

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

The invocation was given by Pastor Jim Gallagher of Calvary Chapel of Vero Beach followed by the Pledge of Allegiance to the flag.

A moment of silence was held for former Mayor William Jordan.

1. CALL TO ORDER

A. Roll Call

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

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

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

B. Proclamations

1. National Runaway Prevention Month – November 2013

Mr. Fletcher read and presented the Proclamation.

2. National Adoption Awareness Month – November 2013

Ms. Graves read and presented the Proclamation.

3. Recognition of Eagle Scouts

Mrs. Turner read and presented the Proclamations to the new Eagle Scouts present for tonight's meeting.

C. Public Comment

Mr. Charlie Wilson mentioned that for several years he has come before Council after the Election urging Council and the people who depend on this Council to understand and work together on the issues that are important to the people of the City of Vero Beach.

He said there is more that binds them together than what separates them. He gave Council an open invitation to put behind them what has happened over the past few months. He congratulated the Mayor on his new position and Ms. Graves on her new position. He said the voters have given them their trust and what they do with that trust is up to them. This community has not rejected the premise that the sale of the Vero Beach electric was the most important thing that faces this community. This community cannot withstand losing two-million dollars a month. He said if there was anything that he could do to help to please let him know.

Mr. Herbert Whittall, 19 Park Avenue, said the Indian River Neighborhood Association (IRNA) asked him to come to tonight's meeting and push for the fertilizer Ordinance. He handed Council a graph showing the chlorophyll molecule, four atoms of nitrogen, and one atom of magnesium (attached to the original minutes). He said chlorophyll is wonderful, but they don't need it in the Indian River Lagoon. He urged Council to pass the fertilizer Ordinance. He wanted Council to get rid of the contract the City has with the company that cuts the grass because they are from Orlando and they don't care about Vero Beach. Another thing he wanted to discuss was the tax rates. They kept the tax rates low, but the people in Vero Isles taxes were raised because they now have to cut the grass at the end of the canals. It is City property and the City should do it. He said that he just received his real estate tax and 11% of it goes to the City. He wished that the City could get the tax dollars that is being paid to the County. With that extra money he would urge Council to get another Code Enforcement Officer.

Mr. John Blankenship said half of his neighborhood is on Vero electric and the other half is on Florida Power and Light (FPL). He said his bills are \$80.00 higher than his neighbors. He encouraged Council to do everything they can to make the sale happen as quick as possible.

Mr. John Wester, 455 Fiddlewood Road, asked Council to change the zoning of the Bob Summer's Football Field and McWilliams Park from the current status to a City Chartered Park. He asked for clarification on how to do this.

Mr. James O'Connor, City Manager, asked Mr. Wester to call him. He said to place an item in the Charter, it would have to be passed by the City Council and then by Referendum. He said that Little League has been taking care of Bob Summer's Field, but he recently heard there was a problem and the Recreation Director is looking into it. He noted that it is a City owned field and the City will maintain it.

Mrs. Turner said they have not had a Charter Review since 2005. She felt it might be time to set up a Charter Review Commission.

Mr. Wester asked, is there a way the citizens could have a petition to do this. He said the Committee for the dogs raised a lot of money to beautify the area, but they don't want to spend the money when the area could be changed for another use.

Mayor Winger asked Mrs. Turner to add discussion of Charter Review to their next agenda.

Mr. Kramer said they could do this as a Resolution. It was his understanding that anything acquired as a Park after a certain date gets automatic Charter protection.

Mr. Wayne Coment, City Attorney, said that is true, but the City already owns the property. He said the Council could designate the property as a Park, but it could be undone by three votes of the Council unless they have it in the Charter.

Mr. Daniel Matheson, 6435 Patrice Lane, congratulated Mayor Winger and Ms. Graves on the Election and Mr. Kramer on being appointed Vice Mayor. He thanked Mrs. Turner for her vision and strength and Mr. Fletcher for standing up for his convictions. He also thanked Mrs. Tracy Carroll (past Councilmember) for her hard work and dedication. He said the Vero Beach Electric ratepayers are paying about 40% more than FPL ratepayers. The only reason he could see keeping the utility is for the employees. He felt for the employees, but the Council included provisions in the Purchase and Sale Agreement to take their wellbeing into consideration. By not selling the Electric Utility their electric rates will continue to go higher and higher. He believed that anyone who supports keeping Vero Beach Electric is wrong. He urged Council to get this sale done.

Mrs. Linda Hillman, 2315 18th Avenue, enjoyed seeing different Councilmembers reading the Proclamations. She hoped to see more changes on how Council meetings are conducted. She said that Mr. Wilson spoke earlier about the Election. Previous times after an Election Mr. Wilson spoke stating "the people have spoken." She said the people have spoken again. They are in a cloud, which is the utilities. FPL tried to buy this last Election and it did not work. There are other issues in the City besides the utilities. It was her understanding that this is now between FPL and FMPA and the City cannot go any further until that is resolved. She asked Council to move forward on other issues in this City. She applauded Mayor Winger and Ms. Graves for running a clean campaign.

Mr. Brian Heady said regarding the issue with the Parks, the City Council could pass a Resolution without going through public hearings by simply voting that the Council needs to have a 5-0 vote and they could do that tonight. He said employees are not the only reason why the electric bills are what they are. There are a lot of reasons why they are what they are. When he served on City Council, he and Mr. Kramer were able to get the rates down and they were the fifth lowest in the State. He cautioned the Mayor about stopping the audience from applauding. If something is said that they want to applaud, they should be able to. He said it is important that all citizens are treated equally at these meetings. He asked Ms. Graves if she read his book. Ms. Graves replied that she has three pages left to read. He cautioned her that there are people on staff that will not necessarily tell her the whole truth and would steer her off in the wrong direction. There are a couple people who work for the City who will tell her everything that she needs to know. There are people on staff that she can trust and who are willing to share everything with her. In his book it shows that staff wasn't necessarily steering Councilmembers the right way. He recently proposed a plan of selling the electric utility

to FPL by January 1, 2014 and not one person from staff, City Council, or FPL came back to him to tell him why that plan would not work. The plan can work and it can be done by January 1st.

Mr. Joseph Guffanti said he attended a meeting not too long ago and there were about 20 Police Officers standing outside protesting the Council about their pay and their rank. He said that he recently read an article in the newspaper discussing giving the Police Officers a raise across the board. He asked what happened to the shortfall that was predicted because of the sale of the electric utility. The only thing that he could see how they were offering raises was the electric utility was not going to be sold. His guess is because the electric utility is a money making operation that benefits some of the “good old boys.” He said it appeared that the sale was not going to go through. The idea of selling part of the utility is crazy. He cautioned Council on what they do because there will be lawsuits.

Mr. J. Rock Tonkel said he came before Council on several occasions and believed that he has shown respect for the Council and their rules and regulations. He felt that what he witnessed tonight was an embarrassment. The personal conversation and lecturing to a Councilmember is degrading and out of place. He hoped the Mayor would continue to have reasonable rules and regulations of decorum for everyone to follow.

Mr. Eric Toomson, 1351 White Heron Lane, said there is a proposal coming before Council for meter parking at South Beach and Jaycee Park. He said that he is the President of Vero Beach Lifeguard Association and they are all for this proposal if the money generated goes toward beach services. Currently 70% of the people going to the beach are from out of town. He felt it was reasonable to say that most people going to the beach wouldn't mind paying a few dollars to park.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – October 15, 2013**
- 2. Regular City Council Minutes – November 5, 2013**
- 3. 18th Street Stormwater Treatment System – Temporary Construction Easement and Permanent Drainage and Utility Easement – COVB Public Works Project No. 2007-15**
- 4. 18th Street Stormwater Treatment Facility – FDEP 319(h) Grant Contract – Amendment #1 – Recommendation for Acceptance**
- 5. License Agreement #2013-LA-0216 – Anthony & Melanie Guetter - Dock & Boatlift Constructed on City-Owned Submerged Lands – 7 Sea Horse Lane**
- 6. Extension of Bid 290-11/PJW – Contract 1566-C-Emergency Services Contract 1568-C – Turbine Diagnostics**
- 7. Renewal of Emergency Services Contract 1568-C – Turbine Diagnostics**
- 8. Debris Removal Contract – Bid No. 260-13/JO**
- 9. Utility Easement #2013-EG-0135 and Bill of Sale of Utility Facilities – Uncle Bob's Self Storage**

- 10. Utility Easement E2013-EG-0128 – Chase Bank – 3 Avenues**
- 11. Utility Easement E2013-EG-0142 – 3 Avenues – Bonefish Grill**
- 12. Renewal of Contract 1250-C-Uniform Services**

Mrs. Turner made a motion to adopt the consent agenda. She mentioned that item 2D-3) is another addition to install another baffle to an outfall that is going into the Indian River Lagoon. It is for 153 acres that is being drained. She said eventually they will have all these outfalls covered.

Mayor Winger asked if there was anyone from the public who wished to speak on any items on the consent agenda. There were none.

Mr. Fletcher seconded the motion to adopt the consent agenda it passed unanimously.

3. PUBLIC HEARINGS

- A) An Ordinance of the City of Vero Beach, Florida, pertaining to Environmental Regulation; Amending the Code of the City of Vero Beach, Chapter 38, “Environment,” Article V, “Florida-Friendly Fertilizer Use;” Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the City Council**

Mayor Winger read the Ordinance by title only.

Mr. O’Connor reported that this Ordinance is designed similar to the Ordinance that the County passed. He said that Council asked him to bring forth an Ordinance that would be uniform across the whole County.

Mayor Winger opened the public hearing at 6:58 p.m.

Mr. John Beukers, 6530 36th Place, read a prepared statement into the record (please see attached).

Mr. Dan Lansom, Executive Director of IRNA, read into the record a short statement from the IRNA (please see attached).

Mr. Tony McDonald, Melbourne, said that he has worked in Vero Beach for the past eight years with Massey Pest Control. He said they all share the common goal of protecting the water quality and some of the things in the Ordinance may hurt the water quality. He read a prepared statement and went over some scientific research that has been done. He said that Florida’s lawn care professionals continue to do their part to minimize potential nitrogen and phosphorous into waterways through improper fertilization. They support the FDEP on an Ordinance to insure the education of an adherence to property fertilization practices.

Mr. John Orcutt, 4665 Pebble Bay South, said the University of Florida document (EN1115) has a list of questions that defines IFIS research and one question is does their research address water quality and the answer was no. The research has to do with optimizing the growth of turf grass.

Mr. John Davis, 2400 3rd Place, said he was present for tonight's meeting in support of strengthening the fertilizer Ordinance.

Mayor Winger closed the public hearing at 7:11 p.m., with no one else wishing to be heard.

Mr. Fletcher asked has the State come out with an Ordinance that would change what they are doing here.

Mr. Coment said that he has not heard of anything. The only thing he was aware of was the Statue requiring the City to adopt a model Ordinance, which they did a short time ago. The issue of the regulation of the quantity of fertilizer and makeup of fertilizer is preempted to the Department of Agriculture, but that is in this Ordinance and a lot of cities and counties are adopting Ordinances in these stringent forms. They are taking a risk that could be challenged, but the likelihood is slim.

Mrs. Turner said they started this effort to try to get regulations to conserve the Lagoon two years ago. She said that she has been given great information from proponents and from opponents. But, they have to err on the side of the Lagoon and it is important that they have a consistent regulation between the City and the County.

Ms. Graves felt it was important that they listen to the community and whatever they adopt that they continue monitoring this situation. There is research still being done and as other facts are presented they could always change it.

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

B) An Ordinance of the City of Vero Beach, Florida, relating to the Sale and Merchandising of Electronic Cigarettes and Liquid Nicotine; Creating a New Chapter 73 in the Code of the City of Vero Beach to be entitled "Tobacco Products;" Providing for Conflict and Severability; and Providing for an Effective Date. – Requested by the City Council

Mayor Winger read the Ordinance by title only.

Mr. Coment said they removed the provision having to do with restricting the use of these cigarettes to those areas where smoking is allowed. It now addresses the merchandising and the sale to minors.

Mayor Winger said the idea of this Ordinance is to prevent the sale to those under the age of 18.

Mayor Winger opened and closed the public hearing at 7:15 p.m., with no one wishing to be heard.

Mr. Fletcher made a motion to adopt the Ordinance as presented. Mr. Kramer seconded the motion.

Mrs. Turner said this has been a great educational effort for her. She said the things she has learned over the past few months were frightening. There is incredible growth in the use of these cigarettes among their youth. She was in favor of this Ordinance and hopes it will send a signal to Tallahassee and to Washington D.C. to get some regulations across the board.

The motion passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

C) A Resolution of the City Council of the City of Vero Beach, Florida, repealing Resolution 2012-18; Establishing Prices and Fees for Crestlawn Cemetery; Establishing Hours of Operation; and Providing for an Effective Date. – Requested by the Public Work’s Director

Mayor Winger read the Resolution by title only.

Mr. O’Connor said staff was requested to come up with a business model of the Cemetery. In this Resolution is a rate adjustment that would help them keep in line for a five year period for the business model.

Mr. Tony Young, 2204 Vero Beach Avenue, said they have been looking at Crestlawn Cemetery since May. In speaking with the Pilot Club yesterday, it brought home the significance of Crestlawn Cemetery. The efforts to provide a vision for Crestlawn Cemetery is crucial to maintain the tradition of Vero Beach. This is an opportunity to keep this a legacy of Vero Beach.

Mayor Winger closed the public hearing at 7:19 p.m., with no one else wishing to be heard.

Mrs. Turner said it was clear that the community wants to keep the Cemetery, but this plan is flawed. Even the increase of the rates are below the municipal average that was submitted by staff. With these increased rates, they still would have a loss until 2016. They need to have a better plan to protect the Cemetery.

Ms. Graves commended staff for working really hard to try to preserve something that is so important to this community. She was glad that staff came up with a solution that allows Crestlawn to continue.

Mrs. Turner said they are continuing to work at a loss with Crestlawn until 2016. They are losing \$100,000 on an annual basis and that is her reason of concern for this financial plan.

Mr. Kramer thought that most cemeteries when they fill up operate at a loss. He didn't know of one municipally owned cemetery that operates at a profit once they are full.

Mrs. Turner said the Cemetery is not full.

Mr. Kramer made a motion to approve the Resolution. Ms. Graves seconded the motion.

Mayor Winger felt this was a step in the right direction.

Mr. O'Connor felt they would cover operational costs.

Mayor Winger said they have a deficit from the past, but on a continuing basis they are in the black.

The motion passed 3-2 with Mr. Fletcher voting no, Ms. Graves yes, Mrs. Turner no, Mr. Kramer yes, and Mayor Winger yes.

D) An Ordinance of the City of Vero Beach, Florida, Providing and Establishing Revisions to the Budget for the City of Vero Beach, Florida, for the period beginning October 1, 2012 and Ending September 30, 2013; by Decreasing the General Fund by \$30,518; by Increasing the Street Paving and Drainage Fund by \$243,195; by Decreasing the Infrastructure and Real Estate Improvement Fund by \$10,000; by Decreasing the Electric Fund by \$1,693,953; by Decreasing the Electric R&R Fund by \$2,360,430; by Decreasing the Water and Sewer Fund by \$459,566; by Increasing the Water and Sewer R&R Fund by \$4,185,200; by Decreasing the Airport Fund by \$22,589; by Increasing the Airport Construction Fund by \$76,203; by Increasing the Marina Fund by \$107,374; by Increasing the Solid Waste Fund by \$20,749; by Increasing the Recreation Fund by \$36,379; by Increasing the Recreation Construction Fund by \$17,131; by Increasing the Risk Management Fund by \$40,318; by Increasing the Confiscated Property Fund by \$17,600; by Increasing the Law Enforcement Education Fund by \$5,000; by Increasing the Crestlawn Cemetery Trust Fund by \$1,633; All from Revised Revenue, Expenditure and Transfer Estimates. – Requested by the Finance Director

Mayor Winger read the Ordinance by title only.

Ms. Cindy Lawson, Finance Director, reported that the final budget for fiscal year 2013 ended about two months ago. Staff is projecting the expenditures in the General Fund to be slightly less than their original adopted budget. She said this is a huge improvement from over a few years ago, which she felt was attributed to more internal controls of

budgetary compliance, scrutiny by Department Heads, quarterly variance analysis and reviews with the Finance Commission, and more realistic and conservative budgeting.

Mayor Winger opened the public hearing at 7:27 p.m.

Mr. J. Rock Tonkel said that he was interested as a member of the Utilities Commission and as a citizen in the decrease in the Electric Fund and why in the last three or four weeks they passed another rate increase, which he felt was unnecessary at this time. The other figurative here that astounds him is increasing the Water and Sewer R&R Fund. He didn't know where in their budget discussions they came to that conclusion. He was confused and felt that the public would be confused if they took the time to look at the budget.

Mr. O'Connor explained that budget amendments are annual events. They often do them semi-annually and at the end of the year they do a budget amendment to true-up the revenues and expenditures. He said two years ago they got caught because they didn't do a budget amendment until a crisis happened at the end of the year.

Ms. Lawson explained that the Electric Utilities shows a decrease in revenues and to balance the budget because of the decrease in revenues and the increase in expenditures is a deficit of \$970,000 projected for year end 2012-2013.

Mr. Tonkel asked did the Utilities Commission evaluate that decrease when they went through the last rate sufficiency study.

Ms. Lawson answered yes.

Mr. Tonkel said what he hoped was not happening was that this represented some reoriented priorities in public policies, which he is now assured that is not the case.

Mr. O'Connor said they are actually aligning with the public policy being set.

Mayor Winger closed the public hearing at 7:33 p.m., with no one else wishing to be heard.

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

E) An Ordinance of the City of Vero Beach, Florida, amending Chapter 60, Appendix, Definitions, of the Code of the City of Vero Beach by creating a Definition for Community Garden; Amending Chapter 64, Article I, Development Review, by Creating Section 64.14, "Community Gardens;" Providing Procedures and Standards for Regulating Community Gardens; amending pertinent Sections of Chapter 61, Residential Zoning Districts, Articles I, III, IV, and V, to provide for Community Gardens as a principal

use in Residential Zoning Districts; Providing for Conflict and Severability; Providing for an Effective Date. – Requested by the Planning and Development Director

Mayor Winger read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, explained that this Ordinance will allow community gardens on vacant lots as a temporary use in residential uses. The Ordinance came from the efforts of Mr. Will Tremmel. He reported that the Planning and Zoning Board unanimously recommended approval of the Ordinance.

Mayor Winger opened and closed the public hearing at 7:36 p.m., with no one wishing to be heard.

Mayor Winger referred to page three of the Ordinance, where it states, “planting containers used for storage or storage shed shall be located no closer than 15 feet to the side or rear property line or no closer than 25 feet to the front property line.” He questioned if 25 feet was too close. He asked shouldn’t a shed be close to the back.

Mr. Fletcher said when he read this it did seem reasonable, but now that Mayor Winger mentioned it he would join him on that question.

Mr. Kramer said if they need a shed it should be towards the back.

Mr. McGarry said he would revise that and they would have the new language at their next public hearing.

Ms. Graves asked, is she correct that no exterior lights are permitted.

Mr. McGarry said that is correct.

Ms. Graves asked what about solar power lights.

Mr. McGarry said that he would look into that. He said work is not done after sunset so there is no need for lighting.

Mr. Fletcher made a motion to approve the Ordinance with the amendment that the shed is located in the back (second public hearing to be held on December 3, 2013). Mrs. Turner seconded the motion.

Mr. McGarry said that he would bring this back to Council with the corrected language.

The motion passed 5-0 with Mr. Fletcher voting yes, Ms. Graves yes, Mrs. Turner yes, Mr. Kramer yes, and Mayor Winger yes.

4. RESOLUTIONS

- A) A Resolution of the City Council of the City of Vero Beach, Florida, Abandoning City of Vero Beach interest in the West 3 Feet of Lot 5, Block 1, Indian Bay, being a portion of Utility Easement dedicated by Plat recorded in Plat Book 3 at Page 43 of the Public Records of Indian River County, Florida; Providing for an Effective Date.**

Lantana Lane Drainage Improvements – Drainage Easement #2013-EG-0137 and Temporary Construction Easement #2013-EG-0138 – Requested by the Public Work’s Department

Mayor Winger read the Resolution by title only.

Mr. O’Connor said this Resolution is for abandonment of an easement to do improvements on drainage.

Mrs. Turner said in reading this they are talking about putting in a 10” pipe going into the Lagoon. She asked if we will install any type of baffle on this pipe to protect the Lagoon.

Mr. Monte Falls, Public Works and Engineering Director, said the property is located on Club Drive and Lantana Lane where they have had severe street flooding for years because they did not have a positive outfall into the river. He said there was a home torn down and the new builder worked with the City to get a bigger easement on the property line. He said they are not using a big baffle box, but individual things at the inlet locations. He said this is a new process and they are going to monitor it to see if it works.

No one from the public wished to speak on this item.

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

- B) A Resolution of the City Council of the City of Vero Beach, Florida, Abandoning all City of Vero Beach interest in certain portions of the “Three Avenues” Utility Easement “E” recorded in Official Record Book 1342 at Page 733 of the Public Records of Indian River County, Florida; Providing for an Effective Date. – Requested by the Public Work’s Department**

Mayor Winger read the Resolution by title only.

Mr. O’Connor reported that these were easements the City no longer needs in that area.

Mayor Winger opened and closed the public hearing at 7:45 p.m., with no one wishing to be heard.

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

- C) A Resolution of the City Council of the City of Vero Beach, Florida, granting a Non-Exclusive Franchise to Allied Diversified, Inc. D/B/A Reliable Septic & Services to provide roll-off container Solid Waste Collection and Disposal Services within the City of Vero Beach; Providing for an Effective Date. – Requested by the Public Work’s Department**

Mayor Winger read the Resolution by title only.

Mr. O’Connor reported that this Resolution would make all expiration dates uniform in the system.

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

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

None

6. CITY CLERK’S MATTERS

- A) Council Committee Appointments 2013-2014**

Mrs. Tammy Vock, City Clerk, reported that she provided in their backup the list of Council Committees. If Council approves the appointments she will notify each agency.

Council approved the committee appointments.

7. CITY MANAGER’S MATTERS

Mr. O’Connor gave an update on the Old Diesel Plant. He said a lawsuit was filed and the City filed an eviction notice, but they are in the tolling period.

Mr. Coment said they came to an agreement with the tenants at the suggestion of outside Counsel because they were coming up on the original statute of limitations. In the meantime the tenants jumped the gun and filed a lawsuit to protect their rights. The tenants are encouraging the City to sit back down with them and discuss the lease. He noted that a summons has not been served so there is no time running yet. In order to be in a position in case the City did get served, the City had to do a three day notice for non-payment of rent and a ten day notice for any other breaches of contract, which was sent out with the notice. He explained that this would enable the City to go ahead with those

actions against the tenant if they need to respond to the lawsuit. They are scheduled to meet with the tenant this week to see what direction they want to go.

Mayor Winger asked Mr. O'Connor if he was correct that he had some other interest in the property that would be beneficial for the City.

Mr. O'Connor answered yes. He said there were three different groups who have shown an interest in the Old Diesel Plant itself. One put their request in writing that they want to put in some type of distillery. He also spoke with a company that wanted to put in a brewery with a restaurant. The Cultural Council has also shown some interest. He said that he would recommend to Council two perimeters. One is that it would have to compliment 14th Avenue and the development that is taking place there. The other is that it would have to be some type of a destination point. He said distilleries and brew pubs have become this type of setting and he felt would compliment what they were trying to do in the Mainstreet area. He hoped they could work something out with their tenants. Otherwise, they will proceed down the road of eviction.

Mr. Fletcher said his concern is that they (tenant) are going to keep stalling. He asked could they put in a sunset clause.

Mr. Coment said they put a 30-day period to terminate in the tolling agreement. He said that they probably could file a countersuit at the end of this month.

Mr. Fletcher said that he personally would encourage them to file. He did not think they were going to settle this.

Mr. O'Connor said they are proceeding under that. He reported that the tolling date would be up on December 1st.

Mr. Kramer asked staff to notify the City Council when a meeting is scheduled because he might want to sit in on it.

Mr. O'Connor reported that the meeting is scheduled for Thursday, November 21st at 3:30 p.m.

Mayor Winger felt that it was time that they came to a useful conclusion.

Mr. Kramer said the reason the City did not do any action before was because they didn't have an alternative.

Mayor Winger was comfortable having Mr. Kramer as their point man at the meeting.

Mr. O'Connor requested that no more than one Councilmember attend as it is not an advertised meeting.

Mrs. Turner said they have had discussions on the lifeguards and their capital funding. She asked for an update on where they are.

Mr. O'Connor said the listing of items they had, such as the radios, they already had in the capital budget. The City's exposure to some of the items on their wish list would be about \$30,000. He would like to request that they hold off on this until they have the Union contracts behind them.

Mrs. Turner said it is important that they continue to look at these capital items because of safety reasons.

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

None

B. New Business

None

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Richard Winger's Matters

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

Mayor Winger encouraged Mr. Kramer and Mrs. Turner to continue updating Council on what is going on in the City.

B. Vice Mayor Jay Kramer's Matters

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

Mr. Kramer reported that he attended the Mainstreet Board meeting. He said Mainstreet did well with the Haunted House and Downtown Friday is coming up. He reported that he attended the Veterans Day Ceremony, they are continuing with their fundraising effort for Royal Palm Pointe, and the 5k run will be held on December 6th along with the Tree Lighting Ceremony, with the funds raised going towards keeping the fountain open. The Boy Scouts held a fundraiser and he and Ms. Graves attended as their celebrity chefs.

C. Councilmember Pilar Turner's Matters

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

Mrs. Turner asked about the Railroad Committee. She said there is a lot of movement going on within the regional groups. She was not sure if they wanted a Councilmember to follow these issues.

Mayor Winger volunteered to serve on that Committee.

Mrs. Turner reported that she attended the Indian River Lagoon Counties collaborative and she felt they were setting up more bureaucracy to look at the Lagoon. She would love to have a multi-county group to share solutions and ideas, but to have another layer of bureaucracy to handle funds, prioritize projects, etc., she felt would be a nightmare. She reported that the Samaritan Soup Bowl was successful, the Hibiscus Center Girls Night Out was a great success, and the Land Trust is continuing to do a great job raising funds to protect the Lagoon. She thanked staff, the Veterans Memorial Island Sanctuary Advisory Committee, and the Veterans for such a beautiful job in honoring Veterans at the Veterans Day Memorial Service. She reported that this Saturday the Oceanside concert would be held. She reminded everyone to shop locally as they need to support their local stores. She noted that there is still time to sign up for the Vero Beach Boat Parade, which will be held on December 6th.

D. Councilmember Amelia Graves's Matters

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

Ms. Graves reported that she attended the Walk to Remember and was a celebrity chef for the Boy Scouts.

E. Councilmember Craig Fletcher's Matters

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

No report given.

Mr. O'Connor reported that there will be a Press Release with representatives of the Blue Angels at the Airport on Monday, November 25th at 3:00 p.m. He encouraged Council to attend.

11. ADJOURNMENT

Tonight's meeting adjourned at 8:04 p.m.

/sp