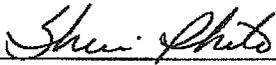
IT IS THEREFORE ORDERED AND ADJUDGED BY THE BOARD THAT:

The violators are deemed to have committed the violations of Sections 38-31(b)(1), weeds, grass, and undergrowth at a height of more than 12 inches, as specified on the citation, and are hereby ordered to pay to the City Clerk, within thirty (30) days from the date of this order, the accrued civil penalties of \$6,600.00, together with a continuing civil penalty of \$50.00 per day for each day the violations remain uncorrected after April 14, 2010, together with enforcement costs of \$90.46 and all costs of recording the Board's orders in this case and recording and satisfying the resulting liens.

DONE AND ORDERED at Vero Beach, Indian River County, Florida this 26th day of April, 2010.

ATTEST:

CODE ENFORCEMENT BOARD
OF THE CITY OF VERO BEACH



Sherri Philo
As Board Clerk



Kirk Noonan
As Chairman

Approved as to form and legal sufficiency:



Wayne R. Coment
As Board Attorney

IMPORTANT INFORMATION

Correction of Violations: AFTER CORRECTING THE VIOLATIONS YOU MUST NOTIFY THE CODE ENFORCEMENT OFFICER at Telephone # 772-978-4551 or at the Code Enforcement Office, City Hall, 1053 20th Place, Vero Beach, FL 32960, in order to suspend accrual of the continuing civil penalties.

Payment of Civil Penalties and Costs: You must contact the City Clerk's Office at 772-978-4700 for the total amount of civil penalties, enforcement costs, recording and other costs required to satisfy this order and lien. Civil penalties and costs may be paid in person at the City Clerk's Office located at City Hall, 1053 20th Place, Vero Beach, Florida 32960, Monday through Friday between 8:30 A.M. and

5:00 P.M., or by mailing a check or money order to said address, payable to "City of Vero Beach." Do not mail cash!

Repeat Violation: Repeat violation of the same Code provision by the violator, even if committed at a different location, can result in the issuance of a code enforcement citation and assessment of increased civil penalties for the repeat offense.

Notice of Right to Appeal Board Decision: You have the right to appeal the Board's order to the Circuit Court in Indian River County, Florida. A written notice of appeal, together with a copy of the order appealed, must be filed with the Clerk of the Code Enforcement Board and with the Clerk of the Circuit Court within thirty (30) days after the date of this order or the right to appeal is waived. An appeal is limited to appellate review of the record of the proceedings created before the Code Enforcement Board. (F.S. 26.012(1); Florida Rules of Appellate Procedure, 9.030(c)(1)(C); 9.110(c).

Cc: Suntrust (Lender)
Foreclosure Dept. RVW3064
1001 Semmes Avenue, 4th Floor
Richmond, VA 23224

City Council
City of Vero Beach
1053 20th Place
Vero Beach, FL 32960

RE: Lot 3 Ocean Corp, 918 Coquina Lane, Vero Beach, FL 32963

Dear City Council;

I am writing this letter to explain the reasons why I was not up keeping the lawn maintenance at 918 Coquina Lane, Vero Beach, FL and I kindly ask your consideration in eliminating the code violation fines.

Originally when the lot was purchased it was bought with a group of people (Four) who all contributed to the bills. I was more or less a silent partner who just had the property in my name. I was not ever made aware of the lawn needs nor did I ever receive any notices. The address listed with the City of Vero was a Brooklyn address which I never lived at, therefore never received any notices so I was never aware of the situation at hand. I have always resided in Stamford, CT. I did not receive any notices from the Code Enforcement authority regarding lawn care for this vacant lot since they were not addressed to my home or business, nor were they forwarded to me.

As the economy worsened all of the partners went into bankruptcy leaving just me trying to support the bills on this lot. At the current state the property is in pre foreclosure and we are currently working with Attorney Jennifer Peshke of Stewart Evans Stewart and Emmons who will appear on my behalf at the June 7th City Council meeting for a short sale due to my limited finances. This is how I became aware of the issue with the maintenance on the property. I have proven to the lender that I have exhausted all of my funds, I am near bankruptcy, and we are close to a short sale approval by SunTrust Bank. I have no funds to pay the fine and SunTrust Bank will not pay the fine as a result of the Short Sale process at closing.

Upon immediately finding this out I contracted a landscaper who has thoroughly cleared all the debris and has brought the property back to where it needs to be and the property will be properly maintained during my ownership.

I kindly ask that you please consider the circumstances outlined and eliminate the fine which I am unable to pay. If you do not eliminate the fine the property cannot be sold as a Short Sale. I will receive NO MONEY from the closing, as it is a short sale. I will not gain from this request and I do not have the funds to pay it. My current economic situation is very bleak, I have exhausted all of my savings, and there is no way for me to pay that amount.

I have arranged for a landscaper to maintain the lawn until the short sale closing. The new buyers are ready to submit building plans to gain a permit to build a single family home.

Thank You in advance for your consideration.

Kind Regards,


Alexander Schaller
3 Brantwood Lane
Stamford, CT 06903
(914)-450-7364
AlexMGS@aol.com



1-11)

City Council Agenda Item

Meeting of June 7, 2011

TO: Mayor Jay Kramer
Vice Mayor Pilar Turner
Councilmember Brian Heady
Councilmember Craig Fletcher
Councilmember Tracy Carroll

FROM: John Lee. – Acting Interim City Manager *JTL - 5/31/2011*

DATE: May 31, 2011

SUBJECT: Live Oak Road Paving and Drainage Improvements –
Recommendation of Award – City of Vero Beach Project No.
2005-09 – Bid No. 150-11/JV

REQUESTED BY: Assistant City Engineer

The following is requested as it relates to the above-referenced agenda item:

Request Council review and approval based on the attached supporting documentation.

Request Council review and possible action.

No action required. (Information only)



DEPARTMENTAL CORRESPONDENCE

TO: Monte K. Falls, Interim City Manager
DEPT: City Manager

VIA: William B. Messersmith, PE, Assistant City Engineer
DEPT: Public Works *WBM
5/24/11*

FROM: Scott R. Sanders, PE, Civil Engineer III
DEPT: Public Works *SR*

DATE: May 24, 2011 *5/24/11*

RE: **Live Oak Road Paving and Drainage Improvements
Recommendation of Award
City of Vero Beach Project No. 2005-09
Bid No. 150-11/JV**

Recommendation:

- Place this item on the agenda for the June 7, 2011 meeting of the City Council;
- Award the contract to Don Luchetti Construction, Inc. of Melbourne, Florida in the amount of \$354,053.90.

Funding:

Funding for this project will be from account number 304.9900.541.607007.

Background:

This project is to raise the current elevation of Live Oak Road from Mockingbird Drive to State Road A1A and install a new underground drainage system inclusive of a nutrient separating baffle box and new stormwater outfall through the concrete seawall at Bethel Creek.

Included in the bid is an alternate to include a sidewalk the length of the project to connect the Mockingbird Drive sidewalk to the State Road A1A sidewalk. A poll of the residents in this area shows a majority support for the sidewalk portion of the project. It is staff's recommendation to incorporate the sidewalk alternate into the award of the contract due to safety concerns for the pedestrians who currently use Live Oak Road. Correspondence between several citizens and staff are included for your review.



On May 19, 2011 bids were received from four contractors for this project. The lowest base bid was from Don Luchetti Construction, Inc. in the amount of \$333,753.90. The bid price inclusive of the alternate for construction of the sidewalk is \$354,053.90. Copies of the bid tabulation and bid summary are attached.

Don Luchetti Construction, Inc. was very favorably recommended by the Cities of Satellite Beach and Melbourne, as well as Chesapeake Construction, a large commercial site developer.

Attachments

Cc: Steve Maillet, Finance Director
John O'Brien, Purchasing Manager
Don Luchetti, President, Don Luchetti Construction, Inc.

SRS:WBM/ntn

V:\LAND_PROJECTS\2005\2005-09 Live Oak Rd Drainage\Docs\Agenda_Recommend Award_MFalls_May 24 2011.docx

City of Vero Beach
Monte Falls, *City Manager*
1053 20th Place, PO Box 1389
Vero Beach, FL 32961-1389

April 6, 2011

Dear City Manager Falls,

I am writing this letter as a Vero Beach resident for more than 35 years living in the same residence on Live Oak Road. I understand that there is a six month drainage project scheduled for Live Oak that possibly involves putting in a sidewalk on the south side of the street.

I strongly oppose the proposed construction of a side walk on the south side of Live Oak between Mockingbird and A1A. Live Oak Road has always been a local "short cut" for one to get to A1A from Barber Bridge or vice versa. In the late 70's, my husband and I and other Live Oak property owners petitioned to change the east end of the road at the intersection of A1A to eliminate the straight shot that promoted speeding. The city did make changes as an attempt to discourage traffic on this residential road, but it remained heavily trafficked to this day. The proposed sidewalk would only promote more traffic, possibly decreasing property values and incurring liability and maintenance for property owners.

Historically, when a neighborhood sidewalk has been added in Vero Beach, it was because the property owners petitioned for it, but not in this case. In addition, those property owners across the streets of the sidewalks were never given the chance to vote because the sidewalk did not immediately impact them. If this proposal unfortunately came down to a vote, it should only include those residents that would be impacted. That clearly would only involve the eight property owners on the south side of Live Oak Road. Those living on the north side would not see any impact except the benefit of omitting any liability and having the pedestrians farther away from their homes and yards.

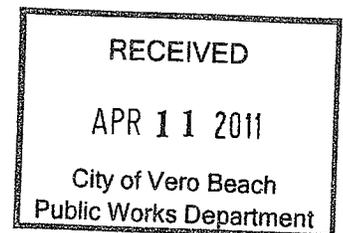
I and many other south side Live Oak Road property owners (see attached petition) call upon you to help us in our opposition to this proposal in all of your official capacities and functions.

Thank you very much for your consideration.

Sincerely,



Marilyn Richardson
538 Live Oak Road property owner



cc. Scott R. Sanders

P.S. Seven of the eight property owners on the south side have signed the enclosed petition -

We, the undersigned, as residents of properties on the south side of Live Oak Road between Mockingbird and A1A strongly oppose the construction of a sidewalk as proposed in the plans for drainage and raising Live Oak Road. We would like to register this petition as our votes on any subsequent solicitation from the town.

- Marilyn Richardson 538 Live Oak Rd ✓
- Jenna Sudley-Smith 524 Live Oak Road ✓
- Amber Hignell 530 Live OAK ROAD
- Sam R. Reed 406 Mockingbird Dr ✓
- Michael Halligan 635 Live Oak Rd. north side ✓
- D. S. 544 LIVE OAK ✓
- Bill [unclear] 516 Live Oak Rd
-
-
-

ar-28-11 10:36A PakMail Beachside

We, the undersigned, as residents of properties on the south side of Live Oak Road between Mockingbird and AIA strongly oppose the construction of a sidewalk as proposed in the plans for drainage and raising Live Oak Road. We would like to register this petition as our votes on any subsequent solicitation from the town.

~~Marilyn Richardson 538 Live Oak Rd. south side~~

~~Quinn Badgley-Smith 524 Live Oak Road~~

~~Arac Morgan 530 Live Oak Road~~

~~Donna R. Reed 4106 Mockingbird Dr.~~

Wesley Jell 602 Live Oak Road

From: [Sanders, Scott](#)
To: [Nichols, Nancy](#)
Cc: [Messersmith, Bill](#)
Subject: FW: Sidewalk poll results
Date: Thursday, May 05, 2011 9:56:13 AM

Just for the file. Let's not forget to bring things like this up when we go to Council for award of contract.

From: Bill Gurley [mailto:wdg32cr@gmail.com]
Sent: Thursday, May 05, 2011 9:55 AM
To: Sanders, Scott
Subject: Re: Sidewalk poll results

Scott,

Thanks. Final results are not that close.

I will not be in Vero Beach for the June council meeting, nor will Kevin Howell be able to attend.

Jan Jelmy will be in attendance and represents our position on the sidewalk.

In past emails I have offered our view, focusing on the concern of safety for pedestrians and cyclist.

Kevin indicated he too has made his opinion and concerns clear to you.

I trust those concerns will be relayed to the Council as they consider the matter.

I was working in my front yard yesterday. A lady was walking on the stretch of Live Oak under consideration. Two opposing cars were passing each other next to her. The solution for one was to "lay on their horn" until the lady stepped off of the road into one of the yards. A sight you would have to have seen to believe! Scared the poor lady nearly to death. Time for the sidewalk.

Regards,

Bill

On May 4, 2011, at 8:05 AM, Sanders, Scott wrote:

Good morning. I thought you might be interested in the official results.

From: Baker, Jennifer
Sent: Wednesday, May 04, 2011 8:05 AM
To: Sanders, Scott
Cc: Nichols, Nancy
Subject: RE: Sidewalk poll results

Scott:

There are 15 in favor and 9 opposed.

Jen

From: Sanders, Scott
Sent: Tuesday, May 03, 2011 2:42 PM
To: Nichols, Nancy; Baker, Jennifer
Subject: Sidewalk poll results

Nancy/Jen,

What is the final tally on the sidewalk poll on Live Oak?

Scott R. Sanders, P.E.
Civil Engineer III
Public Works
City of Vero Beach

Please Note: Florida has a very broad Public Records Law. Most written communications to or from State and Local Officials and agencies regarding State or Local business are public records available to the public and media upon request. Your email communications, including your email address, may therefore be subject to public disclosure.

From: [Sanders, Scott](#)
To: ["Kevin Howell"](#); jan@helfmethouseconstruction.com; wdg32cr@comcast.net
Cc: [Nichols, Nancy](#)
Subject: RE: Re: Fw: Final Sidewalk Survey Graphic
Date: Friday, May 06, 2011 10:39:32 AM

Mr. Howell,

We have your vote for the sidewalk in our file and we will make Council aware of the support over and above the citizens that were polled. As I told Mr. Gurley, staff is strongly in favor of the sidewalk project and we will recommend approval to Council of the sidewalk portion of the Live Oak project. Ultimately it will be Council's decision on whether or not to award, but staff will present the safety and liability arguments to them when they vote, which should take place June 7. I have encouraged everyone in support of the sidewalk to contact their Councilmen in the days leading up to the meeting, and then to attend the meeting to ensure their voices are not ignored.

I will keep you and everyone informed of the happenings between now and then. The bids will be opened on May 19th, and we will immediately begin preparing our recommendation and we will get it to Council as soon as possible, so they will have plenty of time to review it and talk with the residents.

Thank you for your interest.

Scott Sanders

From: Kevin Howell [<mailto:howellk@verizon.net>]
Sent: Friday, May 06, 2011 10:27 AM
To: Sanders, Scott; jan@helfmethouseconstruction.com; wdg32cr@comcast.net
Subject: Fwd: Re: Fw: Final Sidewalk Survey Graphic

Scott I live at 431 Live Oak Road, please see the exchange below. Although I do not appear to be counted I have previously sent in my vote for 431 Live Oak. I live across from the Gurleys and am very much in favor of the sidewalk since I think it is a safety issue. If the COVB does not put in that sidewalk and someone is hit or killed walking or riding a bike on that road then I am certain COVB has some liability. There are landscape trucks parked regularly on the road impeding visibility for both drivers and pedestrians and as you will know Vero has lots of older drivers who may have eyesight impediments, judgement impediments etc. This sidewalk is an absolute requirement in my mind and it is foolhardy to ignore these safety issues.

Kevin Howell 431 Live Oak Road I also own 605 Live Oak and 655 Live Oak.

From: Kevin Howell

Date: May 6, 2011 10:19:56 AM

Subject: Re: Fw: Final Sidewalk Survey Graphic

To: jan@helfmethouseconstruction.com

Thanks Jan I sent in a document to the city regarding my choice with a notation specifically for 431, so they have it. If they choose not to count it I am not sure what I can do, but I certainly sent in my vote with explanation of what I felt were safety issues that should require it. Since I am not immediately on the route they may not be counting me. Thanks. Kevin

On 05/06/11, Jan Jelmy<jan@helmetouseconstruction.com> wrote:

Hi Kevin,

Did you see by attached survey that the home you are living in right now was not counted a positive vote to the Live Oak Rd. improvement project???

You might want to get in touch with Scott right-a-way and straighten this issue out, as we need to be in great majority for the improvements to take place in order to get the Council to vote positively.

Jan

----- Original Message -----

From: Bill Gurley

To: Jan Jelmy ; Kevin E. Howell Jr.

Sent: Thursday, May 05, 2011 7:32 PM

Subject: Fwd: Final Sidewalk Survey Graphic

fyi,

Bill

Begin forwarded message:

From: "Sanders, Scott" <SSanders@covb.org>

Date: May 5, 2011 1:42:20 PM EDT

To: 'Bill Gurley' <wdg32cr@gmail.com>

Subject: Final Sidewalk Survey Graphic

Mr. Gurley,

Here is the final results shown on a map of the neighborhood. We will still approach the Council the same way, but I thought you might just like to have this.

Thanks.

Scott Sanders

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fyi,
Bill

Begin forwarded message:

> From: "Sanders, Scott" <SSanders@covb.org>

> Date: May 5, 2011 1:42:20 PM EDT

> To: 'Bill Gurley' <wdg32cr@gmail.com>

> Subject: Final Sidewalk Survey Graphic

>

> Mr. Gurley,

>

> Here is the final results shown on a map of the neighborhood. We will still approach the Council the same way, but I thought you might just like to have this.

>

> Thanks.

>

> Scott Sanders

>

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>

From: [Sanders, Scott](#)
To: [Messersmith, Bill](#)
Cc: [Nichols, Nancy](#)
Subject: FW: Final Sidewalk Survey Graphic - Speed bump
Date: Wednesday, May 11, 2011 7:42:21 AM

Bill,

I got this email and wanted you to see it. Do we want to address a reduced speed zone here after construction, or maybe speed tables? I am against speed bumps. We could pay for speed tables with the Additional Asphalt item (it's paid per ton).

Scott

From: DON LEWAND [mailto:salesor@msn.com]
Sent: Tuesday, May 10, 2011 9:12 AM
To: JAN JELMBY; Sanders, Scott
Subject: RE: Final Sidewalk Survey Graphic

Jan & Scott,

I had a thought this morning while walking. We also have a problem with fast moving traffic on a local road. What is done here is speed bumps to slow down the cars. Traffic coming off A1A is fast and they continue at that same high rate down Live Oak. If the street changes could include a few speed bumps right off A1A it would slow down the traffic.
Don

From: jan@helmethouseconstruction.com
To: salesor@msn.com
Subject: Re: Final Sidewalk Survey Graphic
Date: Mon, 9 May 2011 09:34:03 -0400

Don and Anna,

Thank you for your response to this issue. It really will enhance our neighborhood instead as there is a lot of neighbors enjoying the quaintness of taking a morning or evening stroll as Rhoda and I actually do every evening.

It boils down to a safety issue, and because there is quite some traffic on our street as people from North A1A use this as a short cut into town and the street actually curves quite a bit by your place, I see people jumping into the grass all the time to avoid being run over by the cars.

As this sidewalk is proposed to be on the opposite side of our properties, it will give better visibility to the pedestrian-vehicle issue, plus that we do not have to be concerned about the encroachment of a sidewalk on our side of the right-a-way.

Therefore it would mean a lot if you could send in to Scott at the City a revision of you initial thoughts, and instead being in favor as it is now not a sure vote if it will be a sidewalk or not which we have wished for many years. I will also forward a note from our other neighbor, for you to see his response to this issue.

Thank you for your consideration and support.

Best Regards/Jan

| ----- Original Message -----

From: DON LEWAND

To: JAN JELMBY

Sent: Monday, May 09, 2011 8:28 AM

Subject: RE: Final Sidewalk Survey Graphic

Hi Jan,

I am sorry we did not discuss this with you before voting to see what you thought. As a long time resident you have a better understanding of the situation there.

Our reason for voting no was that we felt that the sidewalk would take away the rural nature of Live Oak and make it more like a city.

If you feel it worth having than we would defer to your judgement and change our vote to be in favor of it.

Don

From: jan@helmethouseconstruction.com

To: salesor@msn.com

Subject: Fw: Final Sidewalk Survey Graphic

Date: Fri, 6 May 2011 09:17:25 -0400

Good Morning Don,

In regards to the City's proposed improvement of our street with new and larger drainage, raised street level (so all the puddle water in front of Benders and your home will be gone) and a new sidewalk across the street from us, I was surprised to see that you guys had voted against this? Knowing you, I assume that a mistake has been made, so I wanted you to be aware and hoping that you would support this improvement instead?

This is going to come up on June the 7th for a Council vote and I will be there to support this as it will really improve our street.

Best Regards/Jan

----- Original Message -----

From: Bill Gurley

To: Jan Jelmbly ; Kevin E. Howell Jr.

Sent: Thursday, May 05, 2011 7:32 PM

Subject: Fwd: Final Sidewalk Survey Graphic

fyi,
Bill

Begin forwarded message:

From: "Sanders, Scott" <SSanders@covb.org>

Date: May 5, 2011 1:42:20 PM EDT

To: 'Bill Gurley' <wdg32cr@gmail.com>

Subject: Final Sidewalk Survey Graphic

Mr. Gurley,

Here is the final results shown on a map of the neighborhood. We will still approach the Council the same way, but I thought you might just like to have this.

Thanks.

Scott Sanders

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fyi,
Bill

Begin forwarded message:

> From: "Sanders, Scott" <SSanders@covb.org>
> Date: May 5, 2011 1:42:20 PM EDT
> To: 'Bill Gurley' <wdg32cr@gmail.com>
> Subject: Final Sidewalk Survey Graphic

>
> Mr. Gurley,

>
> Here is the final results shown on a map of the neighborhood. We will still approach the Council the same way, but I thought you might just like to have this.

>
> Thanks.

>
> Scott Sanders

>
>
>

> _____

>
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>

From: [Sanders, Scott](#)
To: [Nichols, Nancy](#); [Messersmith, Bill](#)
Subject: FW: Live Oak sidewalk on the north side versus the south
Date: Friday, May 20, 2011 7:25:32 AM

For the file.

From: Bill Gurley [mailto:wdg32cr@gmail.com]
Sent: Thursday, May 19, 2011 6:07 PM
To: Sanders, Scott
Cc: 'DON LEWAND'; jan@helmethouseconstruction.com; 'Kevin Howell'
Subject: Re: Live Oak sidewalk on the north side versus the south

Scott,

The sidewalk is needed for all of the reason we have previously noted. If it is on the north or south side does not matter to me.

Having said that:

1. From a planning and engineering perspective the south side was chosen for reasons I assume were based upon sound technical judgement and overall project cost. If your question is actually, would we be OK with the sidewalk on the north side of the street but the storm drain will still be installed on the south side, then for cost and disruption reasons I have a problem with that. But, if that is the only way to get the sidewalk, so be it.
2. I have not asked the basis upon which the polling is conducted. But I assumed that all "votes" (those that received a letter and responded) were weighted equally. Yes, there is a split, but the ratio is two to one in favor of the sidewalk and some on the south side are in favor just as some on the north are opposed.
3. I understand there are longer term plans to complete a sidewalk from Mockingbird west to the new sidewalk near Fiddlewood on IR Dr. East. In that case I anticipate the walk will someday bisect my front yard. I believe our home is as close to Live Oak as any of those east of us. The answer remains we need sidewalks on Live Oak.

If the sidewalk is not approved there must be some action taken to insure the safety of pedestrians on Live Oak. Is there such a designation as "closed to pedestrian traffic"?

We will be unable to attend the council meeting. My various emails have clearly stated our views. If it comes to a vote at the meeting, I understand Mr. Jelmby will be in attendance and can represent the view of the Gurley household.

Regards,
Bill

On May 19, 2011, at 8:07 AM, Sanders, Scott wrote:

As you all know, we will be presenting the Live Oak project to Council and will be asking for direction on the sidewalk. The polling results were basically split between the residents on the north side of the road being for the sidewalk and the south side of the road being against the sidewalk. Just to make sure we can answer all of Council's potential questions, what would be your opinion if the sidewalk was proposed on the north side of the road instead of on the south side of the road as it is shown in the exhibit?

Thank you for your input.

Scott Sanders
City of Vero Beach

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From: [Sanders, Scott](#)
To: [Nichols, Nancy](#)
Cc: [Messersmith, Bill](#)
Subject: FW: Live Oak sidewalk on the north side versus the south
Date: Thursday, May 19, 2011 8:53:32 AM

Just for the file.

From: Kevin Howell [mailto:howellk@verizon.net]
Sent: Thursday, May 19, 2011 8:58 AM
To: Sanders, Scott
Subject: Re: Live Oak sidewalk on the north side versus the south

I think we need a sidewalk which ever side it is on Kevin Howell 431 Live Oak, 655 Live Oak, 605 Live Oak
thanks

On 05/19/11, Sanders, Scott<SSanders@covb.org> wrote:

As you all know, we will be presenting the Live Oak project to Council and will be asking for direction on the sidewalk. The polling results were basically split between the residents on the north side of the road being for the sidewalk and the south side of the road being against the sidewalk. Just to make sure we can answer all of Council's potential questions, what would be your opinion if the sidewalk was proposed on the north side of the road instead of on the south side of the road as it is shown in the exhibit?

Thank you for your input.

Scott Sanders
City of Vero Beach

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Nichols, Nancy

From: Messersmith, Bill
Sent: Tuesday, May 24, 2011 7:54 AM
To: Sanders, Scott
Cc: Nichols, Nancy
Subject: RE: Live Oak sidewalks - Costs

Looks good Scott. I think we will just keep this information so that if and/or when they ask why we picked the south side for the sidewalk, we will have some sound reasons – cost being just one of them.

From: Sanders, Scott
Sent: Monday, May 23, 2011 3:52 PM
To: Messersmith, Bill
Cc: Nichols, Nancy
Subject: FW: Live Oak sidewalks - Costs

Bill,

The cost of construction for the sidewalk on the north side of Live Oak versus the south side of Live Oak is as follows:

North side:

Sidewalk –	4,055 sf @ \$4.00/sf = \$16,220.00
Truncated Domes -	40 sf @ \$30.00/sf = \$1,200.00
Striped Crosswalks –	2 ea @ \$60.00/ea = \$120.00
<hr/>	
Total	\$17,540.00

South side:

Sidewalk -	4,079 sy @ \$4.00/sy = \$16,316.00
Truncated Domes -	20 sf @ \$30.00/sf = \$600.00
Striped Crosswalks -	1 ea @ \$60.00/ea = \$60.00
<hr/>	
Total	\$16,976.00

Note that constructing the sidewalk on the north side of Live Oak would still require crossing Mockingbird first and then crossing Live Oak because of the existing sidewalk's alignment with the driveway and catch basin on the north side. The sidewalk areas are reflective of the sidewalk being constructed between driveways and the driveway areas not being included. The sidewalk on the north side would involve a few more challenges because of less right-of-way to work with, thus putting the sidewalk closer to the edge of the road. The south side of Live Oak does have some trees that we must maneuver around, but we can do so without compromising a 6' roadside recovery area for traffic.

We can discuss.

Scott

From: Webber, Stephen
Sent: Monday, May 23, 2011 2:29 PM
To: Sanders, Scott
Subject: Live Oak sidewalks

North Sidewalk... 4055 sf

South Sidewalk... 4079 sf

CITY OF VERO BEACH
PUBLIC WORKS AND ENGINEERING
LIVE OAK ROAD PAVING AND DRAINAGE IMPROVEMENTS, PROJECT NO. 2005-09
OPENED: 05/19/11

COVB BID #150-11/JV

Description	Don Luchetti Construction	Timothy Rose Contracting	Jobear/Warden Construction	Sunshine Land Design, Inc.
Total Cost Base Bid	340,504.90	405,853.15	461,880.19	484,981.19
Total Cost Alternate 1 Bid	334,521.10	405,536.91	484,691.01	472,397.14
Total Cost Alternate 2 Bid	360,804.90	424,108.15	479,960.19	501,451.19
Certification Receipt Addendum #1	√	√	√	√
Bid Bond	√	√	√	√
Drug Free	√	√	√	√
Questionnaire	√	√	√	√
Local Business Certification Form	N/A	√	N/A	√
Certification of Nonsegregated Facilities	√	√	√	√
Equal Opportunity Report Statement	√	√	√	√
Trench Safety Act	√	√	√	√
Certification - Debarment, Etc.	√	√	√	√
Noncollusion Affidavit	√	√	√	√

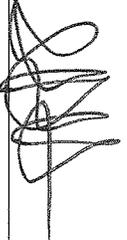
Purchasing Division

Oak Road Paving Drainage Improvements

3.00	\$	1,500.00	\$250.00	\$2,500.00	\$170.00	\$	1,700.00	\$	150.00	\$	1,500.00	\$	486.00	\$	4,860.00
3.50	\$	17,500.00	\$4.00	\$20,000.00	\$3.60	\$	18,000.00	\$	3.40	\$	17,000.00	\$	3.24	\$	16,200.00
2.00	\$	300.00	\$30.00	\$300.00	\$25.50	\$	255.00	\$	108.00	\$	1,080.00	\$	27.00	\$	270.00
5.00	\$	600.00	\$10.00	\$400.00	\$30.00	\$	1,200.00	\$	25.00	\$	1,000.00	\$	37.80	\$	1,512.00
0.00	\$	300.00	\$10.00	\$100.00	\$50.00	\$	500.00	\$	50.00	\$	500.00	\$	54.00	\$	540.00
	\$	5,000.00													
0.00			\$17,800.00	\$17,800.00	\$17,880.00	\$	17,880.00	\$	7,500.00	\$	7,500.00	\$	16,200.00	\$	16,200.00
1.70	\$	1,700.00	\$0.75	\$750.00	\$1.46	\$	1,460.00	\$	2.40	\$	2,400.00	\$	5.44	\$	5,440.00
0.85	\$	1,700.00	\$0.38	\$760.00	\$1.73	\$	3,460.00	\$	1.19	\$	2,380.00	\$	2.59	\$	5,180.00
0.00	\$	80.00	\$25.00	\$25.00	\$78.00	\$	78.00	\$	100.00	\$	100.00	\$	116.64	\$	116.64
0.00	\$	150.00	\$60.00	\$60.00	\$178.00	\$	178.00	\$	220.00	\$	220.00	\$	259.20	\$	259.20
8.00	\$	400.00	\$5.75	\$287.50	\$5.00	\$	250.00	\$	4.40	\$	220.00	\$	5.18	\$	259.00
	\$	4,875.00													
6.50			\$10.00	\$7,500.00	\$25.66	\$	19,245.00	\$	10.00	\$	7,500.00	\$	12.96	\$	9,720.00
2.50	\$	3,000.00	\$5.00	\$6,000.00	\$3.75	\$	4,500.00	\$	7.65	\$	9,180.00	\$	5.40	\$	6,480.00
0.00	\$	5,600.00		\$2,500.00	\$1,450.00	\$	1,450.00	\$	4,000.00	\$	4,000.00	\$	5,940.00	\$	5,940.00
5.00	\$	1,400.00	\$55.00	\$2,200.00	\$45.00	\$	1,800.00	\$	67.25	\$	2,690.00	\$	38.40	\$	1,536.00
5.00	\$	1,225.00	\$9.50	\$332.50	\$10.00	\$	350.00	\$	15.00	\$	525.00	\$	21.60	\$	756.00
0.00	\$	6,000.00	\$3,800.00	\$7,600.00	\$2,800.00	\$	5,600.00	\$	5,750.00	\$	11,500.00	\$	10,936.51	\$	21,873.02
	\$	1,370.00			\$1,175.00	\$	\$2,350.00	\$	\$1,520.00	\$	3,040.00	\$	1,338.00	\$	2,676.00
15.00					\$1,520.00	\$	3,040.00	\$	1,338.00	\$	2,676.00	\$	1,980.74	\$	3,961.48
10.00	\$	1,000.00	\$225.00	\$900.00	\$392.00	\$	1,568.00	\$	370.00	\$	1,480.00	\$	373.12	\$	1,492.48
10.00	\$	500.00	\$260.00	\$260.00	\$420.00	\$	420.00	\$	340.00	\$	340.00	\$	415.82	\$	415.82
10.00	\$	1,760.00	\$100.00	\$1,100.00	\$252.00	\$	2,772.00	\$	767.00	\$	8,437.00	\$	356.11	\$	3,917.21
10.00	\$	3,200.00	\$300.00	\$2,400.00	\$400.00	\$	3,200.00	\$	430.00	\$	3,440.00	\$	486.00	\$	3,888.00
10.00	\$	700.00	\$1,500.00	\$1,500.00	\$1,564.00	\$	1,564.00	\$	2,565.00	\$	2,565.00	\$	1,794.29	\$	1,794.29
25.00	\$	225.00	\$300.00	\$300.00	\$2,950.00	\$	2,950.00	\$	1,700.00	\$	1,700.00	\$	1,676.70	\$	1,676.70
	\$	419,546.75		\$391,884.75	\$	470,589.74		\$	579,280.51		\$	544,991.25		\$	544,991.25
	\$	340,683.75		\$333,753.90	\$	391,749.15		\$	446,189.19		\$	476,049.35		\$	476,049.35
	\$	346,556.75		\$334,521.10	\$	405,536.91		\$	484,691.01		\$	475,457.14		\$	475,457.14
	\$	338,683.75		\$354,053.90	\$	410,004.15		\$	479,950.19		\$	492,519.35		\$	492,519.35

05/23/2011
3:37 PM

Certified By:





1-4)

City Council Agenda Item Meeting of June 7, 2011

TO: Mayor Jay Kramer
Vice Mayor Pilar Turner
Councilmember Brian Heady
Councilmember Craig Fletcher
Councilmember Tracy Carroll

FROM: John Lee - Acting Interim City Manager JTL 6/1/2011

DATE: June 1, 2011

SUBJECT: Final Payment for Vogt Power International – Superheater
Module Replacement

REQUESTED BY: Power Resources Director

The following is requested as it relates to the above-referenced agenda item:

Request Council review and approval based on the attached supporting documentation.

Request Council review and possible action.

No action required. (Information only)

Addendum to the City Council Meeting Agenda New Business Old Business

Author: Pilar Turner

Council Meeting Date: June 7, 2011

9A-1)

1 of 4

Title: GAI Electrical Consulting Contract

Summary of your points for discussion: Progress report on evaluation of FPL offer and GAI expenditures to date.

All agenda Additions – Public need or issue addressed: Complete our due diligence to move forward on negotiations under the LOI.

Statement of the proposed solution to the public need or issue: Provide citizens monthly reports.

New Business Only - Relevant City Charter, code references, legal: None

Backup - additional attached documentation includes:

Old Business Only - Dates of past discussions / decisions by Council relevant to the issue: Award of contract to GAI on April 5.

Addendum to the City Council Meeting Agenda New Business Old Business

Author: Pilar Turner

Council Meeting Date: June 7, 2011

2 of 4

9A-2)

Title: Water and Sewer Regionalization

Summary of your points for discussion: Progress on evaluation and negotiation with the County. Update on GAI contract expenditures and progress.

All agenda Additions – Public need or issue addressed: Evaluate offer to regionalize water and sewer. Maintain control and review of consultant.

Statement of the proposed solution to the public need or issue: Perform our due diligence. Require monthly progress reports on GAI.

New Business Only - Relevant City Charter, code references, legal: None

Backup - additional attached documentation includes: Memo on questions for county.

Old Business Only - Dates of past discussions / decisions by Council relevant to the issue: April 29 Joint meeting with County vote to move forward with discussions.

MEMORANDUM

May 25

TO: Monte Falls
Interim City Manager

Rob Bolton
Water and Sewer Director

Steve Maillet
Finance Director

FROM: Pilar Turner *PT*
Vice Mayor

SUBJECT: Water and Sewer Regionalization

Please prepare questions for the County which will allow us to comply with Sections 125.3401 and 180.301, Florida Statutes, which require the examination of the long-range needs and goals of the County and City relative to the provision of the water and wastewater services to their present and future citizens as well as the County's existing utility financial structure.

These questions should be submitted by June 7, 2011.

PT/tv

XC: Mayor Jay Kramer and
City Councilmembers

Author: Brian Heady

Council Meeting Date: May 3, 2011

Priority —

9A-3)

Title: Continuation of discussion, consideration of Charter Officer positions

Summary of your points for discussion:

All agenda Additions - Public need or issue addressed: Consideration of Council control over Charter Officers

Statement of the proposed solution to the public need or issue: To be determined

New Business Only - Relevant City Charter, code references, legal:

Backup - additional attached documentation includes:

Old Business Only - Dates of past discussions / decisions by Council relevant to the issue:

March 15, 2011

April 5, 2011

Finance Director as Charter Officer Survey
Updated May 18, 2011

Casselberry – Finance Director is not. Treasurer is a Charter Officer.

Cocoa – Yes, Finance Director is.

Eustis – Yes, Finance Director is.

Hialeah Gardens – Yes, Finance Director is.

Lauderdale Lakes – City Auditor is.

Northport – City Auditor is.

Sarasota - City Auditor is.

Fruitland Park - City Treasurer is

Wildwood Park – City Clerk is Chief Financial Officer

Kenneth City – Mayor is Chief Financial Officer.

The Finance Director is not a Charter Officer in any of the following cities:

Bartow

Crest View

Dania Beach

Deland

DeBary

Doral

Edgewater

Fort Myers

Fort Pierce

Fort Walton Beach (was until 2008)

Greenacres

Gulfport

Haines City

Holly Hill

Homestead

Jacksonville Beach

Jupiter

Key West

Lady Lake

Lake City

Leesburg

Maitland

Marco Island

Melbourne

Naples

Ormond Beach

Oviedo

Palm Coast

Pensacola

Sebastian

St. Petersburg

Venice (was until a few years ago)

Addendum to the City Council Meeting Agenda

New Business Old Business

Author: Pilar Turner

Council Meeting Date: June 7, 2011

Priority

3 of 4

9B-3

Title: Monthly Financial Report

Summary of your points for discussion: Provide citizens view of city financials.

All agenda Additions - Public need or issue addressed: Let citizens know how tax money being spent.

Statement of the proposed solution to the public need or issue: Provide routine updates

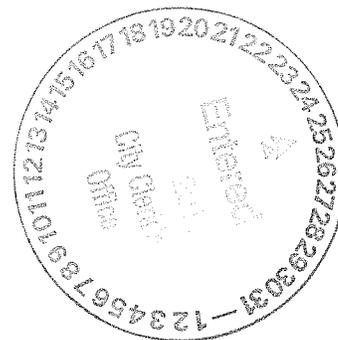
New Business Only - Relevant City Charter, code references, legal: None

Backup - additional attached documentation includes: April Monthly Report

Old Business Only - Dates of past discussions / decisions by Council relevant to the issue:

Memorandum

To: Monte Falls, Interim City Manager
From: S. Maillet, Finance Director
Date: May 19, 2011
Subject: Budget Update for April 2011



Note for All Funds:

April was a month with a third pay period. This *third check* has caused the monthly expenditures to be higher than a simple pro-ratio calculation suggests.

General Fund:

The General Fund (GF), as one looks at the monthly summary YTD, has a shortfall of approximately \$726,000.

On the revenue side, utility tax collections are currently 11% below projections. Electric usage is down, and with that decline is a reduction in tax collections. At the end of April, collections are \$163,000 below budget.

On the expense side the GF has incurred an additional \$386,000 in expenditures. The entire shortfall for April is due to the third check.

Electric System:

Electric kWh sales increased in April, yet revenue is less than projected. This is a result of the slower economy and the two rates cuts.

Year to date (YTD), power purchased is a little higher than budgeted. The change in cash of a reduction of \$4,000,000 is mostly money flowing back to the rate payers through the lower rates and the effects of lower sales. Also, in April a portion of the reduction in cash had two additional elements: (1) the third pay was about \$200,000, and (2) the outage at Stanton I cost about \$500,000.

As you recall, the City, through its membership in FMPA, has an entitlement agreement. As part of the agreement, members have to pay a minimum monthly charge, regardless of power output. Stanton I was offline for maintenance and the City's share was \$508,000. The power the City would have received but did not was then bought through OUC.

After the two rate cuts, the electric system has sixty-eight days of working capital (unrestricted cash). The City's target is 45-60 days. This current level of coverage allows another rate cut which took effect May 1st.

Water & Sewer System:

The water and sewer system (WS) is still on target to meet its budget for FY 11. At the end of April, WS has \$2,600,000 in unrestricted cash. This is an increase of \$730,000 from the end of FY 10. WS should easily meet its FY 11 budget of a proposed \$775,000 surplus.

The WS has 57 days of working capital. The City's target is 45-60 days.

Airport:

Airport revenues and expenditures are on target. The Airport should reach its projected budget surplus of \$460,000.

Marina:

The Marina's rental revenues are down. This decline is related to the recession. Fuel sales are helping to keep overall revenues on target, but the cost of fuel has pushed up YTD expenditures. On the *Statement of Revenues*, the Marina has a YTD increase in net assets.

The Marina has a budgeted surplus of \$395,000 for FY 11. However, even after the YTD budget shortfall, the Marina will end the year in the black.

Solid Waste:

Revenues for Solid Waste (SW) are down because of the recession. The YTD shortfall is approximately \$105,000. The April fund shortfall of \$21,000 is due entirely to the third paycheck of \$34,000.

SW has a budgeted surplus of \$522,000 for FY 11. As with the Marina, SW will end in the black even after a budget shortfall. In the meantime, the Public Works director and the SW manager are reviewing operations to find more ways to cut costs but not service.

City of Vero Beach
FY 11
Water & Sewer System Monthly Budget Summary

	Monthly Actual 04/30/11	Monthly Budgeted 04/30/11	Monthly Variance as %	YTD Actual 04/30/11	YTD Budgeted 04/30/11	YTD Variance as %	Budget
Revenue:							
Water	782,395	727,397	7.56%	5,538,865	5,140,274	7.75%	8,850,000
Sewer	632,260	578,575	9.66%	4,150,007	4,074,466	1.85%	7,015,000
Reuse	78,222	89,589	-12.69%	582,269	633,096	-8.03%	1,090,000
Other	9,479	9,616	-1.43%	143,998	67,956	111.90%	117,000
Total revenue	1,502,355	1,403,178	7.07%	10,415,138	9,915,792	5.04%	17,072,000
Expenses							
Wastewtr Treatment	154,705	143,290	7.97%	962,800	1,012,579	-4.92%	1,743,356
Gravity Swr	44,822	41,342	8.42%	284,647	292,149	-2.57%	502,992
Water Treatment	255,169	255,808	-0.25%	1,626,362	1,807,707	-10.03%	3,112,325
Wtr Dist	95,264	85,368	11.59%	568,365	603,264	-5.79%	1,038,638
Wastewtr Reuse	29,173	52,027	-43.93%	453,549	367,860	23.36%	633,000
Admin	90,075	72,402	24.41%	605,711	511,638	18.39%	880,886
Environ Lab	59,612	40,821	46.03%	308,630	288,469	6.99%	496,657
Maintenance	76,653	66,144	15.89%	439,292	467,416	-6.02%	804,750
Lift Station	61,682	47,115	30.92%	321,347	332,943	-3.48%	573,228
Meter Maint	37,308	30,879	20.82%	215,413	218,214	-1.28%	375,699
Non Deptl	120,498	113,643	6.03%	879,664	803,079	9.54%	1,382,660
Total Operating Expenses	1,024,960	948,838	8.02%	6,665,782	6,705,119	-0.59%	11,544,191
Operating Income	477,395	454,340		3,749,357	3,210,673		
Debt Service	194,295	194,295	0.00%	1,652,805	1,652,805	0.00%	2,153,164
Trf to GF	71,663	71,663	0.00%	501,638	501,638	0.00%	859,950
Non-operating expenses	265,958	265,958	0.00%	2,154,443	2,154,443	0.00%	
Net Income	211,437	188,383	12.24%	1,594,914	1,056,230	51.00%	
plus Impact Fees, grants & Special Asmts	4,879	4,879	0.00%	66,487	66,487	0.00%	470,000
less Capital	35,869	35,869	0.00%	314,893	314,893	0.00%	2,209,675
Cash change	180,448	157,394		1,346,508	807,824		
Other balance sheet changes, net	(146,440)			(582,873)			Budgeted surplus (deficit)
Cash beginning of month	2,602,875						
Cash beginning of year				1,873,247			
Cash End of Period	2,636,882			2,636,882			775,020

City of Vero Beach
 Water and Sewer System Consolidation
 04/30/11

ASSETS

Current Assets

Equity in pooled cash and investments	2,636,882
Accounts receivable-(net of allowances for estimated uncollectibles)	2,618,031
Accrued interest receivable	12,895
Special assessments receivable	435,374
Inventory	<u>195,438</u>
Total Current Assets	<u>5,898,620</u>

Restricted Assets

Equity in pooled cash and investments:	
Sinking funds	1,380,699
Early call	<u>1,025,310</u>
Total Restricted Assets	<u>2,406,009</u>

Capital Assets	111,870,422
less: accumulated depreciation	<u>(62,532,925)</u>
	49,337,497
Construction in progress	<u>16,622,980</u>
Total Property, Plant and Equipment, net	<u>65,960,477</u>

Other Assets	
Unamortized bond issue costs	<u>50,687</u>
Total other assets	<u>50,687</u>

Total NonCurrent Assets	<u>68,417,173</u>
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Total Assets	<u><u>74,315,794</u></u>
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City of Vero Beach
Water and Sewer System Consolidation
04/30/11

LIABILITIES

Current Liabilities Payable from Current Assets

Accounts & Contracts payable	129,721
Accrued liabilities	915,897
Total Current Liabilities Payable from Current Asset	<u>1,045,619</u>

Current Liabilities Payable from Restricted Assets

Bonds payable	1,240,388
Interest payable	140,311
Total Current Liabilities Payable from Restricted Assets	<u>1,380,699</u>

Total Current Liabilities Payable from Restricted Assets 1,380,699

Total Current Liabilities 2,426,318

Noncurrent Liabilities

Bonds payable	24,636,426
	24,636,426
Accrued compensated absences	1,171,625
Total Noncurrent Liabilities	<u>25,808,051</u>

Total Noncurrent Liabilities 25,808,051

Total Liabilities 28,234,369

Net Assets

Invested in capital assets, net of related debt	41,231,346
Reserves for:	
Early call	1,025,310
Unrestricted	3,824,768
Total Net Assets	<u>46,081,424</u>

City of Vero Beach
Water and Sewer System Consolidation
04/30/11

Operating Revenues	<u>10,320,175</u>
Operating Expenses	
Wastewater Treatment & Reuse (9000 & 9004)	1,416,349
Gravity Sewer (9001)	284,647
Water Treatment & Distribution (9002 & 9003)	2,194,727
Administrative and General (9005 & 9900)	1,485,375
Environmental Lab (9006)	308,630
Maintenance Division (9007)	439,292
Lift Station Division (9008)	321,347
Meter Shop Division (9009)	215,413
Depreciation Expense	1,593,924
Total Operating Expenses	<u>8,259,706</u>
Operating Income for Period	2,060,469
Nonoperating Revenues (expenses)	
Interest revenue	63,008
Miscellaneous revenue	31,955
Impact Fees	66,487
Interest and amortization expense	<u>(585,040)</u>
Total Nonoperating Revenues (expenses)	<u>(423,590)</u>
Income (loss) before Contributions & Transfers	<u>1,636,879</u>
Operating Transfers	
Operating transfers in	0
Operating transfers out	<u>(501,638)</u>
Total Operating Transfers	<u>(501,638)</u>
Changes in Net Assets	1,135,242
Net Assets beginning of Period	44,946,182
Net Assets at End of Period	<u><u>46,081,424</u></u>

To: Director, Water/Waste Water Service
 From: Customer Ser
 Date: May 6, 2011

WATER AND SEWER REPORT FOR APRIL 2011

<u>Water</u>	<u># of Accounts</u>	<u># of Res. Units</u>	<u>Consumption</u>	<u>*Billed Revenue</u>
Residential --Single Family	10,008	10,008	79,925,000	\$385,109.48
Res. Multi Family (master metered)	579	6,353	21,553,000	\$103,575.75
Commercial	1,513		30,119,000	\$110,764.72
Subtotal for Water	12,100	16,361	131,597,000	\$599,449.95

<u>Irrigation</u>				
Residential --Single Family	543		11,984,000	\$76,937.45
Res. Multi Family	81		6,600,000	\$40,815.42
Irrigation: Commercial	252		10,718,000	\$63,170.37
Subtotal for Irrigation	876		29,302,000	\$180,923.24

<u>Reuse</u>				
Residential--Single Family <small>Includes 16 F</small>	68		17,611,000	\$33,813.12
Commercial	44		16,792,000	\$31,734.72
Special (Golf Courses)	4		46,043,000	\$12,561.37
Subtotal for Reuse	116		80,446,000	\$78,109.21

Fire Line	222			\$3,068.11
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New Connections

Water	
Irrigation	
Reuse	0
Irrigation to Reuse	0

Totals for Water,	13,314	16,361	241,345,000	\$861,550.51
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<u>Sewer</u>				
Residential -- Single Family	7,307	7,307		\$304,178.81
Res. Multi Family (master metered)	523	6,186		\$190,921.06
Commercial	1,324			\$138,455.80

New Connections

Total for Sewer	9,154	13,493		\$ 633,555.67
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Note: *Billed Revenue is reduced by the amount of credit given.
 *These figures include special contracts including John's Island.

To: Director, Water/Waste Water Service
 From: Customer Service
 Date: 05/06/10

WATER AND SEWER REPORT FOR April 2010

	<u># of Accounts of Res. Uni</u>	<u>Consumption</u>	<u>*Billed Revenue</u>
Water			
Residential --Single Family	9,883	9,883	74,913,000
Res. Multi Family (master metered)	579	6,353	22,617,000
Commercial	1,522		33,661,000
Subtotal for Water	11,984	16,236	131,191,000
Irrigation			
Residential --Single Family	551		8,980,000
Res. Multi Family	84		5,247,000
Irrigation: Commercial	260		11,079,000
Subtotal for Irrigation	895		25,306,000
Reuse			
Residential--Single Family <small>Includes 16 Res Multi master mete</small>	68		13,565,000
Commercial	44		19,889,000
Special (Golf Courses)	4		32,767,000
Subtotal for Reuse	116		66,221,000
Fire Line	218		\$3,027.58
New Connections			
Water	2		
Irrigation	0		
Reuse	0		
Irrigation to Reuse	0		
Totals for Water, Irrigation, Reuse,	13,213	16,236	222,718,000
Sewer			
Residential -- Single Family	7,222	7,222	\$297,263.09
Res. Multi Family (master metered)	523	6,186	\$193,838.54
Commercial	1,329		\$136,319.34
New Connections			
Total for Sewer	9,074	13,408	\$ 627,420.97

Note: *Billed Revenue is reduced by the amount of credit given.
 *These figures include special contracts including John's Island.

City of Vero Beach
FY 11
Solid Waste Monthly Budget Summary

	Monthly Actual 04/30/11	Monthly Budgeted 04/30/11	Monthly Variance as %	YTD Actual 04/30/11	YTD Budgeted 04/30/11	YTD Variance as %	Budget FY 1
Revenue:							
Garbage Collection	209,694	223,313	-6.10%	1,459,340	1,563,188	-6.64%	2,679,750
Other	224	415	-46.03%	5,006	2,946	69.93%	5,050
Total revenue	209,918	223,728	-6.17%	1,464,345	1,566,133	-6.50%	2,684,800
Expenses							
Operating Expenses	218,036	167,461	30.20%	1,253,994	1,172,229	6.98%	2,009,535
Operating Income	(8,118)	56,266		210,352	393,905		
Trf to GF	12,750	12,750	0.00%	89,250	89,250	0.00%	153,000
Net Income	(20,868)	43,516	-147.95%	121,102	304,655	-60.25%	
less Capital	0	0	#DIV/0!	0	0	#DIV/0!	0
Cash change	(20,868)	43,516		121,102	304,655		
Other balance sheet changes, net	(12,975)			(3,891)			
Cash beginning of month	(8,398)						Budgeted surplus
Cash beginning of year				(159,452)			(deficit)
Cash End of Period	(42,241)			(42,241)			522,265

City of Vero Beach
Statement of Net Assets
Solid Waste
04/30/11

ASSETS

Current Assets:

Equity in pooled cash and investments	0
Accounts receivable	<u>367,495</u>

Total Current Assets	<u>367,495</u>
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Noncurrent Assets:

Capital Assets	
Property, plant and equipment	3,160,722
Less: accumulated depreciation	<u>(2,410,493)</u>

Total property, plant and equipment, net	<u>750,229</u>
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Total Noncurrent Assets	<u>750,229</u>
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Total Assets	<u><u>1,117,725</u></u>
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LIABILITIES

Current Liabilities (Payable from Current Assets)

Accounts and contracts payable	651
Accrued liabilities	47,895
Due to other funds	<u>42,241</u>
Total Current Liabilities	<u>90,788</u>

Noncurrent Liabilities

Compensated absences	340,967
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Total Noncurrent Liabilities	<u>340,967</u>
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Total Liabilities	<u>431,755</u>
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Net Assets

Invested in capital assets, net of related debt	750,229
Unrestricted	<u>(64,259)</u>

Total Net Assets	<u><u>685,970</u></u>
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City of Vero Beach
Statement of Net Assets
Solid Waste
04/30/11

OPERATING REVENUES

Charges for services 1,459,340

OPERATING EXPENSES

Operating charges 1,253,994

Depreciation expense 87,557

Total Operating Expenses 1,341,551

Operating Income (Loss) 117,789

NON-OPERATING REVENUES (EXPENSES)

Investment earnings 9

Interest / amortization expense 0

Miscellaneous 4,997

Total Non-Operating Revenues (Expenses) 5,006

Income (Loss) Before Contributions and Transfers 122,794

Transfers In 0

Transfers Out (89,250)

Change in Net Assets 33,544

Net Assets - Beginning of Period 652,425

Net Assets - End of Period 685,970

City of Vero Beach
FY 11
General Fund Monthly Budget Summary

	Monthly Actual 04/30/11	Monthly Budgeted 04/30/11	Monthly Variance as %	YTD Actual 04/30/11	YTD Budgeted 04/30/11	YTD Variance as %	Budget
Revenue:							
Ad Valorem Tax	376,375	376,375	0.00%	3,957,310	3,957,310	0.00%	4,166,950
Utility Tax	163,307	184,932	-11.69%	1,149,296	1,312,500	-12.43%	2,250,000
State Taxes							
Gasoline	38,980	38,971	0.02%	265,139	272,799	-2.81%	467,656
Communications Services	106,503	110,745	-3.83%	775,769	775,217	0.07%	1,328,943
State Revenue Sharing	45,846	46,219	-0.81%	320,925	323,531	-0.81%	554,625
Half Cent	88,500	87,898	0.68%	590,691	615,284	-4.00%	1,054,773
Other	516	516	0.00%	28,104	28,104	0.00%	85,000
Administrative Charges	227,888	227,888	0.00%	1,595,218	1,595,218	0.00%	2,734,660
Enterprise Transfers	558,160	558,160	0.00%	3,907,119	3,907,119	0.00%	6,697,918
Other	67,862	73,057	-7.11%	396,480	509,195	-22.14%	876,680
Total revenue	1,673,938	1,704,760	-1.81%	12,986,050	13,296,277	-2.33%	20,217,205
Expenses							
Council	6,748	8,989	-24.93%	55,958	62,923	-11.07%	107,868
Clerk	37,638	29,735	26.58%	210,666	208,148	1.21%	356,825
Manager	10,192	22,034	-53.74%	137,483	154,236	-10.86%	264,404
City Hall	8,300	12,167	-31.78%	68,830	85,167	-19.18%	146,000
Attorney	49,298	50,909	-3.16%	451,683	356,362	26.75%	610,907
Human Resources	37,222	28,755	29.45%	191,017	201,285	-5.10%	345,060
Finance	78,565	58,687	33.87%	505,965	410,812	23.16%	704,249
Information Systems	79,684	68,083	17.04%	429,323	476,579	-9.92%	816,993
Purchasing	42,464	33,665	26.14%	240,500	235,654	2.06%	403,978
Warehouse	27,847	22,292	24.92%	156,760	156,045	0.46%	267,505
Planning	74,076	55,729	32.92%	407,397	390,102	4.43%	668,746
Police	681,548	584,372	16.63%	4,220,292	4,090,602	3.17%	7,012,460
Engineering & Survey	89,687	66,398	35.07%	503,911	464,788	8.42%	796,779
Stormwater	69,958	51,874	34.86%	388,736	363,115	7.06%	622,482
Streets	24,302	35,329	-31.21%	237,413	247,304	-4.00%	423,950
Traffic	20,253	21,734	-6.81%	139,668	152,135	-8.19%	260,802
GIS	22,449	16,357	37.24%	129,858	114,501	13.41%	196,287
Grounds Maintenance	103,050	65,003	58.53%	478,631	455,022	5.19%	780,037
Administration	50,231	41,199	21.92%	284,728	288,392	-1.27%	494,386
Fleet Mgmt	37,975	35,613	6.63%	171,798	249,292	-31.09%	427,358
Facilities Mgmt	76,780	59,359	29.35%	406,165	415,510	-2.25%	712,303
Non-Departmental:							
Operating	85,440	79,528	7.43%	733,983	556,694	31.85%	954,332
Transfers	348,592	346,592	0.00%	2,265,096	2,265,096	0.00%	2,847,600
Total Operating Expenses	2,060,300	1,794,402	14.82%	12,815,861	12,399,760	3.36%	20,221,311
Operating Income	(386,362)	(89,642)		170,189	896,517		
Other balance sheet changes, net	52,189			110,361			Budgeted surplus (deficit)
Cash beginning of month	6,901,331						
Cash beginning of year				6,286,607			
Cash End of Period	6,567,158			6,567,158			(4,106)

FY 11
Airport Monthly Budget Summary

		Monthly Actual 04/30/11	Monthly Budgeted 04/30/11	Monthly Variance as %	YTD Actual 04/30/11	YTD Budgeted 04/30/11	YTD Variance as %	Budget
Revenue:								
	Airport revenues	354,745	211,733	67.54%	1,603,685	1,482,130	8.20%	2,540,795
	Other	4,812	3,167	51.94%	23,461	22,167	5.84%	38,000
Total revenue		359,557	214,900	67.31%	1,627,145	1,504,297	8.17%	2,578,795
Expenses								
	Operating Expenses	177,263	172,111	2.99%	1,206,224	1,216,254	-0.82%	2,094,022
Operating Income		182,293	42,788		420,921	288,043		
	Trf to GF	0	0	#DIV/0!	0	0	#DIV/0!	0
Net Income		182,293	42,788	326.04%	420,921	288,043	46.13%	
plus	Grants	5,698	5,698	0.00%	1,435,911	1,435,911	0.00%	975,000
less	Capital	6,522	6,522	0.00%	1,703,456	1,703,456	0.00%	1,000,000
Cash change		181,469	41,964		153,376	20,498		
Other balance sheet changes, net		321,969			393,523			
Cash beginning of month		2,081,790						Budgeted surplus (deficit)
Cash beginning of year					2,038,329			
Cash End of Period		2,585,227			2,585,227			459,773

City of Vero Beach

Airport

04/30/11

ASSETS

Current Assets:

Equity in pooled cash and investments	2,585,477
Accounts receivable, net of allowance for estimated uncollectibles	0
Accrued interest receivable	3,510
Due from other governments	50,059

Total Current Assets 2,639,046

Noncurrent Assets:

Capital Assets

Property, plant and equipment	51,881,384
Less: accumulated depreciation	(10,546,473)

41,334,911

Construction in progress 3,335,086

Total property, plant and equipment, net 44,669,998

Total Noncurrent Assets 44,669,998

Total Assets 47,309,044

LIABILITIES

Current Liabilities (Payable from Current Assets)

Accounts and contracts payable	28,272
Accrued liabilities	40,778
Customer deposits	153,584

Total Current Liabilities (Payable from Current Assets) 222,634

Noncurrent Liabilities

Compensated absences 200,220

Total Noncurrent Liabilities 200,220

Total Liabilities 422,854

Net Assets

Invested in capital assets, net of related debt 44,669,998

Unrestricted 2,216,193

Total Net Assets 46,886,190

City of Vero Beach
Airport
Statement of Revenues, Expenses and Changes I Net Assets
04/30/11

OPERATING REVENUES	
Charges for services	<u>1,603,685</u>
OPERATING EXPENSES	
Operating charges	1,206,224
Depreciation expense	<u>567,136</u>
Total Operating Expenses	<u>1,773,361</u>
Operating Income (Loss)	(169,676)
NON-OPERATING REVENUES (EXPENSES)	
Investment earnings	2,684
Miscellaneous	<u>20,776</u>
Total Non-Operating Revenues (Expenses)	<u>23,461</u>
Income (Loss) Before Contributions and Transfers	(146,215)
Capital Contributions	<u>1,435,911</u>
Change in Net Assets	<u>1,289,695</u>
Net Assets - Beginning of Period	45,596,495
Net Assets - End of Period	<u><u>46,886,190</u></u>

City of Vero Beach
FY 11
Electric System Monthly Budget Summary

	Monthly Actual 04/30/11	Monthly Budgeted 04/30/11	Monthly Variance as %	YTD Actual 04/30/11	YTD Budgeted 04/30/11	YTD Variance as %	Budget
Revenue:							
Residential	3,163,454	3,780,822	-16.33%	24,004,139	26,717,808	-10.16%	46,000,000
Commercial	3,004,919	3,205,479	-6.26%	20,907,619	22,652,055	-7.70%	39,000,000
Industrial	119,848	106,849	12.17%	740,504	755,068	-1.93%	1,300,000
Other	224,840	178,562	25.92%	1,240,414	1,261,836	-1.70%	2,172,500
Total revenue	6,513,060	7,271,712	-10.43%	46,892,677	51,386,767	-8.75%	88,472,500
Expenses							
Power Resources	317,305	404,582	-21.57%	2,536,608	2,859,044	-11.28%	4,922,410
Purchased Pwr	5,067,147	4,339,544	16.77%	32,463,015	30,666,112	5.86%	52,797,788
Customer Service	167,806	159,413	5.26%	1,067,113	1,126,518	-5.27%	1,939,524
T&D	392,823	387,522	1.37%	2,504,033	2,738,491	-8.56%	4,714,855
Engineering	60,799	60,236	0.93%	341,032	425,665	-19.88%	732,867
Metering	76,915	54,321	41.59%	436,277	383,868	13.65%	660,904
Non Deptl	201,767	303,363	-33.49%	2,219,712	2,143,767	3.54%	3,690,920
Total Operating Expenses	6,284,561	5,708,981	10.08%	41,567,790	40,343,465	3.03%	69,459,268
Operating Income	228,499	1,562,731		5,324,886	11,043,302		
Debt Service	568,618	568,618	0.00%	3,924,122	3,924,122	0.00%	6,727,066
Trf to GF	466,529	466,529	0.00%	3,265,704	3,265,704	0.00%	5,598,350
Non-operating expenses	1,035,147	1,035,147	0.00%	7,189,826	7,189,826	0.00%	
Net Income	(806,648)	527,584	-252.89%	(1,864,940)	3,853,476	-148.40%	
plus Impact Fees	6,880	6,880	0.00%	131,160	131,160	0.00%	660,000
less Capital	198,242	198,242	0.00%	2,154,565	2,154,565	0.00%	6,829,750
Cash change	(998,010)	336,222		(3,888,345)	1,830,071		
Other balance sheet changes, net	(634,141)			(133,391)			
Cash beginning of month	18,114,219						Budgeted surplus
Cash beginning of year				20,503,804			(deficit)
Cash End of Period	16,482,068			16,482,068			518,066

City of Vero Beach
Electric System Consolidation
04/30/11

ASSETS

Current Assets

Equity in pooled cash and investments	16,482,068
Accounts receivable-(net of allowances for estimated uncollectibles)	10,559,912
Accrued interest receivable	76,889
Inventory	7,156,955
Prepaid expenses	<u>4,470</u>

Total Current Assets 34,280,293

Noncurrent assets

Equity in pooled cash and investments:	
Sinking funds	1,229,421
Hurricane Recovery	1,344,168
Emergency repair	1,000,000
Renewal and replacement	1,000,000
Bonds payable	4,341,000
Customer deposits	<u>4,019,875</u>

Total Restricted assets 12,934,464

Property, Plant & Equipment	248,368,886
less: accumulated depreciation	<u>(123,251,021)</u>
	125,117,865
Construction in progress	<u>2,740,884</u>

Total Property, Plant and Equipment, net 127,858,749

Other Assets

SO2 Allowance	438,526
Unamortized bond issue costs	<u>454,473</u>

Total other assets 892,998

Total Noncurrent assets 141,686,211

Total Assets 175,966,504

City of Vero Beach
Electric System Consolidation
04/30/11

LIABILITIES

Current liabilities payable from current assets

Accounts and contracts payable	79,157
Accrued liabilities	6,163,771
Due to other funds	0
	<hr/>

Total current liabilities payable from current assets	6,242,927
	<hr/>

Current liabilities payable from restricted assets

Bonds payable	4,341,000
Interest payable	1,229,421
Customer deposits	4,019,875
	<hr/>

Total current liabilities (payable from restricted assets)	9,590,296
	<hr/>

Total Current Liabilities	15,833,223
	<hr/>

Noncurrent Liabilities

Bonds payable	48,659,000
	48,659,000
Accrued compensated absences	1,388,221
	<hr/>

Total Noncurrent Liabilities	50,047,221
	<hr/>

Total Liabilities	65,880,445
	<hr/>

Net Assets

Invested in capital, net of related debt	74,858,749
Reserved for:	
hurricanes	1,344,168
plant replace--emergencies	1,000,000
renewal & replacement	1,000,000
Unrestricted	31,883,143
Total Net Assets	110,086,059
	<hr/> <hr/>

City of Vero Beach
Electric System Consolidation
04/30/11

Operating revenues	<u>46,676,644</u>
Operating expenses	
Production (5000)	2,536,608
Fuel (5001)	32,463,015
Transmission and distribution(5400, 5410,5420)	3,281,342
Administrative and general (9900)	2,219,712
Customer service (5100)	910,780
Depreciation expense	<u>4,044,904</u>
Total operating expenses	<u>45,456,361</u>
Operating Income for Period	1,220,283
Nonoperating revenues and (expenses)	
Interest revenue	40,838
Miscellaneous revenue	18,861
Impact Fees	131,160
Interest and amortization expenses	(1,730,906)
Miscellaneous expenses	<u>0</u>
Total Nonoperating revenues and (expenses)	<u>(1,540,048)</u>
Income (loss) before Contributions & Transfers	<u>(319,764)</u>
Operating transfers	
Operating transfers in	0
Operating transfers out	<u>(3,265,704)</u>
Total operating transfers	<u>(3,265,704)</u>
Change in Net Assets	<u>(3,585,469)</u>
Net Assets at Beginning of Year	113,671,528
Net Assets at End of Year	<u><u>110,086,059</u></u>

TO: DIRECTOR, POWER PLANT
FROM: CUSTOMER SERVICE
DATE: May 6, 2011

ELECTRIC REPORT FOR APRIL 2011

	<u># of Accounts</u>	<u>kWh Sales</u>	<u>*Billed Revenue</u>
Residential	28,051	26,059,612	\$3,165,481.61
Commercial	5,478	27,587,611	\$3,009,522.39
Industrial	1	1,094,400	\$119,847.79
Electric Revenue Subtotal			<u>\$6,294,851.79</u>
Outdoor Lighting Total	474	340,040	\$81,421.03
Total	<u>34,004</u>	<u>55,081,663</u>	<u>\$6,376,272.82</u>
Bulk Power Cost Revenue Total (Included in total above)			\$3,304,899.78
New Connections	8		

Note: *Billed Revenue is reduced by the amount of credit given.

TO: DIRECTOR, POWER PLANT
FROM: CUSTOMER SERVICE
DATE: May 6, 2010

ELECTRIC REPORT FOR April 2010

	<u># of Accounts</u>	<u>KwH Sales</u>	<u>*Billed Revenue</u>
Residential	27,955	26,767,646	\$3,477,804.65
Commercial	5,444	27,068,279	\$3,186,967.42
Industrial	1	1,080,000	\$124,270.56
Electric Revenue Subtotal			<u>\$6,789,042.63</u>
Outdoor Lighting Total	470	331,687	\$82,447.88
Total	<u>33,870</u>	<u>55,247,612</u>	<u>\$6,871,490.51</u>
Bulk Power Cost Revenue Total (Included in total above)			\$3,839,709.03
New Connections	7		

Note: *Billed Revenue is reduced by the amount of credit given.

City of Vero Beach
FY 11
Marina Monthly Budget Summary

		Monthly Actual 04/30/11	Monthly Budgeted 04/30/11	Monthly Variance as %	YTD Actual 04/30/11	YTD Budgeted 04/30/11	YTD Variance as %	Budget
Revenue:								
	Marina revenues	211,120	145,531	45.07%	1,008,151	1,028,421	-1.97%	1,770,630
	Other	3,255	4,290	-24.12%	22,296	30,319	-26.46%	52,200
Total revenue		214,375	149,822	43.09%	1,030,447	1,058,740	-2.67%	1,822,830
Expenses								
	Operating Expenses	145,037	103,665	39.91%	819,354	722,533	13.40%	1,243,984
Operating Income		69,338	46,156		211,093	336,206		
	Trf to GF	7,218	7,218	0.00%	50,527	50,527	0.00%	86,618
Net Income		62,120	38,938	59.53%	160,566	285,679	-43.80%	
plus	Grant	0	0	#DIV/0!	177,937	177,937	0.00%	250,000
less	Debt service	(83,769)	(83,769)	0.00%	(340,295)	(340,295)	0.00%	343,690
less	Capital	0	0	#DIV/0!	0	0	#DIV/0!	4,000
Cash change		(21,649)	(44,830)		(1,792)	123,322		
Other balance sheet changes, net		(8,083)			(2,088)			
Cash beginning of month		138,008						Budgeted surplus (deficit)
Cash beginning of year					112,156			
Cash End of Period		108,277			108,277			394,538

City of Vero Beach
Marina
Statement of Net Assets
04/30/11

ASSETS

Current Assets:	
Equity in pooled cash and investments	108,677
Accounts receivable	23,055
Inventories	<u>31,278</u>
Total Current Assets	<u>163,009</u>
Noncurrent Assets:	
Capital Assets	
Property, plant and equipment	6,616,696
Less: accumulated depreciation	<u>(1,105,486)</u>
	5,511,210
Construction in progress	<u>0</u>
Total property, plant and equipment, net	<u>5,511,210</u>
Reserve for Debt Service (FIND grant)	280,533
Issuance costs FY 08 S. Marina Complex	<u>23,263</u>
Total Noncurrent Assets	<u>5,815,007</u>
Total Assets	<u><u>5,978,016</u></u>

LIABILITIES

Current Liabilities	
Accounts and contracts payable	2,806
Accrued liabilities	108,286
Customer deposits	<u>38,222</u>
Total Current Liabilities	<u>149,314</u>
Noncurrent Liabilities	
Compensated absences	54,029
Bonds and loans payable	<u>4,177,982</u>
Total Noncurrent Liabilities	<u>4,232,011</u>
Total Liabilities	<u>4,381,325</u>
Invested in capital assets, net of related debt	5,511,210
Unrestricted	<u>(3,914,520)</u>
Total Net Assets	<u><u>1,596,691</u></u>

City of Vero Beach
Marina
Statement of Revenues, Expenses and Changes I Net Assets
04/30/11

OPERATING REVENUES	
Charges for services	<u>1,008,150</u>
OPERATING EXPENSES	
Operating charges	819,354
Depreciation expense	<u>39,831</u>
Total Operating Expenses	<u>859,185</u>
Operating Income (Loss)	148,966
NON-OPERATING REVENUES (EXPENSES)	
Investment earnings	9
Miscellaneous	22,287
Federal and state grants	177,937
Operating grants	0
Interest / amortization expense	<u>(170,933)</u>
Total Non-Operating Revenues (Expenses)	<u>29,300</u>
Income (Loss) Before Contributions and Transfers	178,266
Transfers In	0
Transfers Out	<u>(50,527)</u>
Change in Net Assets	<u>127,739</u>
Net Assets - Beginning of Period	1,468,952
Net Assets - End of Period	<u><u>1,596,691</u></u>

Author: Brian Heady

Council Meeting Date: May 3, 2011

Priority _____ of _____

Title: Consideration of FPL offer

9B-3)

Summary of your points for discussion:

Discussion that took place at the May 2, 2011 meeting

All agenda Additions - Public need or issue addressed:

Statement of the proposed solution to the public need or issue:

New Business Only - Relevant City Charter, code references, legal:

Backup - additional attached documentation includes:

FPL Letter of Intent

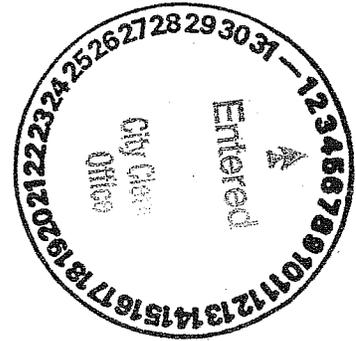
Old Business Only - Dates of past discussions / decisions by Council relevant to the issue:



FPL

April 4, 2011

The Honorable Jay Kramer
Mayor, City of Vero Beach
P.O. Box 1389
Vero Beach, FL 32961-1389



Dear Mayor Kramer:

On behalf of Florida Power & Light Company, I am pleased to submit the attached Letter of Intent ("LOI") expressing FPL's interest in purchasing the City of Vero Beach electric utility system for a cash payment of up to \$100 million.

FPL's offer, as outlined in the LOI, is based upon meeting two objectives: providing Vero Beach electric customers the same rates that FPL customers enjoy; and ensuring that existing FPL customers are not negatively affected by the transaction. The offer effectively accomplishes these purposes. Of course, the highlight of the offer, if accepted, is that going forward the **residents of Vero Beach will enjoy the same rates and programs that FPL customers enjoy**. A typical residential bill for FPL customers is currently the lowest of all 55 electric utilities in the state according to the February FMEA price survey.

The sale of the system to FPL under the terms of the LOI, as reflected in a mutually acceptable definitive agreement, would provide the City and its residents with important benefits that include the following:

- i. Residents of Vero Beach will enjoy electric service at the same low rates that FPL customers receive, currently a 15 % discount over the City's rates;
 - Based on current prices, City of Vero Beach electric utility customers would see a benefit of over \$11 million in the first year alone, and more than \$100 million in savings over time;
- ii. Residents and businesses of Vero Beach will receive the benefits of FPL's industry leading energy efficiency programs, best in class customer service and exceptional power delivery reliability;
 - FPL's reliability is the best in Florida and among the best in the nation
 - FPL repeatedly has been recognized as a national leader in customer service
 - FPL offers tremendous customer value and savings through industry-leading energy efficiency programs, a few of which are referenced below:
 - i. FPL's On Call[®] program provides customers with additional discounts on electric service of up to \$161 per year, and its current air conditioning replacement program offers up to \$2100 in customer rebates

Florida Power & Light Company

700 Universe Boulevard, Juno Beach, FL 33408

- ii. FPL's Online Home Energy Survey allows customers to obtain a personalized, expert analysis of a home's energy use along with specific ways to save
 - iii. FPL's Business Energy Evaluation, a comprehensive professional, on-site review of a commercial facility's energy usage;
 - iv. Commercial customer rebate programs for the installation of high efficiency lighting, and advanced HVAC and refrigeration technologies;
- iii. City of Vero Beach customers will receive electric service from one of the cleanest and most fuel-efficient electric utilities in the nation:
 - FPL's investments in fuel-efficient generating plants and technology is a large reason why its customer bills are low today and why FPL will continue to provide long term benefits to customers even if fuel prices increase
 - FPL's investments have saved customers nearly \$3 billion in fuel costs since 2002; looking ahead, FPL estimates that these investments will save customers an additional \$1 billion a year by 2014;
- iv. The City of Vero Beach will receive a purchase price that includes:
 - a cash payment in an amount up to \$100 million, available for use by the City in its discretion, including for the defeasance of debt or other contractual obligations
 - the assumption by FPL of certain liabilities that otherwise would be the City's responsibility;
- v. Active City of Vero Beach electric utility employees will have the assurance of 2 years of employment, as well as access to employment opportunities with FPL, to allow for an orderly transition of operations and to minimize the impact for existing city employees;
- vi. FPL will assume the City's pension liability for its electric utility employees;
- vii. FPL will provide additional revenue streams in the form of property taxes to the City, and other entities operating within the area served by the City's electric utility, totaling more than \$1.7 million and including more than \$500,000 in support of the Indian River County school system;
- viii. In addition to property taxes, the City will receive the following revenue streams from FPL:

 - Franchise fee revenues from FPL, estimated in the range of \$1.4 million annually
 - Annual lease payments from FPL for the property on which generation assets are located;
- ix. The City will retain ownership of the real property on which the generation assets are located and will be able to sell or use that property for other purposes when the generation assets are decommissioned; and
- x. FPL will assume the City's future obligation for dismantlement of the generating assets.

We respectfully request that the LOI be presented to the City Council for approval and authorization for the city staff to enter into formal negotiation of an Agreement for Purchase and Sale which would then be presented to the City Council for final approval.

Personally, and on behalf of FPL, I want to thank you and your staff for the professional manner the city has displayed throughout the initial review and due diligence process. We look forward to working closely with you and your staff as we proceed with this transaction, and in establishing a beneficial and productive partnership with and for the City of Vero Beach and its customers.

Although you are very familiar with FPL, I am also including a set of materials that may be of interest to you and others as you consider making FPL your new provider of electric service. I am happy to supply you with additional copies at your request.

Sincerely,

A handwritten signature in cursive script that reads "Pam Rauch".

Pam Rauch
Vice President
Corporate and External Affairs

LETTER OF INTENT

This Letter of Intent is entered into as of April ___, 2011, between FLORIDA POWER & LIGHT COMPANY, a corporation organized under the laws of the State of Florida (“*FPL*”) and THE CITY OF VERO BEACH, a municipal corporation in, and organized under the laws of, the State of Florida (“*COVB*”). FPL and COVB are jointly referred to as the “*Parties*” and individually as a “*Party*”.

This Letter of Intent is based on our current understanding of the matters set forth herein. It is not a complete statement of all terms and conditions of the Potential Transaction (as such term is defined below), but provides a basis for further discussions and negotiations between the Parties. Except as expressly set forth in Part II, Article 4 below, this Letter of Intent is not, and shall not be deemed or construed to be, legally binding on the Parties and nothing contained herein (except as set forth in said Part II, Article 4) shall impose, or shall be deemed or construed to impose, any obligations, duties, or liabilities on the part of either Party.

PART I

FPL and COVB are considering a potential transaction (the “*Potential Transaction*”), whereby FPL would purchase the electric utility assets of COVB located in Indian River County (“*Assets*”).

The Parties understand that additional discussions and negotiations with respect to the Potential Transaction are required, and that neither Party is bound to proceed with the Potential Transaction unless and until mutually acceptable, definitive Purchase and Sale Agreement and related agreements and documents are negotiated, approved and executed (the “*Definitive Agreements*”) and certain other conditions precedent as set forth in this Letter of Intent and the Definitive Agreements (including without limitation FPL senior management and board of director approvals) are satisfied. However, to facilitate further such discussions and negotiations, the Parties desire to set forth below the basic proposed terms of the Potential Transaction and their understandings with respect thereto:

- A. Purchase Price. Based on the information available to date and subject to the conditions precedent set forth below and in the Definitive Agreements, FPL would acquire the Assets, free and clear of all liens and encumbrances at the closing of the Potential Transaction, for an amount not to exceed **\$100 million** (the “*Purchase Price*”), subject to appropriate adjustments to be mutually agreed upon, including adjustment for accrued pension and other employee-related obligations associated with the Transferred Employees (as defined below) as of the date of the closing of the Potential Transaction. The Purchase Price would be paid in cash or in immediately available funds at such closing, subject to appropriate holdbacks.

- B. Retail Electric Service. Subject to such approvals as may be required by the Florida Public Service Commission (“**FPSC**”), FPL would provide retail electric service to all customers (including COVB facilities) currently served by the COVB electric utility at FPL’s then current FPSC approved retail rates and subject to FPL’s approved electric tariff, all as may be revised from time to time under FPSC jurisdiction. COVB’s adoption of a franchise ordinance on terms acceptable to FPL will be a condition precedent to the closing of the Potential Transaction.
- C. Retention of Employees. FPL shall retain COVB electric utility employees whose services or work assignments are directly associated with the Assets and who are active employees on the closing date (“**Transferred Employees**”) for two (2) years from the closing date on terms and conditions to be negotiated by the Parties.
- D. Transfers to FPL. COVB shall provide to FPL the following:
- i) assignment of all of COVB’s rights and obligations, free of any and all liens and encumbrances, under the contracts related to the Assets;
 - ii) transfer of 100% ownership to all land, buildings fixtures and improvements providing marketable title to the real property related to the Assets (other than the real property on which COVB’s power plant is located (“**Power Plant Real Property**”)), including, but not limited to leases, easements and licenses, free of any and all liens and subject only to those encumbrances approved by FPL in its sole discretion, as well as transfer of 100% ownership to all personal property related to the Assets, free of any and all liens and encumbrances, including but not limited to COVB’s power plant, transmission and distribution facilities, related buildings, equipment, interconnection facilities, switchyard facilities, telecommunication equipment and radios (including all licenses therefor), fuel inventories, fuel tanks, natural gas transportation, tools, spare parts and all other inventories of materials and supplies;
 - iii) transfer of all COVB electric utility accounting books and records, customer-related assets and Transferred Employees-related assets; and
 - iv) transfer of all permits, licenses, contracts, models, systems and rights thereunder associated with the forecasting, modeling, management and operation of the Assets.
- E. Power Plant Real Property. COVB shall retain ownership of the Power Plant Real Property, and FPL shall lease such real property from COVB on terms acceptable to FPL. FPL shall determine, in its sole discretion, if and when the power plant is removed from service. Upon removal of the power plant from service, FPL shall be responsible for dismantling the power plant. Upon completion of such

dismantling, the lease shall terminate and use of such real property shall revert to COVB, which use shall be at the sole discretion of COVB. All costs of any environmental remediation of such real property (other than resulting from releases caused by FPL after the closing of the Potential Transaction) shall be the responsibility of COVB. A condition to the closing of the Potential Transaction shall be that the lease of the Power Plant Real Property to FPL is approved in accordance with the Charter of COVB.

- F. Liabilities. COVB shall retain, and indemnify FPL from, all liabilities (including environmental liabilities) relating to the Assets and Transferred Employees arising from acts, omissions, events, conditions or circumstances occurring prior to the closing of the Potential Transaction.
- G. Orlando Utilities Commission Agreement. As a condition to the closing of the Potential Transaction, COVB shall terminate the Agreement for Purchase and Sale of Electric Energy and Capacity, Gas Transportation Capacity and Asset Management Services Agreement between COVB and the Orlando Utilities Commission dated April 21, 2008. COVB shall be responsible for any payments owed to the Orlando Utilities Commission as a result of such termination.
- H. Florida Municipal Power Agency Entitlements. As a condition to the closing of the Potential Transaction, COVB shall transfer to another FMPA member the rights to receive capacity and energy from the generation entitlements to the following contracts:
- i) St. Lucie Project Power Sales Contract, by and between the Florida Municipal Power Agency and the COVB, dated June 1, 1982, as amended;
 - ii) St. Lucie Project Power Support Contract, by and between the Florida Municipal Power Agency and COVB, dated June 1, 1982, as amended;
 - iii) Stanton I Power Sales Contract, by and between the Florida Municipal Power Agency, and COVB, dated January 16, 1984;
 - iv) Stanton I Power Support Contract, by and between the Florida Municipal Power Agency, and COVB, dated January 16, 1984; and
 - v) Stanton II Power Sales and Project Support Contract, by and between the Florida Municipal Power Agency, and COVB, dated April 17, 1991.

FPL shall not be responsible for any payments or other liabilities related to such transfer.

- I. Territorial Agreement. As a condition to the closing of the Potential Transaction, the Parties would jointly terminate the Territorial Boundary Agreement dated June 11, 1980, between FPL and COVB.

- J. Pole Leases. COVB shall assign to FPL all of COVB's rights and obligations under agreements leasing, or providing rights to use, any portion of the Assets, including poles.
- K. Separation of Assets. To the extent the Assets need to be separated from other COVB assets, such separation shall be at the cost of COVB.

PART II

ARTICLE 1. DUE DILIGENCE

Section 1.1 FPL shall have the right to evaluate the Potential Transaction through due diligence of COVB and the Assets, including but not be limited to review of information regarding:

- (a) material litigation and claims, including matters threatened but not yet brought;
- (b) defaults, or other issues limiting COVB's rights under the contractual assets;
- (c) regulatory and governmental matters, including operational filings, Federal Energy Regulatory Commission ("**FERC**") and FPSC proceedings and reports to governmental agencies;
- (d) tax matters;
- (e) real property matters, including the marketability of title to all real property (and fixtures and other improvements thereon) owned or leased and assessment of title to other real property rights, including easements;
- (f) environmental matters, including air, surface, groundwater and weather matters and the condition of the properties, assets, sites and surrounding property;
- (g) operational documents/information regarding the assets, including documentation of electrical and steam output maintenance records and plans;
- (h) security and safety plans;
- (i) material contracts;
- (j) instruments of indebtedness, including notes, loans, synthetic leases, guarantees, letters of credit, etc.; and
- (k) labor and employment matters, including employee benefits and compensation,

employee claims and/or litigation, and grievances and/or arbitrations.

In conducting its due diligence, FPL's review would also include, but not be limited to, a review of the physical assets and risk management/insurance records related to the Assets and an environmental audit.

Section 1.2 FPL will use commercially reasonable efforts to complete its due diligence of COVB and the Assets by no later than July 1, 2011. COVB would make available all documents, reports, studies, contracts and other tangible or electronic items and information as may exist relating to the Assets, including the forecasting, modeling, management and operation of the Assets. COVB will make available to FPL all of COVB's certain employees, vendors, contractors and advisors engaged prior to or subsequent to the date of this Letter of Intent so that FPL's representatives may have reasonable access to information developed or retained by such employees, vendors, contractors and advisors in relation to the Assets and reasonable opportunity to discuss such information with such persons.

ARTICLE 2. CONDITIONS PRECEDENT

Section 2.1 COVB shall not be required to execute any Definitive Agreement unless the COVB's City Council approves, in its sole discretion, entering into the Definitive Agreements.

Section 2.2 FPL shall not be required to execute any Definitive Agreement unless FPL determines in its sole discretion that all of the following conditions have been satisfied:

- (a) The due diligence described in Article 1 above has been completed and the results are satisfactory to FPL;
- (b) FPL determines that it can receive all applicable regulatory approvals, including but not limited to approvals by the FPSC and any other state commissions, FERC, the Federal Trade Commission, and the Securities and Exchange Commission, and third party consents, in each case on terms and conditions acceptable to FPL; and
- (c) FPL receives approval from its senior management and board of directors to enter into the Definitive Agreements.

Section 2.3 The Parties understand that the consummation of the Potential Transaction contemplated by this Letter of Intent shall be subject to the satisfaction of the conditions set forth in Section 2.1, the other conditions set forth in this Letter of Intent and the conditions to closing set forth in the Definitive Agreements.

ARTICLE 3. GOOD FAITH NEGOTIATIONS; EXCLUSIVITY

Section 3.1 Good Faith Negotiations. The Parties shall negotiate in good faith through July 1, 2011, unless this Letter of Intent is earlier terminated pursuant to Article 5 below (the “*Negotiation Period*”), to finalize and execute Definitive Agreements subject to the conditions set forth in this Letter of Intent.

Section 3.2 Exclusivity. In order to induce FPL to commit the resources necessary for the due diligence and evaluation of the Potential Transaction, COVB agrees that, during the Negotiation Period: (a) it will not, directly or indirectly, or through an official, employee, representative or by or through the use of any other conduit (including any other person or entity), offer to transfer (whether by asset sale or otherwise) the Assets or any portion thereof to (or offer to enter into any transaction contemplated by the Potential Transaction with) any person or entity, or request, solicit or otherwise encourage inquiries, proposals or offers from any person or entity but FPL with respect to the Assets or any portion thereof or any transaction contemplated by the Potential Transaction; and (b) it will not participate in any discussions or negotiations with, or furnish any non-public information to, any person or entity other than FPL regarding the transfer (whether by asset sale or otherwise) of the Assets or any portion thereof or any transaction contemplated by the Potential Transaction.

ARTICLE 4. EFFECT OF THIS LETTER OF INTENT

Section 4.1 This Letter of Intent:

- (a) except as set forth in Section 4.2 below, does not constitute a legally binding agreement;
- (b) does not constitute a legally binding offer or agreement to consummate the Potential Transactions or any other transaction or to enter into any Definitive Agreement;
- (c) does not contain all of the material terms of the Potential Transactions;
and
- (d) except as set forth in Section 4.2 below, shall not constitute the basis for an agreement by estoppel or otherwise.

Section 4.2 Section 3.2, this Article 4 and Articles 5, 6, 7, 8, 9, 10, 11, 12 and 13 of this Letter of Intent constitute a legally binding agreement between the Parties, enforceable against each Party in accordance with their terms.

Section 4.3 Any actions taken by a Party or any other person in reliance on the non-binding terms expressed in this Letter of Intent or statements made (whether orally or in writing) during the negotiations between the Parties shall be at that Party’s own risk, and neither this Letter of Intent (except as set forth in Section 4.2 above) nor any actions or statements (whether written or oral) made by a Party during the course of negotiation, due diligence and evaluation of the Potential Transactions shall be the basis for a contract by estoppel, implied contract or any other legal theory. Unless and until the Definitive Agreements have been duly authorized, executed and delivered by the Parties, no Party shall have any legal obligation, duty, or liability

to the other, expressed or implied, or arising in any other manner under this Letter of Intent, in the course of negotiations as contemplated by this Letter of Intent or in relation to any transaction contemplated by this Letter of Intent (except to the extent provided in Section 4.2 above). No binding commitment shall arise prior to then even if the Parties reach some understanding(s) or agreement(s) in principle.

ARTICLE 5. TERMINATION

Section 5.1 This Letter of Intent shall terminate on the earlier of: (i) execution of the Definitive Agreements, (ii) the expiration of the Negotiation Period, or (iii) written notice by FPL to COVB that FPL is not satisfied (in its sole discretion) with its due diligence.

Section 5.2 Except as expressly set forth in Part II, Article 4 above, upon termination of this Letter of Intent, the Parties shall have no further obligations, duties or liabilities hereunder; provided, however, that the terms and provisions set forth in Articles 4 through 13 shall survive the termination of this Letter of Intent.

ARTICLE 6. CONFIDENTIALITY

Section 6.1 This Letter of Intent (including the terms and conditions hereof and the fact that the Parties have entered into this Letter of Intent) and all information disclosed by a Party to the other under this Letter of Intent or during the negotiation of this Letter of Intent, any Definitive Agreement or the Potential Transaction ("**Confidential Information**") is confidential and may not be disclosed by a Party to a third party without the other Party's prior written consent, except that a Party may disclose Confidential Information to its financial, accounting, engineering and legal advisors who have a need to know such information and who agree to maintain its confidentiality. Confidential Information shall not include: (a) information which is or becomes publicly available; (b) information which is or becomes available on a non-confidential basis from a source which is not known to the receiving Party to be prohibited from disclosing such information pursuant to a legal, contractual or fiduciary obligation to the disclosing Party; (c) information which the receiving Party can demonstrate was legally in its possession prior to disclosure by the disclosing Party; or (d) information which is developed by or for the receiving Party independently of the disclosing Party's Confidential Information. Notwithstanding the foregoing, this Letter of Intent and any document submitted by a Party to the other under this Letter of Intent or during the negotiation of this Letter of Intent, any Definitive Agreement or the Potential Transaction ("**Confidential Document**") may be a public record (as defined in Section 119.011, Florida Statutes) and may be open for inspection or copying by any person or entity unless such document is exempted under Section 119.071, Florida Statutes. During the term of this Letter of Intent, FPL may claim that some or all of the Confidential Documents is, or has been treated as, confidential and proprietary by FPL in accordance with Florida law, and is exempt from disclosure under Chapter 119, Florida Statutes. In the event that COVB is requested or required by legal or regulatory authority to disclose any Confidential Information, COVB shall within three (3) days notify FPL of such request or

requirement prior to disclosure so that FPL may seek an appropriate protective order and/or waive compliance with the terms of this Letter of Intent. To the extent reasonably possible, FPL shall endeavor to provide redacted versions of documents containing Confidential Information, upon request of COVB. The Party's obligation of nondisclosure of Confidential Information shall survive the expiration or termination of this Letter of Intent.

ARTICLE 7. COSTS AND EXPENSES

Section 7.1 Each party shall bear its own costs and expenses (including fees of counsel and outside advisors) in connection with the preparation, negotiation, execution and delivery of this Letter of Intent and any Definitive Agreement (whether or not the Potential Transaction is consummated).

ARTICLE 8. LIMITATION ON LIABILITY

Section 8.1 IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ITS REPRESENTATIVES FOR ANY SPECIAL, INDIRECT, NON-COMPENSATORY, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY TYPE, INCLUDING LOST PROFITS, LOSS OF BUSINESS OPPORTUNITY OR BUSINESS INTERRUPTIONS WHETHER ARISING IN CONTRACT OR TORT (INCLUDING NEGLIGENCE, WHETHER SOLE, JOINT OR CONCURRENT OR STRICT LIABILITY) OR OTHERWISE, ARISING OUT OF THIS LETTER OF INTENT.

ARTICLE 9. NO THIRD-PARTY BENEFICIARIES

Section 9.1 This Letter of Intent is intended for the benefit of the Parties hereto and is not intended to and does not confer any benefit on any third parties.

ARTICLE 10. CHOICE OF LAW

Section 10.1 This Letter of Intent shall be governed by the laws of the State of Florida without regard to its conflicts of laws principles.

Section 10.2 IN ANY LITIGATION ARISING FROM OR RELATED TO THIS LETTER OF INTENT, THE PARTIES HERETO EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EACH MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS LETTER OF INTENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY TO THIS LETTER OF INTENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS

ARTICLE 11. ASSIGNMENT

Section 11.1 This Letter of Intent may not be assigned or transferred by either Party without the prior written consent of the other Party. Article 4 and the provisions set forth therein shall be binding upon and inure to the benefit of the respective successors and permitted assigns of the Parties.

ARTICLE 12. COUNTERPARTS

Section 12.1 This Letter of Intent may be executed in separate counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

ARTICLE 13. ENTIRE AGREEMENT

Section 13.1 This Letter of Intent represents the entire agreement and understanding of the Parties regarding the subject matter hereof and supercedes all previous understandings, written or oral. It is the expectation of the Parties that this Letter will be superceded in its entirety by any Definitive Agreement executed by the Parties.

[signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Letter of Intent to be executed by their duly authorized representatives on the first date written above.

FLORIDA POWER & LIGHT COMPANY

By: 
Name: SAM A. FORREST
Title: VICE PRESIDENT



ATTEST:

CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

Jay Kramer
Mayor

(City Seal)

Approved as to form and legal
sufficiency:

Approved as conforming to municipal
policy:

Wayne R. Coment
Acting City Attorney

Monte K. Falls
Interim City Manager

Approved as to technical requirements:

Approved as to technical requirements:

Addendum to the City Council Meeting Agenda New Business Old Business

Author: Brian Heady

Council Meeting Date: May 3, 2011

Priority _____ of 9B4)

Title: Request for staff presentations on any errors in any electric utility presentation to City Council by an individual or group

Summary of your points for discussion:

If there have been any errors made in Dr. Faherty's/Glen Herran's presentations or any other documents he would like to see them and discuss them.

All agenda Additions - Public need or issue addressed:

Statement of the proposed solution to the public need or issue:

New Business Only - Relevant City Charter, code references, legal:

Backup - additional attached documentation includes:

Old Business Only - Dates of past discussions / decisions by Council relevant to the issue:

Addendum to the City Council Meeting Agenda New Business Old Business

Author: Brian Heady

Council Meeting Date: May 3, 2011

Priority ____ **of** ____

Title: Discussion of City Manager position

9B-5)

Summary of your points for discussion:

All agenda Additions - Public need or issue addressed:

Statement of the proposed solution to the public need or issue:

New Business Only - Relevant City Charter, code references, legal:

Backup - additional attached documentation includes:

Special Call City Council meeting agenda for April 28, 2011

Old Business Only - Dates of past discussions / decisions by Council relevant to the issue:

**SPECIAL CALL CITY COUNCIL MEETING
THURSDAY, APRIL 28, 2011 9:30 A.M.
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

A G E N D A

- 1. CALL TO ORDER**
 - A. Roll Call
 - B. Pledge of Allegiance

- 2. PUBLIC COMMENT**

- 3. DISCUSS APPLICANTS INTERVIEWED FOR CITY MANAGER POSITION**
 - A) Richard Brown
 - B) Kevin Sullivan
 - C) Steven Crowell
 - D) Kenneth Griffin
 - E) James O'Connor

- 4. ADJOURNMENT**

Council Meetings will be televised on Channel 13 and replayed.

This is a Public Meeting. Should any interested party seek to appeal any decision made by Council with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings and that, for such purpose he may need to ensure that a record of the proceedings is made which record includes the testimony and evidence upon which the appeal will be based. Anyone who needs a special accommodation for this meeting may contact the City's Americans with Disabilities Act (ADA) Coordinator at 978-4920 at least 48 hours in advance of the meeting.

Addendum to the City Council Meeting Agenda **New Business** **Old Business**

Author: Brian Heady

Council Meeting Date: May 17, 2011

Priority _____ **of** _____

Title: Charter Officers, existing conditions of employment

9B-10)
6)

Summary of your points for discussion: Report and discussion

All agenda Additions - Public need or issue addressed: A discussion in the public eye concerning Charter Officers existing conditions of employment.

Statement of the proposed solution to the public need or issue: To be determined

New Business Only - Relevant City Charter, code references, legal: Code Article III. Charter Officers

Backup - additional attached documentation includes: Vero Beach Code Article III. Charter Officers.

Old Business Only - Dates of past discussions / decisions by Council relevant to the issue: N/A

federal) on beach restoration that involves the direct or indirect placement of sand on the beach except in the amount necessary to protect life or property during storms or other natural disaster.

(Res. No. 89-19, 3-15-1989)

ARTICLE III. CHARTER OFFICERS

Section 3.01. Designation.

The city manager, city clerk, and city attorney are designated Charter officers.

Section 3.02. Appointment.

The Charter officers shall be appointed by the council and shall serve at the pleasure of the council subject to the provisions of section 3.03 of this article.

Section 3.03. Removal.

To remove a Charter officer, the council shall adopt a preliminary resolution stating reasons for the intended removal and shall offer the Charter officer an opportunity for a public hearing before the council on the matters raised by the resolution. This preliminary resolution may also suspend the Charter officer from duty immediately with pay. The Charter officer must accept the offer of a public hearing or file a written response within ten days of the adoption of the preliminary resolution or the resolution becomes final at the expiration of this ten-day period and the Charter officer is terminated on that date. If the public hearing is requested it shall be held not earlier than 20 days nor later than 30 days after the adoption of the preliminary resolution. After any such public hearing, or after consideration of any written response, the council shall adopt a final resolution of removal or let the preliminary resolution lapse.

Section 3.04. City manager—Powers and duties.

The city manager when necessary shall appoint, suspend, demote, or dismiss any city employee under his jurisdiction in accordance with law and the personnel rules, and may authorize any department head to exercise these powers with respect to subordinates in that department. The city manager shall direct and supervise the administration of all departments of the city except the offices of city clerk and city attorney and shall attend all council meetings unless excused by council and shall have the right to take part in discussions, but not vote. He shall see that all laws, Charter provisions, ordinances, resolutions, and other acts of the council subject to enforcement by him are faithfully executed, and he shall act as the city's director of emergency management with all of the authority of that position either granted by the city's emergency management plan, the city council, state law, city or county ordinance. The city manager shall also prepare and submit the annual budget, budget message, and capital program to the council, and shall keep the council fully advised as to the financial condition and future needs of the city, and shall make such recommendations to the council

this Charter, all ordinances, resolutions, and other city documents and shall perform such other duties as required by law or by the council. The city clerk shall be the supervisor of elections for the city. The city clerk when necessary shall appoint, suspend, demote, or dismiss

concerning the affairs of the city as he deems desirable. The city manager shall designate a qualified city employee to exercise the powers and perform the duties of city manager during any temporary absence or disability of the city manager. The council may revoke such designation at any time and appoint another eligible person, other than a currently sitting councilmember, to serve as acting city manager.

(Ord. No. 2003-10, § 4, 4-1-2003; Ord. No. 2005-14, § 2, 11-29-2005)

Section 3.05. City clerk—Powers and duties.

The city clerk shall give notice of all city meetings to the councilmembers and the public as required by law and shall attend all such meetings in person or by designee and shall keep minutes of the proceedings. The city clerk shall authenticate by signature and be custodian of this Charter, all ordinances, resolutions, and other city documents and shall perform such other duties as required by law or by the council. The city clerk shall be the supervisor of elections for the city. The city clerk when necessary shall appoint, suspend, demote, or dismiss any employee in the office of the city clerk in accordance with law and the personnel rules of the city. The city clerk shall prepare annual budgets for the operation of the office of the city clerk and the city council and shall submit these budgets to the city manager for inclusion in the annual city budget in accordance with uniform city procedures.

(Ord. No. 2003-10, § 4, 4-1-2003)

Section 3.06. City attorney—Powers and duties.

The city attorney shall be a member of the Florida Bar and shall be the legal advisor to the City of Vero Beach. The city attorney or his designee shall attend all city council meetings and perform such professional duties as may be required of him by law or by the council. The city attorney when necessary shall appoint, suspend, demote, or dismiss any employee in the office of the city attorney in accordance with law and the personnel rules of the city. The city attorney shall prepare an annual budget for the operation of the office of the city attorney and shall submit this budget to the city manager for inclusion in the annual city budget in accordance with uniform city procedures.

ARTICLE IV. ELECTIONS*

Section 4.01. Electors.

Any person who is a resident of the city, who has qualified as an elector of this state, and who registers in the manner prescribed by law shall be an elector of the city.

Section 4.02. Nonpartisan elections.

All elections for the office of city councilmember shall be conducted on a nonpartisan basis without any designation of political party affiliation.

(Ord. No. 2003-10, § 4, 4-1-2003)

*State law reference—Florida Election Code, F.S. chs. 97—106.

Section 4.06. City canvassing board.

The city canvassing board shall be composed of the Charter officers and the city attorney shall act as chairman. At the close of the polls of any city election, or as soon thereafter as practicable, the board shall meet at a place and time designated by the chairman and shall proceed to publicly canvass the absentee electors' ballots and then publicly canvass the vote as

Addendum to the City Council Meeting Agenda New Business Old Business

Author: Brian Heady

Council Meeting Date: May 17, 2011

Priority ____ **of** ____

Title: Discussion of Response from advisory Commissions

9B-H)
7

Summary of your points for discussion: Report and discussion

All agenda Additions - Public need or issue addressed: A discussion in the public eye concerning the response form advisory Commissions.

Statement of the proposed solution to the public need or issue: To be determined

New Business Only - Relevant City Charter, code references, legal: N/A

Backup - additional attached documentation includes: Letters of response from Commissions

Old Business Only - Dates of past discussions / decisions by Council relevant to the issue: N/A

City of Vero Beach

1053 - 20th PLACE - P.O. BOX 1389

VERO BEACH, FLORIDA 32961-1389

Telephone: (561) 978-4700 Fax: (561) 978-4790

OFFICE OF THE
CITY COUNCIL

April 12, 2011

Finance Commission Members
Vero Beach Finance Commission
City Of Vero Beach

Dear Financial Advisors,

As you are all aware we have a Letter of Intent from FPL. I know the Sunshine Law prevents members from discussing matters outside a noticed meeting. I am not looking for a board decision but rather individual members individual thoughts on the Letter of Intent. (See attached copy.)

Do you think all important issues are addressed?

If no what was missing?

Do you have any comment on any of the points?

If approved what would you see as acceptable uses of any proceeds?

Do you have any different considerations not addressed? (Please identify such considerations.)

Can you give me your thoughts on each point?

Will you identify any shortcoming in any of the offers for each point listed?

Do you have any thoughts on valuation?

Do you know any accepted formulas for establishing value? (Please include such formulas)

Do you disagree with any of the presentations on the electric utility given to City Council by members of the public or staff? (Be specific.)

Thank you in advance for your consideration and answers to my questions.

Sincerely,



Brian T. Heady, Councilman

City of Vero Beach

1053 - 20th PLACE - P.O. BOX 1389

VERO BEACH, FLORIDA 32961-1389

Telephone: (561) 978-4700 Fax: (561) 978-4790

OFFICE OF THE
CITY COUNCIL

April 12, 2011

Utilities Commission Members
Vero Beach Utilities Commission
City Of Vero Beach

Dear Utility Advisors,

As you are all aware we have a Letter of Intent from FPL. I know the Sunshine Law prevents members from discussing matters outside a noticed meeting. I am not looking for a board decision but rather individual members individual thoughts on the Letter of Intent. (See attached copy.)

Do you think all important issues are addressed?

If no what was missing?

Do you have any comment on any of the points?

If approved what would you see as acceptable uses of any proceeds?

Do you have any different considerations not addressed? (Please identify such considerations.)

Can you give me your thoughts on each point?

Will you identify any shortcoming in any of the offers for each point listed?

Do you have any thoughts on valuation?

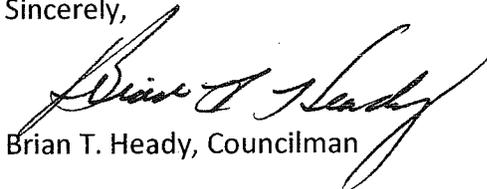
Do you know any accepted formulas for establishing value? (Please include such formulas)

Do you disagree with any of the presentations on the electric utility given to City Council by members of the public or staff? (Be specific.)

Have you any experience in the sale of an electric utility? (If yes give details.)

Thank you in advance for your consideration and answers to my questions.

Sincerely,



Brian T. Heady, Councilman

April 25, 2011

Mr. Brian T. Heady
Councilman

This is in response to your letter of April 12 soliciting thoughts on FPL's LOI.

- **Important Points/Comments**

- The consultant engaged by the COVB stated that 132 days were required to complete the analysis of the electrical enterprise; thus the time frame alluded to in the LOI for completion of negotiations with FPL seems unrealistic.
- The LOI stipulates on a macro level which assets and staff would be included; as important are those which would be excluded, including IT systems.

- **Contracts**

- Clearly, major issues and concerns are the Orlando contract and then COVB partial ownership in other facilities:
 - What are COVB obligations (penalties) under these contracts?
 - Is ownership transferrable?
 - Are the penalties the same in year one as in future years?
 - What is FPL's position?

- **Operations**

- Since COVB's transmission and distribution systems are in a confined area, with a significant portion underground, the maintenance expenses (travel, response time, and, importantly, outage duration) reduce risk because of less exposure to the elements.

- **Personnel**

- As noted in attachment I, COVB liabilities extend beyond pensions; including post retirement benefits (carry over vacations, sick days, and health/life insurance).
- Since FPL is committing in the LOI to a two year guarantee of employment, COVB employees who accept such positions have continuous service and therefore should be incorporated into and governed by FPL's plans and policies.
- Employees who refuse to accept employment with FPL should be considered as resigning voluntarily from COVB.
- Employees who become redundant as a result of a potential sale would be covered by the Personnel policies and plans of COVB.

Public Utilities Commission

My experience was dealing with the State of New York PSC when working for New York Telephone. The PSC was rigorous, intrusive, pro active, and demanding in overseeing myriad aspects

of operations, service performance, rates and especially involved in any mergers or acquisitions; indeed any and all required extensive hearings and testimony.

What is the role of the Florida PUC in this proposed transaction?

- **Use of Proceeds**

Government Bonds/Notes (AAA/AA Rated) ; CDs , laddered

Consider diverse conservative portfolio in concert with COVB investment advisors.

Evaluate / liquidate assets not acquired by FPL; for example, buildings, garages, inventory, equipment, vehicles, et al.

Review COVB projects/initiatives which would produce a positive cash flow or expense reduction; e.g., outsource operations to the private sector which are more cost effective (landscaping, refuse collection/frequency)/ and, or are less labor intensive (mechanizing trash pick up).

- **Valuation/establishing value**

Quantification of cash flow / reserves rate of return (COVB vs. FPL) projected earnings on investment for FPL (recognizing interest rates are at a modern year low), presumably would be the province of the consultant who could calculate the Net Present Value of the Electrical Enterprise . NPV (attachment 2 is the equation) is a measure of how much value is added or created by the investment.

The problem is critical variables in the NPV equation are unknown; specifically:

FPL applied discount rate

FPL rate of return

FPL investment time line

Another, more simplistic, but better grasped concept (which ignores the time value of money), is the pay back period; simply this is the number of years to gain from the original investment.

- **Comments**

I understand within seven years, that some or all of the over sixty percent utility customers of the COVB electrical enterprise who are in the county have an "opt-out" option, further limiting the cash flow into to the COVB budget.

Without such resources the impact on COVB will be either a substantial increase in utility costs or taxes.

Clearly, Vero Beach as a community can and will be robust; however, with a declining permanent population, revenue base and property values it cannot continue to provide extensive and elaborate city services year round. The "bottom line", is what basis did FPL calculate the "up to \$100M" offer? Was it:

- NPV
- Pay back period
- Eager for COVB to sell
- Stock holder's return

Regards,

Peter E. Gorry
772-567-8830

Cc: Vero Beach Utilities Commission
Financial Commission
Council

April 12, 2011

Mayor, City Council Members,

I received in the mail, this week, notification of my appointment to the Financial Commission; perhaps this is my initial contribution.

As was discussed at the City Council meeting of April 5, myriad references were made regarding the FPL Letter of Intent and Cover letter; and the Council was eliciting questions and issues which could be provided to FPL prior to the April 19th meeting.

Attached is a thumb-nail outline of some of the issues raised by the FPL document as well as my thoughts on negotiations and my resume.

Regards,

Peter E. Gorry
10 Sea Gull Ave
Vero Beach, FL 32960
772-567-8830

Attachment

FPL Cover letter

Paragraph 3

- i* "...COVB...customers would see a benefit of over \$1.1m in the first year alone..."
 - **60% of the customers are in the county. What would COVB's share actually be?**

- iv* "The assumption by FPL of certain localities..."
 - **Not specifically identified, what are they?**

- v* "Active COVB electrical utility employees will have assurance of 2 years of employment..."
 - **Under labor law, if COVB employees are co-mingled under common management with existing FPL employees who are unionized, COVB employees are accreted (merged) into the FPL contracts. What is FPL's intention re union contracts and accretion?**

- vi* "FPL will assume the City's pension liability for it's electric utility employees"
 - **Does this include the underfunding?**
 - **Would COVB employee management, union and non-union be placed in FPL health, insurance, post retirement plans? If not, how would current underfunded liabilities in COVB plans be covered?**
 - **How would accrued vacation, sick days and severance be handled?**

- vii* "... additional revenue streams ... property taxes ... totaling \$1.7m ..."
 - **Again, 60% of customers are in the County**

- viii* "Annual lease payments ..."
 - **Not quantified, what are they?**

NEGOTIATIONS

- Where to be held?
- Expenses payment? (e.g. travel, living arrangements, etc.)
- Typically, in acquisitions, there are multiple teams involved in due diligence, and during negotiations; for example"
 - o Human Resources
 - o Financial

- Technical
- Operations
- Legal
- Statutory

Further, the COVB's electric enterprise obviously has contracts and ownership with other entities and firms which will require separate negotiations based upon the Terms and Conditions included in such agreements – some of which FPL may choose to continue. In addition, it is critical for the COVB to identify and quantify those assets and liabilities FPL would not acquire.

Another set of problems are stranded (abandoned) assets and liabilities as a result of the deal. These could include facilities FPL does not need (e.g., inventories, office equipment/furnishings, customer service, facilities and billing, IT programs & contracts, warehousing, motor vehicle fleet, maintenance shops and garages, et al.)

In a corporate environment, the Board of Directors (City Council & Mayor) would provide the executive level (COVB City Manager & directors) with the bargaining strategy including guidelines and parameters which would maximize share holder return (COVB taxpayers).

Note: my resume describes my experience in mergers, acquisitions and divestiture in my career at AT&T which included leading / managing questions, issues and negotiations cited above.

Finally, the Council must determine in developing its negotiation strategy what is an acceptable offer and outcome for the Electrical System. For example, in the negotiation process there is either a reactive response or a proactive response and outcome. That is, FPL has in the LOI outlined its demands/offer; in response, my preference would be that the COVB aggressively stipulate our demands to FPL and requirement for an agreement.

Formula:

$$\text{NPV} = (\text{Less initial cost}) \text{ plus } (\text{Income minus expenses}) \times \frac{1}{1 + \text{discount rate per years}}$$

April 18, 2011

Subject: FPL Letter of Intent & Possible Offer

From: Bob Blumstein

To: City Council Members
Utilities Commission Members
Finance Commission Members
City Manager
Electric Utility Manager



Attached is a list of the questions I believe must be answered as part of the due diligence that needs to be preformed by and under the direction of COVB City Council. The current contract with GAI Corporation will answer some of these questions and provide data to assist in evaluating others. Although the staff and commissions are qualified, ready and willing to assist the final responsibility and decision on all of this rests with the City Council.

Several people have put forward estimates of both the cost and benefits of a sale. The best of these is a wild guess. They all use assumptions that are flawed or false and leave important numbers out of the equation. The fact that some are done with computer models is only proof of the adage "garbage in garbage out". None of these represent facts or due diligence. Let us do the due diligence and get to the facts and not be swayed by rhetoric. The facts, I am sure will give the obvious answer soon if properly pursued.

I have also sent a list of items I would like to have clarified in the FPL letter of intent to Monty Fall.

Regards and Good Luck to All on These Maters

Bob Blumstein

COVB QUESTIONS THAT COVB MUST ANSWER AS PART OF ITS DUE DILIGENCE ON FPL LETTER OF INTENT AND EXPECTED OFFER

FMPA, St. Lucie & Stanton I & II Contracts and Entitlements

- * What are our continuing obligations?
- * What will it take and cost to close out those COVB obligations?
- * Are time restraints involved (such as 5 year notice etc.)?
- * Do any of these have value? Can they be marketed to others in any way?
- * Can they be negotiated all or in part into the FPL agreement? FPL might be especially interested in St. Lucie since it is their plant

Orlando Contracts and Entitlements

- * What are our continuing obligations?
- * What will it take and cost to close out those COVB obligations?
- * Are time restraints involved (such as 5 year notice etc.)?
- * Do any of these have value? Can they be marketed to others in any way?
- * Can they be negotiated all or in part into the FPL agreement?

How will COVB personnel costs be affected?

- * Can it be reduced because Electric no longer needs support?
- * Will it have to be increased because Utility no longer assists other departments such as street lighting and traffic signal maintenance?
- * What about billing and collection?

Will a Referendum Be Required or Desired?

Employees

- * What continuing obligations will we have?
- * Are Seniority and bumping rights and unions involved, to what extent and cost?

Land Leases

- How much will we charge for leases and how long do we project FPL to use? Do we want to impose a minimum time?
- We need an environmental survey completed prior to the lease start.

Taxes

- What taxing and fee authority will COVB and the County have after COVB is out of the electric business?
- What taxes will the CVOB council impose at the same time deal is closed. This decision must be made before not after the closing and a good estimate be made of the proceeds to be expected.
- The above should be closely coordinated with the County.
- We need to get a good estimate of the real estate tax proceeds involved.
- Impact and permit fees will have to be separated and their effect quantified.

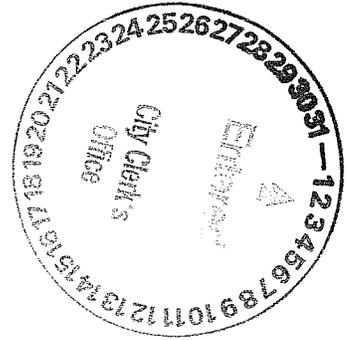
Debt

- Proceeds from the sale must first be used to pay down the electric utility debt including any obligations to employees.
- To use the proceeds for investment income ignores the fact that we have to pay interest and service charges and also for the last several years have only received less than 2% COVB investments. In the long run COVB will lose not gain income from this scheme.
- Let us clear this deal out then if debt is desired let it be undertaken on its own merits.

Other Items to Be Considered

- Holdbacks must be minimized at the time of closing.
- Mandatory arbitration clauses should be avoided. In arbitration cases the little guy almost always loses, CVOB has experience in these cases.
- How are Shore's and County's assets to be separated and sold. Who owns what?
- What is included in "up to 100 million" and what is to be counted separately?
- What are accrued adjustments; does this include existing employee obligations (over 11 million)?

City of Vero Beach
Mr. Brian T. Heady, Councilman
P.O. Box 1389
Vero Beach, FL 32961



May 2, 2011

Dear Councilman Heady;

As a newly appointed member of the Finance Commission, I would like to preface my responses to your questions by saying: I was appointed to the Commission on April 5, 2011 and have not met with or spoken with any fellow Commission members or attend any Commission meetings. Consequently, having not had the privilege of previous detailed information or discussions, to respond to each of your questions would be to do so with limited information and I do not believe that would serve you well. However, I offer you my following thoughts and comments on the issue.

I have reviewed the; Letter of Intent, Ms. Pam Rauch's letter of April 4, 2011, the City of Vero Beach's budget and staff correspondence. I read with interest Mr. Blumstein's memo of April 18, 2011 and found merit in many of his concerns.

Looking at the Letter of Intent, I found paragraphs "F, G, H and K" referenced certain cost or penalties that would be the responsibility of the City's. Also there were several references to the selling price that were ambiguous; such as "an amount up to \$100 million.." and "an amount not to exceed \$100 million.."

Knowing if the decision is to move forward with the sell, all of these issues and many more will be addressed in-depth in additional documents; I continued to be troubled by what I see as the biggest issue. Should the City of Vero Beach sell the electrical utility system? What are the advantages and what are the disadvantages.

The 2010-11 budget indicates, the Electric Fund will generate \$88,472,500 in Revenue and only spend \$69,459,268 for Operating Expense and \$6,727,066 for Debt Service. That leaves a profit of \$12,286,166. Of that \$5,598,350 is transferred to the General Fund. As you know, the Ad Valorem Taxes only generate \$4,166,960 of the total \$20,221,313 General Fund Budget. Currently, the Electric Fund is contributing over 27% to the General Fund Budget. Then the question becomes where do you make up the difference; Increase revenue (taxes) and/or reduce expenditures (cut services)? Even annexing additional property into the City would not necessarily provide additional "net revenue".

I realize decisions cannot be made until sufficient information is available. However, with all of the information available now, it may be appropriate to bring together a local team such as a "Focus Group". Charge them with the responsibility of collectively working with all the information provide by FP&L and the staff to develop a business plan. The function of the business plan will be to address all of the issues as they relate to each other, not looking at any single issue in a vacuum. Then determine the sustainability of the electrical utility system as a City owned business or as a business that needs to be sold.

If the decision is to sell the electrical utility system to FP&L, then the myriad of other concerns can be address directly i.e.; what to do with the proceeds of the sell, how to resolve employee liabilities issues, what City liabilities exist and how to resolve them, etc.

If the decision is not to sell the electrical utility system, then it would be a good time to revisit the mission of the department and look at; internal operations and accountability, improving service, providing better customer service and revisiting the rate structure.

Thank you for the opportunity to provide my thoughts on the subject. I look forward to working with you and the other members of the City Council as we meet new challenges.

Sincerely,

A handwritten signature in cursive script, appearing to read "Noah M. Powers III".

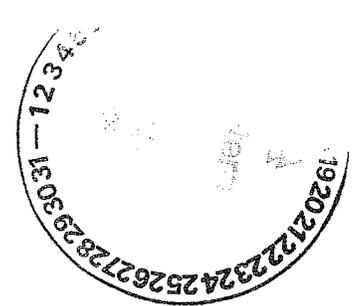
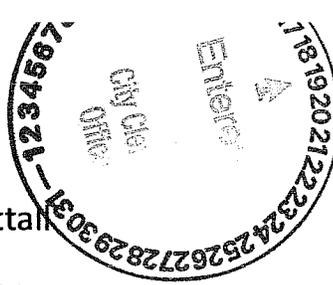
Noah M. Powers III

cc: Vero Beach City Council Members
City Manager
Finance Commission Members
Utilities Commission Members

To: Councilman Brian Heady

From: Commission member Herb Whittall

Subject: Your letter dated 12 April, 2011



1. All the important issues were mentioned, but I would not say addressed. The matter of the contract with OUC and the matter of Stanton and St. Lucie Nuclear were mentioned, yet their cost/value is of great weight as to whether this offer is viable or not.
2. Dr Faherty about three years ago told me the city could sell the power plant and make about \$20 million. Now he says it is a \$20 million liability. I have asked him why this \$40 million change, but he has not answered me.
3. From R.B. Sloan I have heard that utility sales recently have gone for about \$6,000 per customer. I understand we have over 30,000 customers. If so the valuation by FP&L is too low and should be closer to \$200 million or more depending on 1 above.
4. FP&L is lower on the first 1,000 kWh per month, but are very similar to Vero Beach electric costs for any usage above 1,000 kWh. According to John Lee the estimate for electric usage is 1 kWh per square foot under air-conditioning. The average usage for Vero Beach customers is just over 1,000 kWh per month. However probably half the customers use closer to 2,000 kWh per month and so the savings listed are high. The City Government itself would save little as I suppose it would be considered one customer. This needs to be worked out with FP&L.
5. Is FP&L going to introduce the "Smart grid"? This would mean a different rate structure (lower rates late at night and sometimes during the day for residential customers) and new meters and training for their customers.
6. They talk about their excellent reliability, but it is not as good as Vero Beach Electric. Are they going to build a Maintenance Facility in Indian River County? It will be needed to meet Vero Beach reliability that our customers are used to.
7. How long will they be using our power plant and leasing the land.
8. I have no experience is the sale of a utility

Herb Whittall