

**CITY OF VERO BEACH, FLORIDA**  
**JUNE 1, 2010 – 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 Jerry Shepherd/Twentieth Avenue Church of God
- C. Pledge of Allegiance

**2. PRELIMINARY MATTERS**

- A. Agenda Additions, Deletions, and Adoption
- B. Proclamations
  - 1) Proclamation to be presented to John M. Lynn for his 40 years of service to the City of Vero Beach
- C. Public Comment
  - 1) Ms. Nancy Wood, Ms. Toni DeBiase, and Ms. Florence Licata to speak about the Vero Beach Airport
- D. Adoption of Consent Agenda
  - 1. Regular City Council Minutes – May 18, 2010

(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) An Ordinance of the City of Vero Beach, Florida, instituting a one hundred eighty (180) day moratorium on the issuance of development orders to establish “Pain Clinics” or “Pain Management Clinics” within the City of Vero Beach to allow time for the City staff to further review regulatory options and formulate and adopt regulations for these Clinics; providing for severability; and providing for an effective date.

**4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING**

- A) [A Resolution of the City of Vero Beach, Florida, repealing the rate increases for fiscal year 2010, 2011, 2012, and 2013 Water and Sewer as described in Attachment "A" and "B" of Resolution 2009-31; 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**

**7. CITY MANAGER'S MATTERS**

- A) [Award of RFP No. 170-10/PJW – Unit 5 Heat Recovery Steam Generator Superheater Retrofit](#)

- B) Electric Utility Discussion

**8. CITY ATTORNEY'S MATTERS**

**9. CITY COUNCIL MATTERS**

A. Old Business

- 1. Another Reconsideration of Date for Presentation by Dr. Faherty and Glenn Heran – Requested by Councilmember Heady
- 2. Still Waiting for Written Answers from City Manager – Requested by Councilmember Heady
- 3. OUC Contract – Requested by Councilmember Heady
- 4. 50MM Penalty – Requested by Councilmember Heady
- 5. November Elections – Requested by Councilmember Heady
- 6. Debate on Sale of Electric – Requested by Councilmember Heady
- 7. 8/12/08 to be Played and Discussion to Follow – Requested by Councilmember Heady
- 8. Ending A Federal Lawsuit – Requested by Councilmember Heady
- 9. Honest Services Fraud – Requested by Councilmember Heady
- 10. Golf Course – Requested by Councilmember Heady

B. New Business

- 1. How to Settle a Lawsuit – Requested by Councilmember Heady
- 2. Water and Sewer Presentation – Requested by Councilmember Heady
- 3. [Hurricane Preparedness – Requested by Councilmember Daige](#)

**10. INDIVIDUAL COUNCILMEMBERS' MATTERS**

A. Mayor Kevin Sawnick's Matters

- 1. Correspondence

2. Committee Reports
  3. Comments
- B. Vice Mayor Sabin Abell's Matters
1. Correspondence
  2. Committee Reports
  3. Comments
- C. Councilmember Tom White's Matters
1. Correspondence
  2. Committee Reports
  3. Comments
- D. Councilmember Brian Heady's Matters
1. Correspondence
  2. Committee Reports
  3. Comments
- A) FPL and Public Business in the Public Eye
- B) Liars, Cheats and Thieves
- C) Bad Information = Bad Decisions
- D) Correspondence
- E. Councilmember Ken Daige's Matters
1. Correspondence
  2. Committee Reports
  3. Comments

## **10. 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 1, 2010 – 9:30 A.M.**  
**REGULAR CITY COUNCIL MINUTES**  
**CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**1. CALL TO ORDER**

**A. Roll Call**

Mayor Kevin Sawnick, present; Vice Mayor Sabin Abell, excused absence; Councilmember Tom White, present; Councilmember Brian Heady, present and Councilmember Ken Daige, present **Also Present:** James Gabbard, City Manager; Charles Vitunac, City Attorney and Tammy Vock, City Clerk

**B. Invocation**

The invocation was given by Pastor Jerry Shepherd of Twentieth Avenue Church of God.

**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**

Mr. White commented that at their last meeting they were told by the City Attorney that anything that has to do with the lawsuit filed by Mr. Heady must go through the Attorney that the City has hired to represent them. He asked Mr. Vitunac if that was correct.

Mr. Vitunac answered yes. He said that Mr. Brennan (hired attorney) advises against discussing matters that concern the lawsuit.

Mr. White reiterated what is allowed under Old Business, New Business and Councilmember's Matters. He said that under Old Business there are ten items that have no backup material available. He made a motion that items 9A-3), 4, 6, 7, 8, and 9B-1) be removed the agenda. Mr. Daige seconded the motion.

Mr. Daige asked that items 9A-1, 2, 9, 10, and 9B-2) be removed from the agenda. He first asked that under 9B-2) Water and Sewer Presentation if Mr. Heady could discuss this when they are discussing item 4-A), which has to do with the water and sewer rates.

Mayor Sawnick noted that they really did not know what Mr. Heady wanted to discuss (referring to item 9B-2).

Mr. Daige then asked that item 9B-2) also be pulled from the agenda.

Mr. Charles Vitunac, City Attorney, asked Mr. Daige if it was his intention to leave 9A-5). Mr. Daige thanked the City Attorney for pointing this out and added 9A-5) to the items to be removed from the agenda.

Mayor Sawnick read out loud the items that were being pulled off of the agenda.

The motion made by Mr. White and seconded by Mr. Daige passed 3-1 with Mr. Heady voting no.

Mr. Daige made a motion that items 9A-1, 2, 5, 9, 10 and 9B-2) be pulled off of the agenda. Mayor Sawnick seconded the motion and it passed 3-1 with Mr. Heady voting no.

Mayor Sawnick made a motion to adopt the agenda as amended. Mr. White seconded the motion and it passed 3-1 with Mr. Heady voting no.

## **B. Proclamations**

### **1) Proclamation to be presented to John M. Lynn for his 40 years of service to the City of Vero Beach**

Mayor Sawnick presented Mr. John Lynn with a plaque thanking him for his 40 years of service to the City of Vero Beach.

## **C. Public Comment**

### **1) Ms. Nancy Wood, Ms. Toni DeBiase, and Ms. Florence Licata to speak about the Vero Beach Airport**

Ms. Florence Licata commented that their government spends millions of dollars on homeland security when someone wants to fly but then flight training students can fly without any clearance. They are acting like this is 1950 and they need to wake up. She said that Vero Beach is the second largest Airport in the Country. They have 57 flight operations per hour. She said that these students are terrorizing their City. She also had some concerns about these students being able to fly and not required to carry insurance. She then brought up that the Airport Director wants to spend money to build an Industrial Park at the Airport, which would be in direct competition with the people. She then asked does the community even want an Airport. She said that is a good question. She noted that in 2009 something at the Airport changed and there were a lot more flights taking place, which continues today. She met with the Airport officials and asked what has changed and was told nothing. She said that in short their questions were met with hostility. She felt that all of these jets that are flying in this community are impacting their environment. She said that since taxpayers pay Mr. Menger's salary, is he the best person for the job. She felt that the Airport has turned her neighborhood into a war like zone. The impact that it has on their community is devastating. They would like to see

not only a vision plan for the Airport spelled out, but also told what the benefits of having the Airport are. She suggested having a referendum item on the ballot in the November election to ask the people of this community if they really want an Airport. She said lets lay the cards out on the table and let the people decide.

Mr. Heady asked the Mayor if he could ask Ms. Licata a couple of questions.

Mayor Sawnick asked the Council if they had a problem with this.

Mr. Daige preferred that all the people speaking from the public get through with their comments before Council starts asking questions.

Mr. Heady told the Mayor that the speaker identified some issues that he thinks are meaningful to her presentation. If they wait until everyone is finished and rehash all of her issues, that in the interest of time, which seems to be of an interest to this Council, that it would be more meaningful and less time consuming if they were allowed to ask the questions at this point.

Mayor Sawnick asked for a show of hands on who from the public would like to speak at today's meeting. There were nine hands that went up.

Ms. Nancy Wood asked to speak and said that this issue (Airport) has been addressed before the Council for the last 15 years and it would be nice to clear it up.

Mr. Daige suggested that anyone speaking on the Airport issue come up and make their presentation and then Council can ask questions. He said if it is the wishes of the people speaking to handle it this way then Council wants to honor their wishes.

Mr. Heady told the Mayor that he still would request to be able to ask questions right after someone speaks. The questions that he has for Ms. Licata might clear up some issues for the rest of the speakers. It seems to him that if the Council is going to proceed in a meaningful way that they should be able to ask questions about the presentation.

Mr. Daige asked the City Attorney if they needed to vote on the matter or could they just move on with the Mayor's recommendation.

Mr. Vitunac explained that the Mayor has made a recommendation and it would have to be challenged and overturned by a majority vote.

Ms. Wood said that she was ready for open dialogue with the Council.

Mr. Heady challenged the Mayor's ruling. The appeal died for lack of a second.

Ms. Tony DeBiase went over with Council a flight schedule that she logged the day after Christmas. She noted that the times were so close together because there were five planes flying overhead. She expressed that she is physically and emotionally destroyed.

She showed a slide of Mr. Bennett's bird bath, which is covered with oil that came from airplanes flying overhead. She then brought up that the Airport also wants to cut trees on private property. The trees are the only buffer that keeps the toxin from hurting them. She felt that cutting the trees was all about money. There are no regulations any more. It all goes to the businesses on how much money they can make. She said that it was outrageous these aircraft goes over a populated community and where does she go for help.

Mr. Heady had some questions for this presenter and he asked the Mayor if he could ask her some questions or does he have to wait.

Mayor Sawnick told him not at this moment.

Ms. Nancy Wood commented that back in 1994 she started coming to the Council meetings to talk about Airport noise and safety. She has served on many Committees and spent a lot of time on this. She said that unfortunately they are still where they were before. She has a solution to solve the problem, which she will be presenting to Council. She explained that FAA owns the air space, but they (City Council) are responsible and liable for Vero Beach. She brought up the newest proposal to spend \$1.6 million for 88 acres for an Industrial Park, which is in direct competition with the tax payers who would have to foot the bill and ultimately find themselves in competition with their own tax dollars. She mentioned that at times the Tower is closed when these flight trainings are taking place. She felt that all the complaints that have been mentioned this morning are valid. A Part 150 Noise Study was completed by the Airport, though it falls short of a Part 161 Study, which would expand the City's ability to explore reasonable strategies for impact mitigation. She would like to know the process and the City's interest to invest in a Part 161 Study given the potential growth in flight operations and their impact on this community (written speech attached to these minutes).

Mayor Sawnick commented that this issue has been going on for some time and there are a lot of things that need to be fixed. He asked that they proceed with public comments.

Ms. Wood felt that in following with proper protocol they would like to see a line item on the Council agenda so that they could continue with this conversation.

Mr. Daige reminded Council that once the presentations have been completed by these speakers that Council could ask questions.

Mayor Sawnick noted that there were roughly about 10 more people requesting to speak and maybe some of those people who are on their lunch break will not be able to. He suggested limiting Council questions to ten minutes.

Mr. Heady objected to the ten minute time limit. He said that if Council has questions then they should be able to ask them. Their job is to be responsive to the people and make sure that the facts are out and on the table. If they have questions then they should be allowed to ask them.

Mr. Heady began his questions with Ms. Licata. He said that Ms. Licata's house is in glide path and asked her what year did she buy her house. Ms. Licata answered 1997. She mentioned that 60% of the students training at Flight Safety are not from this country. He asked if she had any backup to provide on this. Ms. Licata said that she could probably provide that information. Mr. Heady asked her where did she obtain the 60% number from. Ms. Licata said that it was quoted in the Press Journal. Mr. Heady asked her did she follow up or check with Flight Safety to make sure that this information was accurate. Ms. Licata answered no. Mr. Heady said that his next question was for the Airport Director. He said that Ms. Licata talked about "stall" and he asked him if a stall procedure is done at an altitude where a plane can still recover. Mr. Eric Menger, Airport Director, answered yes. Mr. Heady made it clear that the stall was about lift and not about turning the engine off. Mr. Heady then asked when the crash at Riverside occurred. He was told about 25 years ago. Mr. Heady told Ms. Licata that she said that Mr. Menger's salary was tax payer funded. He asked Mr. Menger if his salary was paid out of Airport funds. Mr. Menger said that he is paid out of the Airport funds that are Airport revenues. Ms. Licata asked if Mr. Menger was a City employee. Mr. Heady said that is why he asked the question to see where his salary was coming from. Ms. Wood added that the Airport has its own fund that is different from the other entities of the City and that is why they are able to do so many things. Mr. Heady understood that. He just wanted to clear up in his own mind where Mr. Menger's salary was coming from. Ms. Licata said that it ultimately comes from tax payer's money. Mr. Heady did not dispute that. He agreed that it was all tax payers' money. Mr. Heady asked about the \$5,200 study. Ms. Licata said that was mentioned at a Council meeting when Mr. Menger showed a three phase proposal. Mr. Menger made it clear that the \$5,200 came from Airport revenue. Ms. Licata reiterated that it is still tax payer's money. Mr. Heady agreed that it was all tax payers' money, but as a Councilmember one of the things that he has to be cautious of is a lot of tax money is categorical and can be only spent in certain areas. As a Councilmember he needs to know where this money is coming from because if it has an impact on the ad valorem tax, he acts one way and if it is coming in from a source that is going to come in anyway then he will act another way. Ms. Licata stated that her point is that they need to display all of the information about the Airport at public disposal so that people in this community can see what revenue is generated, how it is generated, how does it impact their community, how does it benefit their community and whether or not they really want it.

Mr. Heady said that his next questions were for Ms. DeBiase. He asked Ms. DeBiase when she purchased her home. Ms. DeBiase answered in 2000. Mr. Heady asked her to explain her comments about toxic waste being dumped. Ms. DeBiase said it is the fuel coming from the planes. Ms. Licata added that it was not disclosed to her that there was an Airport when she purchased her home in 1997 and the Airport that was there in 1997 is in no way like the Airport that is there now. Mr. Heady asked Mr. Menger if there are any airplanes dropping fuel over the City of Vero Beach. Mr. Menger answered no. Mr. White interjected and said that this is turning into a debate. Mr. Heady corrected him and said that it is not a debate, these are questions.

At this time Mayor Sawnick asked if anyone else from the Council had questions. He was told they had no questions. He gave Mr. Heady a few more minutes for questions and said they would continue on with public comments.

Mr. Heady referred to the oil in the bird bath and said that it is not from dumping toxic waste, it is from exhaust. Mr. Menger thought that was correct. Mr. Heady then asked Mr. Menger if there were any procedures with cutting engines off on a landing. Mr. Menger answered no. Ms. Licata expressed to Mr. Heady that they don't understand all the technology because they are not aviators. They only know that when a plane is coming overhead and the engine sounds like it stops, they hope that it will start again. Ms. DeBiase made it clear that they never mentioned noise one time. She also said it has been proven that there is an increase in cancer for people that live near an Airport.

Mayor Sawnick felt at this time that they needed to move on. Mr. Heady said that he still had some questions for the last speaker. Mayor Sawnick told him that they needed to move on because there are other people wishing to be heard. Mr. Heady said that he hasn't gone ten minutes yet. Mayor Sawnick said that it has been ten minutes. Mayor Sawnick told Ms. Wood that he would get back with her on this matter. Mr. Heady still had questions and he challenged the Mayor's ruling. He has some questions for Ms. Wood that will take two more minutes and it seems ridiculous that the Mayor once again interferes with Councilmembers trying to find answers to legitimate questions. He told the Mayor that he challenges his ruling. There was no second, therefore the appeal died.

Mayor Sawnick said they would continue with public comments.

Mr. Daige noted that Mr. Heady had two more minutes to ask his questions.

Mr. White suggested holding a Town Hall meeting to discuss this matter.

Ms. Wood commented that has already been done and do they want to do it again.

Mr. White explained that it would be a way to hear from the rest of the public. They could start looking into a Part 161 Study and the Airport Director would be better prepared.

Ms. Wood asked Council if they would have the availability of the resources that Mr. Menger has. She asked could they put together Power Point presentations and hold meetings in the Chambers. Mr. White told her yes. She said so what they are saying is that they can use the resources that the City has and Mr. Menger will leave his doors open to answer their questions and be polite and forth coming.

Mr. Heady noted that Ms. Wood feels that the solution would be to have a Part 161 Study done. He asked her if she knew what that would cost. Ms. Wood was guessing probably around \$350,000. Mr. Heady also mentioned that Ms. Wood said that there was an answering machine hooked up to handle noise complaints, but it only allowed ten calls. Ms. Wood said that was correct. She said that Mr. Menger was responsible for checking

the messages and clearing the machine. A question was asked about what time the Tower closes at night. Mr. Menger stated that the Tower closes at 9:00 p.m. every night. Mr. Heady asked if after the Tower closes is most of Flight Safety's training done before 9:00 p.m. Mr. Menger said that most of it is completed. He said that night training is required in order for someone to get their Pilot's License. Mr. Heady asked Ms. Wood to provide him with documents of complaints from the 1970's. Ms. Wood said that she would. Mr. Heady asked how Flight Safety is an economic benefit to the community. Mr. Menger explained that there was a study done in 2010 showing that Flight Safety is bringing in over \$300 million per year and will be creating approximately 4,000 jobs. Mr. Heady commented that there was an allocation that Flight Safety was training a percentage of students from Al Qaida. Mr. Menger explained that all students are cleared through Homeland Security. However, this is not under his jurisdiction.

Mr. White recalled that some years back Flight Safety invited the Council to tour their facilities and showed them the chip that each student has, which covers their background, finger prints, and all the things necessary for security. He said that Flight Safety has their own security that they do on the pilots.

Mr. Daige expressed the concerns that he has regarding safety. He said that if there is a safety problem then it needs to be fixed. He agreed with having a Special Call meeting or Town Hall meeting to discuss this item further. They would handle the meeting like they handle some of their visioning plan meetings.

Mayor Sawnick noted that there were more speakers wishing to be heard and wondered if they should enforce the three minute speaking rule. Mr. Heady had a problem with doing that and Mr. Daige did also. Mr. Daige said that he was not in favor of it because they did not do it in the beginning of the meeting.

Mayor Sawnick asked the public to try to keep their comments to three minutes.

Mr. Heady had a problem with restricting anyone from speaking. Mr. Wood stood up and said that only residents who live here all year long should be allowed to speak. Mr. Heady said it doesn't matter whether they live here all year long or not.

Mr. Daige added it would be okay if three minutes had been enforced at the beginning.

Ms. Lee Skinner, John's Island and Rosewood Road, Sebastian River, requested to speak. She was here today to share with the Council that they were not alone. She said that the County Commission also has a problem. This is a problem that is all over the southern Florida area. She said that FAA has not been available at all for the last three years. She said that Flight Safety and some of the other training schools started coming into the Sebastian Airport about three years ago and her home was never invaded like that before. When she talked to the Sebastian City Council she didn't get anywhere. They are calling this their "economic engine." She talked to the Mayor of Sebastian who asked her what do you want me to do, have the planes fly over my home. She said at her home it sounds like a Pearl Harbor movie. She could give them some statics of how many planes fly

over her house for a certain time period (similar to what Ms. DeBiase gave) She felt that this is a dialogue that needs to take place possibly over the four counties on the Treasure Coast. She suggested working with the four Treasure Coast counties in putting a training facility that would not be flying over children, elderly people, and families.

Mr. Robert Losey commented that his son in law is an Air Traffic Controller in Jacksonville and has a pilot's license, but Air Traffic Controllers are not required to have one. He has been in this community for 15 years and it is a wonderful town. He has a problem with bicyclist riding down A-1-A and that many of them are defiant. He mentioned that the "old money" runs this town. He also had some concerns with Florida not requiring people to wear helmets when riding motorcycles.

Mrs. Linda Hillman (read a prepared speech that is attached to the minutes) complimented the City workers on the sidewalk project that they are doing on Royal Palm Pointe and Royal Palm Boulevard. She then referred to an article that was in the Press Journal on Saturday. She said that the article was entitled "Neighborhoods may get speed limit cut." She thought finally, because it has been over two years since she started working with the City Council and other City departments to get this done. She was disappointed because the article talked about the beachside neighborhoods. Since Sept 9, 2009 it has been one of their neighborhoods goals to reduce the cut through traffic and also reduce the speed limit to 25 mph. They have not approached Council lately because they knew how many other issues that they have been dealing with. However, they have waited long enough. She pleaded with Council to get the signs made, get them up and have the Police Department enforce the speed limit. This is something that has been approved and should have been done within a month of being approved. Mrs. Hillman moved on to the issue of the Go-Line Bus Hub in Original Town. She knows that the property the buses are picking up and dropping off is County property. But, she also knows that it is within the City limits. This should not be put in the lap of the neighborhood to remove. She said that the neighborhood has no privacy. They have people walking through the neighborhood to catch the buses, or to walk to wherever they are going. There are also port-o-lets near the bus stop. She has received calls from neighbors about the trash lying around. They do not need, nor do they want a bus terminal in their neighborhood. She pleaded with the Council to help them in removing this bus terminal. It has taken them a long time for the people in this neighborhood to fight for what they have and this does not make any of them happy. She then commented that she has sat in this audience for three years and is embarrassed for the sitting Council when they have to listen to the words liars, cheats and thieves. She thinks that it is disgusting. The citizens and tax payers of Vero Beach are being cheated out of their rights to bring forth other issues to this Council which may not include "electric issues." This Councilman (referring to Mr. Heady) is grandstanding everything and everyone by consistently bringing up the same things at every meeting. She then read the definition of grandstanding. She has done her homework and has found several cities that have speaking limits, not only for the audience, but for City Councilmembers where five minutes is the limit. The Mayor has the right to do the ruling on how long the City Council is allowed to speak. She then asked the City Attorney does the State of Florida or the City of Vero Beach have a law or procedure that allows the recall of an elected

Councilmember. She said if so, what is the procedure and who would she contact to start the procedure. She wishes to petition a recall on Councilmember Brian Heady. She said that she would call the Mayor.

Mayor Sawnick said to not call him.

Mr. Vitunac explained that recalls are handled by State law. He suggested calling the Supervisor of Elections for further information and hiring her own attorney to handle this. Mr. Joseph Guffanti was happy that he did call Vero Beach is home town. He said that the answers to the problems mentioned by Ms. Woods should have been addressed a long time ago and will be addressed in November.

Mr. Ken Bennett commented that he has been in Vero Beach for 30 years and there are some days that these planes fly over his house and there is a problem. He mentioned the last plane crashes that have occurred. He thought that flight training should take place West of I-95 and that the planes should be required to have insurance. He commented that the citizens of this community may look at putting this on the ballot as a referendum item to find out if the community wants an Airport.

Ms. Dorothy Napp supported Mrs. Hillman's comments about changes in their neighborhood since the busses started coming through. She said there is more trash in their neighborhood than she has ever seen. She doesn't know whose job it is to pick up the trash, but it is not being done. She even saw a man trying to break into cars that were in the parking lot near the bus terminal.

Mr. Daige brought up the Go-Line buses and said that what he is hearing today is the neighbors don't like what is going on in their neighborhood. He said that Council will find out why this area is not being patrolled. They (the neighbors) don't have to fight the County, we (the City) will take care of it. He promised the residents of the neighborhood that they would have an answer by the next meeting. There will be more patrolling in the area done and the port-o-lets would be taken care of. He knows that the City Manager is on board to do everything he can to get this resolved. He also said that they will work on getting the speed limit dropped. These are things that can be taken care of immediately. He asked the City Manager if that was correct. Mr. Gabbard answered yes.

Mr. White asked if the bus stop was on County or City property.

Mr. Gabbard explained that it is on the East side of the parking lot where the old County Administration building used to be. He was advised about ten days ago that the port-o-lets were there and he was told that it was a temporary solution to the problem. He mentioned that there was a proposal to have a bus terminal out West where the Supervisor of Election's office is located. He feels that they should move the whole transfer station out West. However, he doesn't know what the County's thoughts are on that. He said that the crime and trash issues will be addressed and he will call each City Councilmember personally and tell them what they are doing.

Mr. Daige told the audience who were concerned with this matter that the situation you have there will be taken care of now.

Mr. Bob Walsh mentioned that they ended up with a 68 page contract from OUC that was not even voted on. When Mr. Heady asked to see the original contract it was discovered that it had been in Boston for the last two years and when it was returned no one could prove that it was the original contract. It disturbs him that former City Manager John Little and former Mayor David Gregg were not allowed to help with the negotiations between the City and FP&L. He said that someone has their own agenda.

Mrs. Pilar Turner, Vice President of the Taxpayer's Association, made the following requests on behalf of the Board and members of the Taxpayer's Association, (prepared statement attached to the minutes): 1) That the City Council support Mayor Sawnick's initiative to hire an efficiency expert to conduct an honest assessment of City Departments where money can be saved to avoid the transfer of funds from the utilities to the General Fund, 2) City Council respond to Mayor Sawnick's request that each of them present five suggestions for reducing the budget at the next Council meeting 3) City Council vote to phase in zero-based budgeting for all departments; 4) City Council be proactive in encouraging the out-sourcing of some City services to reduce costs to taxpayers 5) That the City's health insurance premiums and retirement benefits be adjusted to be in line with the private sector 6) City Council adopt an across the board salary freeze until the City becomes more financially stable 7) City Council make it their priority to reduce the City electric rates and consider all options in order to achieve this 8) City Council allow the Finance Commission to review the City's annual budget and make recommendations 9) City Council develop a plan to allow public input during the budget hearing process; 10) City Council adopt a pro-taxpayer position and less of the pro-employee and pro-status quo attitude when dealing with public funds and 11) The City Council be proactive in achieving transparency in all aspects of City finances.

Mr. Stuart Kennedy commended staff and the departments involved in the successful Memorial Day service that was held yesterday at Memorial Island. He referred to item 4-A) on the agenda and was not clear as to why they no longer were having these rate increases. Mayor Sawnick told him that this item is on the agenda and the Water and Sewer Director will be explaining it. He then asked the Council if they were comfortable that they have been provided with enough revenue over the next couple of years to cover the increase proposed by the consultants. He wondered why the improvements were ever approved in the first place if they are no longer required. He also wondered if this has anything to do with the on-going discussions with the County and Indian River Shores. He then said that he is sad by the way that this Council seems to be operating. He doesn't think that they are all singing off the same hymn sheet. All of them are elected by the people and he wished that they would get their act together and look after the interest of the public and have the public's interest in mind. If they have arguments on how things should be done, he asked that they be discussed outside of the Council Chambers. He said that it doesn't look good when it is done publically. If people are asking questions and not getting the answers then the thought that comes to mind is why the answers aren't forthcoming.

Mr. White wanted to let Mr. Kennedy know that back when the rate increases were approved by the consultants, the Council voted 4-1 to approve the rates and he voted against it. He said after working with staff they were able to reduce the rate increase by half and then after looking over the budget and doing away with some capital items they were able to cut the budget so that there would not be a rate increase on October 1<sup>st</sup>. He said that is the reason they need to stop this Resolution because it would automatically kick into place if they did not repeal it. He said that they have been working diligently to get the rates decreased.

Mr. M.J. Wicker was at today's meeting hoping to hear something about the golf course. He said that he has not heard anything from Mr. Gabbard. He talked to Mr. Joe Baird, County Administrator, who believed that they were talking about a very small piece of pie. Mr. Wicker said that he sees a great opportunity with this golf course. He said that it would be nice to have someone get started on a proposal for the golf course and put it back to the way that it was. He would also want people to be able to play on the golf course at a reasonable rate. He said time is of the essence because it would be nice to have it open before the season starts.

Mr. Gabbard stated that the last conversation he had with the County was on Wednesday. He said there are other entities that they have to work with on this piece of property. They want to make sure that everyone involved knows what the contract entails before they sign it. He said that the County has arranged a meeting with MILB to work out some sort of agreement. He cannot make this thing move any faster than it is moving.

Mr. White felt that Mr. Wicker needs to be talking to Mr. Gabbard about this.

Mr. Wicker stated that Mr. Gabbard told him that the property would be leased for one dollar a month. He said right now it is costing the City money to keep the property maintained and having it off of the tax rolls. He doesn't believe that this is as complicated as Mr. Gabbard makes it out to be.

Mr. Gabbard told Mr. Wicker that there are other people interested in the golf course other than him. The City Council has to consider what the proposals are and then decide what to do with the land, if anything at all.

Mr. Daige recalled that he has requested a Special Call meeting on the golf course where they can have all of the facts in front of them. He also went back to when Mr. Kennedy was speaking and wanted it made clear that he was against any rate increases. He keeps asking staff to get rates down for both the water and sewer and the electric.

Mrs. Barbara Drndak, Chairman of the Airport Commission, commented that she was sorry that the Airport issue was coming up again. She said that they can reeducate the public to know what happens in terms of revenue diversion. She said that none of the money by Federal law, can go into the general fund. The health of the Airport is important to the City. If the Airport can't pay for itself then it does go back to the City to

take care of it. She would be happy to participate in a Special Call meeting to go in depth about this and is available to help.

Council took a five-minute break at 11:34 a.m.

Mr. White excused himself from the meeting at 11:34 a.m.

After the meeting was called back to order, Mr. Daige requested that they take a lunch break and reconvene the meeting once Mr. White returns.

Mrs. Vock noted that Mr. White had a speaking engagement with the Rotary Club. The City Attorney said all three remaining Councilmembers would have to be in agreement to pass anything.

Mayor Sawnick said that he has a Mayor's meeting at 2:00 p.m. and would like to continue with the meeting. He made it clear that to pass anything it would take a 3-0 vote.

#### **D. Adoption of Consent Agenda**

##### **1. Regular City Council Minutes – May 18, 2010**

Mr. Heady had some corrections that he wanted made to the May 18, 2010 minutes. He asked that this item be pulled off of the agenda and put back on their next agenda for approval. In the meantime he would get with the Clerk on what changes that he would like to see made to the minutes.

#### **3. PUBLIC HEARINGS**

- A) An Ordinance of the City of Vero Beach, Florida, instituting a one hundred eighty (180) day moratorium on the issuance of development orders to establish "Pain Clinics" or "Pain Management Clinics" within the City of Vero Beach to allow time for the City staff to further review regulatory options and formulate and adopt regulations for these Clinics; providing for severability; and providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. Vitunac explained that this Ordinance, if adopted, would provide for a six month moratorium and would not allow any permits to be issued by the City for any new pain clinics. It is his recommendation that Council passes this Ordinance and then by October 1<sup>st</sup> the State will have adopted the new law concerning pain clinics.

Mayor Sawnick opened and closed the public hearing at 11:49 a.m., with no one wishing to be heard.

Mr. Heady had some questions before they opened and closed the public hearing, but was ignored by the Mayor. He continued by referring to the Doctor that attended their last meeting concerning the pain clinics. He asked Mr. Vitunac if he received any input from the Doctor concerning this Ordinance.

Mr. Vitunac explained that he corresponded with the Doctor via email. The Doctor had some recommendations for a comprehensive regulatory scheme for pain clinics at the City level. He explained to him that what they have is a simple moratorium that needs to be passed in order to stop any new pain clinics from coming into the area. The Doctor's issue is whether you would want local regulations, in addition to the State regulations, that will go into effect on October 1<sup>st</sup>. Mr. Vitunac's recommendation is that they don't need it. He said that by the time this moratorium expires the State regulations will be in effect, which will cover them.

Mayor Sawnick commented that this Ordinance helps them now and the State Ordinance goes into effect before the moratorium ends.

Mr. Heady stated any pain clinics that have pulled a permit that continues to expand their operation is not restricted by this moratorium except to the extent that is outlined in the moratorium. Mr. Vitunac said that is correct. Mr. Heady continued and said that if they had included what the Doctor asked for in this moratorium that would further restrict anyone from expansion that currently has a license. Mr. Vitunac did not agree. He said if this Ordinance passes, the City will not issue any more permits for any pain clinics and that includes expansions. What it does not do is take present medical offices that are existing and shut them down. However, they will be shut down if they violate the State law. The new State law allows the State Inspector to inspect pain clinic records without needing a subpoena. Mr. Heady noted that Mr. Daige raised some issues at the last meeting and he asked for a temporary 30 day provision, which Council approved. That 30 day provision was to put everything on hold until this 180 day moratorium passed. Once this Ordinance passes the organization which Mr. Daige was concerned about, will be limited not by a 30 day hold rather by the provisions of this Ordinance. Mr. Vitunac stated that in effect they have the 30 day hold and this moratorium is in effect at the same time.

Mayor Sawnick made a motion to adopt the Ordinance. Mr. Daige seconded the motion.

Mr. Daige commented that it was his understanding that this moratorium that they put into place will have no effect on the existing pain management clinic that is under operation now because they have been given the okay to proceed. He referred to the paperwork provided by the Planning Director after their last meeting. He said that this information was not told to them at the first meeting when pain clinics were brought up. He said that what he would like to do and will be bringing this back to Council, is with change of use/code compliance certificates, he wants Council to look at them first. This way if something like this comes up again, Council will see it will be the approving body and not the Planning Director. He is not happy with the way this has played out so he wants to eliminate any future problems.

Mayor Sawnick agreed with Mr. Daige's suggestions.

Mr. Heady stated that the document provided to them by the Planning Director demonstrates some of these things that were issued after their City Council meeting, which was pretty clear from the Council at that point that they did not want to see this happen. A couple of concerns he has is when they discussed this there was something already in the works and staff had an obligation to tell them at that meeting. Then after they had that meeting, the direction at that point from the Council to staff was that they wanted a moratorium Ordinance to stop this from happening within the City. Then a license was issued after that meeting which is a major concern to him. He asked Mr. Vitunac with the Ordinance they have before them could they incorporate in the Ordinance any restrictions and State regulations that the State is now considering. Mr. Vitunac felt that would require a new Ordinance. He said that this gives them a six month moratorium and protects them until October and gives them time to come back with a local Ordinance if they decide one is needed, which would be from June until October.

Mr. Heady referred to the pain clinic that was allowed to come into the City and said that since this clinic hasn't actually opened their doors for business, aren't they covered by any Ordinance that Council approves today.

Mr. Vitunac explained that is when vested rights issues and private property rights come into play. He said at a certain point when someone has gone through the process they have the right to continue it.

Mr. Heady asked if there was anything in this Ordinance that restricts private property rights. Mr. Vitunac answered no. Mr. Heady said if they include in this Ordinance the future State regulations, is that an infringement on their property rights. Mr. Vitunac explained that was not noticed in this Ordinance when it was published for a public hearing, so they could not amend the moratorium Ordinance to adopt an entire scheme of regulations adopted by the State that is about sixty pages long.

Mayor Sawnick made it clear that if they don't pass this Ordinance then the 30 day moratorium will end and pain clinics will be allowed after the 30 day period has passed. He said that Council needed to pass this Ordinance now so that the emergency moratorium does not end. If they wish to pass something that the State has done, which will take effect in October, they can come back and do that.

Mr. Heady said that he did not finish with his questions. He referred to Mr. Vitunac's answer to his question before the Mayor interrupted and that was that the Ordinance could not be changed at this point. He said that the intent of the Ordinance is pretty clear and just incorporating the future State regulations does not change the intent of this Ordinance so he could not understand why that would be a major change.

Mayor Sawnick said that he has not seen the regulations that the State intends to impose.

Mr. Vitunac explained that the published notice does not say that they were considering adopting the State law concerning the pain clinics. He said if Council wishes to do this then they can start it at their next meeting and it could be done quickly.

Mr. Wayne Coment, Assistant City Attorney, added that the moratorium Ordinance is a land use moratorium. He said that the State regulations is a business regulation. He said that these are two different types of things.

Mr. Daige commented that to apply for the business tax you have to have either a County license or a State license. He asked Mr. Coment in the paperwork provided to them by Mr. McGarry it asks for a driver's license number, federal ID number or social security number. He asked why this individual was allowed not to fill those in.

Mr. Hank Flores, Current Planning Manager, explained that he only approved the change of use from professional office to business. He said as far as the business tax it was handled by Mr. McGarry. He said that if the social security number was on the application then it would have been covered. He would need to check with staff on this.

Mr. Daige could not understand why the federal id # and driver's license number was not made available.

Mr. Gabbard also did not know, but said that he would find out.

Mr. Daige then asked since it is not there, will they require it to be in the paper work.

Mr. Gabbard said that it is required and maybe the information was deleted because of it being personal information.

Mr. Heady said that if there is a redaction then shouldn't the document show a redaction. He said Council should know whether a document has been redacted or not. He said if it is a requirement for the permit and these items have not been filled out then the permit is not valid.

Mr. Gabbard will look into this and report back to Council and give them something in writing.

Mr. Vitunac added that an applicant has to give the essential information required by law. He does not know why this information is not filled out, but they will look into this.

Mr. Daige was in favor of moving the Ordinance through. He said that it was important for the safety of their community to approve it as it stands now. The questions that he has he will follow up with the City Manager and the City Attorney to get his answers and report back to the Council.

Mayor Sawnick called the question to adopt the Ordinance and made it clear that in order for the Ordinance to pass that there must be a 3-0 vote. Mr. Heady objected. Mayor Sawnick asked the Clerk to call the roll.

The Clerk polled the Council on the motion to adopt the Ordinance and it passed 3-0 with Mr. Daige voting yes, Mr. Heady yes, and Mayor Sawnick yes.

#### **4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING**

**A) A Resolution of the City of Vero Beach, Florida, repealing the rate increases for fiscal year 2010, 2011, 2012, and 2013 Water and Sewer as described in Attachment "A" and "B" of Resolution 2009-31; providing for an effective date.**

Mayor Sawnick read the Resolution by title only.

Mr. Rob Bolton, Water and Sewer Director, reported that this Resolution was to repeal the future increases that were originally adopted. Since the adoption of the Resolution, they have been working to try and lower the water and sewer rates. The problem is that the increases approved sometime back were still on the books. He became aware of this about three weeks ago and asked Mr. Vitunac to look at repealing this. He noted that the reason they were able to repeal the Resolution was because they have worked through and restructured their capital improvements program. They have delayed some of their projects, which he went over, because of timing issues. He said they also have decreased their expenditures for operating by cutting back on personnel.

Mayor Sawnick appreciated their hard work and thanked them for reducing costs. He said that if anything comes up then they would bring it back to Council and if agreed they could adjust the rates as they go. This is for the time being and if something comes up that needs to be changed then they can bring it back to Council. One thing they don't want to see in 2013-2014 is that they have to raise their rates, because these rates were not imposed. He explained that they need to look forward five and ten years down the road so that if they do have to have an increase they can do it gradually and not in one big hit.

Mr. Bolton said that he was trying to work on the budget so that they are saving up funds, stabilizing their rates and predicting their capital improvements over the next four or five years so they would not have the rollercoaster type of effect as far as rate increases.

Mr. Daige made a motion to pass the Resolution repealing the rate increases for fiscal year 2010, 2011, 2012, and 2013 Water and Sewer as described in Attachments A and B of Resolution 2009-39. Mayor Sawnick seconded the motion.

Mr. Daige said that he has been working with the City Manager who has been working with staff and they have done a good job in getting these rates reduced. He said that he told the City Manager that the rates need to continue to come down. He said that he is

also working on the electric side. He said that staff and Council have been working hard on reducing costs and they are going to continue to reduce costs.

Mr. Heady asked are the capital improvements that are delayed to 2013-2014 necessary for the system.

Mr. Bolton answered yes. He said it appears that some of the lime softening costs were getting to a breakeven point. The lime softening has more maintenance requirements. So it would be a good time to look at doing a shift in the equipment and put in another RO Train. As employees leave and retire they won't need to fill those positions, which would lower their staff levels even more.

Mr. Heady asked in looking out over a five year term, do you think the decrease is stable that they could operate with the decrease in personnel.

Mr. Bolton answered yes. He said that in April he cut out a lot of vacant positions and there are some retirement positions this year that they would not fill.

Mr. Heady said that they decreased operating personnel that was a cost to the City. Those were the ones that he was concerned about.

Mr. Bolton said that they restructured some of the Plant ratings and doing some SCADA improvements. As they do some of the improvements, they should be able to reduce staff.

Mr. Heady said there was a typical 90-day cash requirement for a loan or bond issue and the usual is 45 days. He asked what they have today.

Mr. Bolton said that he would need to ask the Finance Director. He said that it has been fluctuating because they have been paying for the capital improvements for the loan prior to getting reimbursed. Therefore, until they complete the projects for the SRF Fund, it fluctuates.

Mr. Heady asked it fluctuates from what to what.

Mr. Bolton said it could be zero and it could be \$500,000 one month.

Mr. Heady said recently they had on hand cash requirements to where they had nothing left. He said there was a speaker who mentioned the cost of the rate consultant and he had some cost reporting at \$65,000 and one was \$200,000. He asked what the cost of that rate study was.

Mr. Bolton answered about \$40,000 for the water and sewer side. He thought that the total for both the water and sewer and the electric was about \$80,000.

Mr. Heady asked when a consultant does a study like this, do they break out the components. He asked is there something that he could go back and look at to see what the water and sewer component was as opposed to the electric component.

Mr. Bolton answered yes. He said that there were three work orders. One was for the Water and Sewer Rate Study, one was for the Deep Injection Well and he was not sure what the third work order was for.

Mr. Heady said in the component portion of the revenue repealing the increases will it decrease the projected income. He asked Mr. Bolton what percentage is County, what percentage is City and what percentage is Indian River Shores in the Water and Sewer customer receipts.

Mr. Bolton asked what does that have to do with this Resolution.

Mr. Heady asked are you reducing rate increases.

Mr. Bolton answered yes. He was not sure of Mr. Heady's question.

Mr. Heady explained that he wanted to know what the component parts of the City, Indian River Shores and Indian River County were.

Mr. Bolton thought that it was around 38% outside City usage.

Mr. Heady asked do the accounts correspond to the income and do they represent a larger portion of the income because they are bigger users.

Mr. Bolton answered no.

Mr. Heady said they were are starting at the County and Indian River Shores leaving the City as early as 2016.

Mr. Bolton said that no one has told him that.

Mr. Heady asked in the current agreements between Indian River Shores and the County, isn't there an exit provision.

Mr. Bolton answered yes.

Mr. Heady asked what year is the exit provision.

Mr. Bolton answered 2017.

Mr. Heady asked if he was to vote to repeal the rate increases that it would clearly be a politically popular thing for him to do. He said that his question with regards to delay on the capital improvements, the answer is that they are necessary improvements. If he

approved repealing the increases, but these are necessary requirements, what he is going to do is offload the payment for those by 38% and increase the City's taxpayers' burden after 2017.

Mr. Bolton answered no, because they were working off of cash. They were not borrowing any money. He said that they were going to build cash and have a balanced budget in 2013. They were going to build the improvements with cash.

Mr. Heady said that they would have 38% less cash.

Mr. Bolton said in the year 2016 – 2017 if they were to exit.

Mr. Heady commented that if they decrease that income, but the expenditures were going to be necessary in the future, then he was going to really transfer the burden to pay for those improvements from the income the City would have received from outside City residents to City residents later on.

Mr. Bolton answered no. He explained that the improvements would be done in 2013 and 2014, which would be done through the current rates.

Mayor Sawnick said the capital improvements would be done before anyone exits the agreement.

Mr. Daige said playing it forward it is going to work. He said that they would not be doing this if it was not going to work and was going to impact the City's ratepayers down the road. He said that they need to do something now for their ratepayers. He said that they can do this and it will not hurt the system. He said that they need to do this reduction. He asked that Council please pass this Resolution.

Mr. Heady commented that the 2013-2014 improvements would be paid for in that year.

Mr. Bolton said that he did not state all in one year. He explained that they would be building up cash over the next few years to pay for the improvements. In other words, they would be creating a sinking fund for those improvements.

Mr. Heady asked do you anticipate loans on the improvements.

Mr. Bolton said that they would be using cash to pay for the projects.

Mr. Heady asked, total cash with no loans at all.

Mr. Bolton answered yes.

Mr. Heady asked how the 90-day cash requirement came into play as a consideration.

Mr. Bolton answered because they were looking at borrowing money for this year and next year to cover these capital projects and those projects have been delayed.

Mr. Heady asked what is the total debt for the water and sewer department right now for the City taxpayers.

Mr. Bolton thought that there was a Bond Issue in the amount of \$14 million dollars. He said that they also have the SRF loan.

Mr. Heady asked what is the yearly debt service.

Mr. Bolton thought that there was about \$1.46 million dollar on the \$14 million dollar loan and it was about \$560,000 next year on the SRF loan.

Mr. Heady asked what is the total yearly loss in income with the rate decrease.

Mr. Bolton said that they were not decreasing anything.

Mr. Heady said the Resolution before them was to repeal the rate increases. He asked what is the dollar amount, per year, that those increases would yield to the City.

Mr. Bolton said next year's increases that were proposed was seven and one half percent on the water side and nine and one half percent on the sewer side.

Mr. Heady asked how many years are left on the \$14 million dollar debt.

Mr. Bolton answered that the debt would go to the year 2022.

Mr. Heady asked how many years are left on the \$10.5 million dollar debt.

Mr. Bolton answered until year 2030.

Mayor Sawnick felt that Mr. Bolton was doing a good job in answering these questions without having the information in front of him. He was sorry that they didn't have these questions before hand.

Mr. Heady said there was a study that showed that the City needed these increases, but there was not a comprehensive report that shows that they don't need these increases.

Mr. Bolton reported that he spoke with the consultant and they ran through some of their numbers, which showed that next year would have reduced the nine and one half percent to seven percent. He said that this still had the assumption that they were working with the cash requirements of 90 days and they did not have the decrease in salaries. He said that it also has assumptions that last year they had a zero percent increase in salaries, but they actually had a five percent decrease in costs because they were working off of furlough days.

Mr. Heady said that no employee, other than furlough days, took a decrease in their salary. The reduction in salaries was a reduction because of a decrease in personnel.

Mr. Bolton said there is a five percent decrease in salary because of the furlough days.

Mr. Heady asked what is the five percent in dollars.

Mr. Bolton did not have that information.

The Clerk polled the Council on the motion and it failed 2-1 with Mr. Daige voting yes, Mr. Heady no and Mayor Sawnick yes.  
Mayor Sawnick asked Mr. Vitunac if this Resolution could be brought back before the Council at a future meeting.

Mr. Vitunac said this Resolution could be brought back before the Council at their next meeting when there is a full Council present.

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

None

**6. CITY CLERK'S MATTERS**

None

**7. CITY MANAGER'S MATTERS**

**A) Award of RFP No. 170-10/PJW – Unit 5 Heat Recovery Steam Generator Superheater Retrofit**

Mr. Jim Stevens, Power Resources Director, recommended that this project be awarded to Vogt Power International (VPI) for the design, removal, and installation of superheater modules required to meet compliance with American Society of Mechanical Engineers. The project requires an eight month lead time in order to fabricate the superheater modules.

Mayor Sawnick made a motion to approve the Award of RFP No. 170/10/PJW, for Unit 5 Heat Recovery Steam Generator to Vogt Power International. Mr. Daige seconded the motion.

Mr. Daige referred to the proposal schedule and asked for the line cost for 1,2,3,4,5,6 and where it states 15% what does this cover and what does that mean. He also asked that in the future that the City Manager makes sure that staff puts page numbers on the backup material that they receive.

Mr. Stevens explained that at the end of project they need to conduct a steamblow to make sure that all of the contaminants are out of the steam system. So they contracted VPI to do the monitoring of the system because he does not have anyone on his staff that is competent enough to do that. It was an estimate based on previous steamblows that they did.

Mr. Daige asked to complete the entire project, which includes doing some inside work, taking the roof apart, etc., are those costs separate or included in this bid.

Mr. Stevens stated that they are separate costs and they have estimated \$100,000 for the roof work.

Mr. Daige asked if there was any other work that needed to be completed to get this unit up and running. Mr. Stevens answered no. Mr. Daige said then they would be under \$150,000 to do the additional work. Mr. Stevens told him that was correct. Mr. Daige then referred to the firm who was going to do the main work and asked how much bond they posted.

Mr. Stevens said that 125% of the job was posted.

Mr. John O'Brien, Purchasing Manager, explained that standard bonding is 125% and the other issue that they were looking at was when liquidated damages would start. He said that once the project is completed the firm will do the steam blow and that was going to be unrelated to liquidated damages.

Mr. Daige said by approving this item today that the bond is part of the deal.

Mr. O'Brien answered yes. He explained that when the contract is signed, then the necessary insurance will be provided.

Mr. Daige wanted it in the record that according to the testimony of the Purchasing Manager this does include the bond and the monies for the bond.

Mr. O'Brien explained that since they do not know the exact number on the bond in this case the cost of the bond will be given to them and they will reimburse that.

Mr. Daige requested that in the future that this information be provided in their backup material.

Mr. Daige asked how many firms bid on this project.

Mr. Stevens stated that there were two firms and the bid was given to the lowest bidder.

Mr. Daige asked Mr. Stevens if he talked to other generator cities where these people have worked.

Mr. Stevens answered yes. He said that they checked their references.

Mr. Heady asked Mr. Stevens if generally speaking, is Unit 5 an efficient Unit. Mr. Stevens answered yes. He said that it is the Unit that they run most of the time. Mr. Heady asked what is the cost per kWh to produce electric for Unit #5. He asked is it more or less than what they pay for bulk power. Mr. Stevens answered that it is more. Mr. Heady then asked if there was any savings that this \$2 million dollars provides that would be a return on investment or is this just a necessary requirement to keep the equipment running efficiently. Mr. Stevens said that it was a necessary requirement to keep the equipment running efficiently. Mr. Heady then said that the \$2 million dollars doesn't buy them any savings in any way. Mr. Stevens said that it would make the Unit more reliable. He explained that right now they have thermal issues and a lot of the tubes are warped. Mr. Heady asked if they closed Unit 5 down and bought bulk power then the costs in terms of bulk power would be less than operating Unit 5.

Mr. John Lee Acting Electric Utilities Director, commented that the term bulk power is not a term that people like. The power is the total cost for all the power that they bring in to the system. They have a contract with OUC and Unit 2 and Unit 5 are a part of the contract.

Mr. Heady asked if there was a penalty if they don't run Unit 2 and Unit 5. Mr. Lee could not answer that question. He explained that when this system is called to run they run and the City makes money. If they don't run and had to purchase the power then they would have to do a market analysis to see how much more money they would paying. Mr. Heady asked if they could buy power to meet their own load cheaper than they could run Unit 5. Mr. Lee said they could not. Mr. Heady mentioned that they also buy power under the OUC contract and he asked if the cost of that power from OUC is greater than the cost of running Unit 2 and Unit 5. Mr. Lee explained that part of the contract it includes running Unit 2 and Unit 5. There was a brief discussion regarding penalties.

Mr. Daige mentioned that he attended the Utilities Commission meeting when this item was discussed and agreed that it is time to replace this equipment. He said that there are safety issues.

Mayor Sawnick added that if they don't pass this and a hurricane comes, it would be drastic especially if there were not able to run the Units. He was told that is true.

Mr. Stevens commented that Unit 5 and Unit 2 are their most run units. He said these units are run just about every day of the week and they are very dependable units. He said that they did the mechanical and thermal stress studies and the recommendation is to change.

Mr. Heady commented that the Mayor says if a hurricane came through they would not be able to turn this on. He asked aren't they running this Unit right now. He was informed that this information was not accurate.

Mr. Heady noted that there is a meeting scheduled with FP&L and he doesn't know if they want the combined cycles Unit 2 and Unit 5 or not, he guesses that no one else really knows the answer to that question because they haven't discussed this with FP&L. Mayor Sawnick interjected that they would be discussing the meeting with FP&L later on in today's meeting. He referred to the item that they are discussing now and said that whatever happens they have to take care of their City. He told Mr. Heady that his point is well taken and he knows where he is heading with the statement that he just made. Mayor Sawnick said that there has been enough discussion on this item.

The motion died 2-1 with Mr. Heady voting no. Mr. Heady said that he is opposed because the Mayor will not allow further discussion and for him to get answers to his questions.

Mr. Daige understood that this work needed to be done. He requested that there be a Special Call meeting held for the two items that did not pass this morning because a majority of the Council was not present for the meeting.

Mr. Gabbard did not see any problems with waiting until the regularly scheduled meeting.

Mr. Stevens added that if they don't make these repairs in the time frame allotted there are penalties if the Unit is not available.

Mr. Heady asked Mr. Lee if there was any backup for his discussion. Mr. Lee said no, he only saw the information himself for the first time this morning. Mr. Lee said he could lower the rates by 2% in response to Mr. Heady's question.

## **B) Electric Utility Discussion**

Mr. John Lee, Acting Electric Utilities Director, went over some new data basic comparisons for utilities in the State of Florida (on file in the City Clerk's office).

Mr. Daige was not in agreement with Mr. Lee that they cannot go any lower with their utility bills. He expressed that people are struggling to pay their bills and their benchmark is to be close to what customers for FP&L are paying. He knows it will be hard to reach that, but they need to get the utility bills lower. They are all going to have to work together to get the bills lowered.

Mr. Gabbard expressed that they are doing everything that they can. They are very concerned about their customers and do a lot of things that the bigger utilities won't even consider doing in order to help their customers. They recognize that they have to continue to work to cut costs. He will start looking at the different department's budgets tomorrow and will continue to work at dropping these rates.

Mr. Daige reiterated that what he is looking for is more of a reduction and they have to work hard to do that.

Mr. Lee continued with his presentation. He understands Mr. Daige's concerns, but his job is to give Council the facts and there are some tough decisions that have to be made if they want to reach some of their goals.

Mr. Gabbard commented that he was notified a couple of weeks ago that FP&L wished to meet with them. They said that they would come to the City of Vero Beach, but preferred to meet at their headquarters. They said that the meeting would take about two hours and that it was an information session to share some of their thoughts. He said that no negotiations will take place. He was told that FP&L still had not made a decision as to whether or not they were interested in purchasing the system. The meeting will be held this Thursday morning at 9:00 a.m.

Mr. Daige went over the people that will be attending the meeting. He would prefer that they be the only ones at the table at this meeting.

Mr. Gabbard said that is how they planned it. He understands that there was some discussion last week about a County Commissioner wishing to attend the meeting. However they (Mayor, City Manager, City Attorney, Finance Director, and Acting Electric Utilities Director) plan on going as a group from the City.

Mr. Daige would appreciate that the City Manager keep it that way.

Mr. Gabbard said that is the plan.

Mr. Daige expressed that he wanted him to stick with the plan and if it changes he asked that they not go. He understands their plan and who is going and reiterated let's keep it that way.

Mr. Heady commented that the perception in the community is that a couple of other people would be sitting in on the meeting. They are Bill Kenyon and Peter O'Bryan. He thought that they received assurances that they would be allowed to observe.

Mayor Sawnick told him that was not the case.

Mr. Gabbard added that he has had no conversation with anyone regarding that.

Mr. Heady asked if what he was hearing was that there is no knowledge that the people indicated have been invited.

Mr. Gabbard said that he has had no communication with either elected official.

## **8. CITY ATTORNEY'S MATTERS**

None

**9. CITY COUNCIL MATTERS**

**A. Old Business**

- 1. Another Reconsideration of Date for Presentation by Dr. Faherty and Glenn Heran – Requested by Councilmember Heady**
- 2. Still Waiting for Written Answers from City Manager – Requested by Councilmember Heady**
- 3. OUC Contract – Requested by Councilmember Heady**
- 4. 50MM Penalty – Requested by Councilmember Heady**
- 5. November Elections – Requested by Councilmember Heady**
- 6. Debate on Sale of Electric – Requested by Councilmember Heady**
- 7. 8/12/08 to be Played and Discussion to Follow – Requested by Councilmember Heady**
- 8. Ending A Federal Lawsuit – Requested by Councilmember Heady**
- 9. Honest Services Fraud – Requested by Councilmember Heady**
- 10. Golf Course – Requested by Councilmember Heady**

These items were pulled off of the agenda. The motion passed 3-1 with Mr. Heady voting no.

**B. New Business**

- 1. How to Settle a Lawsuit – Requested by Councilmember Heady**
- 2. Water and Sewer Presentation – Requested by Councilmember Heady**

These items were pulled off of the agenda.

**3. Hurricane Preparedness – Requested by Councilmember Daige**

Mr. Gabbard reported that staff is preparing to have their first annual meeting on June 8<sup>th</sup>. They will go over their hurricane plans and there is only one new Department Head Director that has joined the City since the 2004 hurricanes so there are capable veterans that understand the issues. He noted that there are three notebooks that outline their disaster plan (available in the Clerk's office).

Mrs. Vock noted that on their web site [www.covb.org](http://www.covb.org) and on Channel 13 the hurricane video is running periodically. She said that anyone wanting to purchase a copy of the DVD can do so in her office.

Mr. Daige referred to the reports that they are being provided regarding the oil spill. He wanted to know if where it talks about municipal information, that page could be put on their website and on Channel 13. This way in the future people will be able to view these reports on these two different sites. He said there are a number of links that they can go

to. He asked the City Manager to provide a link on their website to the Florida League of Cities Government Task Force (Governor's Gulf Oil Spill Recovery Task Force). This task force was established so that all parties involved receive fair compensation for damages that they may receive as a result of the spill. He said that they need to be prepared and to give their citizens all the information that they need in the event that this area is affected.

Mr. Heady wanted to make sure that he was going through this agenda properly. He asked Mr. Daige if this was something that he just added to the agenda. Mr. Daige referred to his memo, which was the only backup provided on the hurricane preparedness. However, he did add discussion about the oil spill which Mr. Heady said that he did not have a problem with.

## **10. INDIVIDUAL COUNCILMEMBERS' MATTERS**

### **A. Mayor Kevin Sawnick's Matters**

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

Mayor Sawnick attended the Charter High School graduation ceremony, he attended both Amtrak public meetings, the Boardwalk dedication at Pelican Island, the Mayor's beach clean up that was held at Waldo's and reported that the next Coffee with the Council will be held on June 13th at Mulligan's.

Mayor Sawnick added that they are looking into the GoLine bus situation to make sure that this issue is addressed.

### **B. Vice Mayor Sabin Abell's Matters**

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

### **C. Councilmember Tom White's Matters**

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

### **D. Councilmember Brian Heady's Matters**

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

#### **A) FPL and Public Business in the Public Eye**

Mr. Heady felt that it would serve the public well if two people (Chair of the County Commission, Peter O'Bryan and Mayor of Indian River Shores, Bill Kenyon) were allowed to attend the meeting being held with FP&L as observers, but not take part in the discussion.

**B) Liars, Cheats and Thieves**

Mr. Heady stated that he has stood at the podium many times saying that liars, cheats, and thieves should not be in charge of governing agencies and he believes that to be true. That means when you act in your official capacity you should not lie about anything and you should not cheat or steal from the public.

**C) Bad Information = Bad Decisions**

Mr. Heady commented that if they are going to make decisions on anything one thing that they need is good information. He said that when the Mayor continuously cuts off information from being supplied to the public then the only thing that can possibly do is result in bad decisions. It is unfortunate that they have a Mayor who wants to silence the public and silence the Councilmembers, but it is clear that the rest of the Council seems to want to go along with that. He would hope that changes in this calendar year.

**D) Correspondence**

**E. Councilmember Ken Daige's Matters**

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

Mr. Daige read his Committee Report (please see attached).

**10. ADJOURNMENT**

Mayor Sawnick made a motion to adjourn the meeting at 1:36 p.m. Mr. Daige seconded the motion and it passed unanimously.

/tv

**CITY OF VERO BEACH, FLORIDA**  
**JUNE 1, 2010 – 9:30 A.M.**  
**REGULAR CITY COUNCIL MINUTES**  
**CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**1. CALL TO ORDER**

**A. Roll Call**

Mayor Kevin Sawnick, present; Vice Mayor Sabin Abell, excused absence; Councilmember Tom White, present; Councilmember Brian Heady, present and Councilmember Ken Daige, present **Also Present:** James Gabbard, City Manager; Charles Vitunac, City Attorney and Tammy Vock, City Clerk

**B. Invocation**

The invocation was given by Pastor Jerry Shepherd of Twentieth Avenue Church of God.

**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**

Mr. White commented that at their last meeting they were told by the City Attorney that anything that has to do with the lawsuit filed by Mr. Heady must go through the Attorney that the City has hired to represent them. He asked Mr. Vitunac if that was correct.

Mr. Vitunac answered yes. He said that Mr. Brennan (hired attorney) advises against discussing matters that concern the lawsuit.

Mr. White reiterated what is allowed under Old Business, New Business and Councilmember's Matters. He said that under Old Business there are ten items that have no backup material available. He made a motion that items 9A-3), 4, 6, 7, 8, and 9B-1) be removed the agenda. Mr. Daige seconded the motion.

Mr. Daige asked that items 9A-1, 2, 9, 10, and 9B-2) be removed from the agenda. He first asked that under 9B-2) Water and Sewer Presentation if Mr. Heady could discuss this when they are discussing item 4-A), which has to do with the water and sewer rates.

Mayor Sawnick noted that they really did not know what Mr. Heady wanted to discuss (referring to item 9B-2).

Mr. Daige then asked that item 9B-2) also be pulled from the agenda.

Mayor Sawnick read out loud the items that were being pulled off of the agenda.

The motion made by Mr. White and seconded by Mr. Daige passed 3-1 with Mr. Heady voting no.

Mr. Daige made a motion that items 9A-1, 2, 5, 9, 10 and 9B-2) be pulled off of the agenda. Mayor Sawnick seconded the motion and it passed 3-1 with Mr. Heady voting no.

Mayor Sawnick made a motion to adopt the agenda as amended. Mr. White seconded the motion and it passed 3-1 with Mr. Heady voting no.

## **B. Proclamations**

### **1) Proclamation to be presented to John M. Lynn for his 40 years of service to the City of Vero Beach**

Mayor Sawnick presented Mr. John Lynn with a plaque thanking him for his 40 years of service to the City of Vero Beach.

## **C. Public Comment**

### **1) Ms. Nancy Wood, Ms. Toni DeBiase, and Ms. Florence Licata to speak about the Vero Beach Airport**

Ms. Florence Licata commented that their government spends millions of dollars on homeland security when someone wants to fly but then flight training students can fly without any clearance. They are acting like this is 1950 and they need to wake up. She said that Vero Beach is the second largest Airport in the Country. They have 57 flight operations per hour. She said that these students are terrorizing their City. She also had some concerns about these students being able to fly and not required to carry insurance. She then brought up that the Airport Director wants to spend money to build an Industrial Park at the Airport, which would be in direct competition with the people. She then asked does the community even want an Airport. She said that is a good question. She noted that in 2009 something at the Airport changed and there were a lot more flights taking place, which continues today. She met with the Airport officials and asked what has changed and was told nothing. She said that in short their questions were met with hostility. She felt that all of these jets that are flying in this community are impacting their environment. She said that since taxpayers pay Mr. Menger's salary, is he the best person for the job. She felt that the Airport has turned her neighborhood into a war like zone. The impact that it has on their community is devastating. They would like to see not only a vision plan for the Airport spelled out, but also told what the benefits of having the Airport are. She suggested having a referendum item on the ballot in the November election to ask the people of this community if they really want an Airport. She said lets lay the cards out on the table and let the people decide.

Mr. Heady asked the Mayor if he could ask Ms. Licata a couple of questions.

Mayor Sawnick asked the Council if they had a problem with this.

Mr. Daige preferred that all the people speaking from the public get through with their comments before Council starts asking questions.

Mr. Heady told the Mayor that the speaker identified some issues that he thinks are meaningful to her presentation. If they wait until everyone is finished and rehash all of her issues, that in the interest of time, which seems to be of an interest to this Council, that it would be more meaningful and less time consuming if they were allowed to ask the questions at this point.

Mayor Sawnick asked for a show of hands on who from the public would like to speak at today's meeting. There were nine hands that went up.

Ms. Nancy Wood asked to speak and said that this issue (Airport) has been addressed before the Council for the last 15 years and it would be nice to clear it up.

Mr. Daige suggested that anyone speaking on the Airport issue come up and make their presentation and then Council can ask questions. He said if it is the wishes of the people speaking to handle it this way then Council wants to honor their wishes.

Mr. Heady told the Mayor that he still would request to be able to ask questions right after someone speaks. The questions that he has for Ms. Licata might clear up some issues for the rest of the speakers. It seems to him that if the Council is going to proceed in a meaningful way that they should be able to ask questions about the presentation.

Mr. Daige asked the City Attorney if they needed to vote on the matter or could they just move on with the Mayor's recommendation.

Mr. Vitunac explained that the Mayor has made a recommendation and it would have to be challenged and overturned by a majority vote.

Ms. Wood said that she was ready for open dialogue with the Council.

Mr. Heady challenged the Mayor's ruling. The appeal died for lack of a second.

Ms. Tony DeBiase went over with Council a flight schedule that she logged the day after Christmas. She noted that the times were so close together because there were five planes flying overhead. She expressed that she is physically and emotionally destroyed. She showed a slide of Mr. Bennett's bird bath, which is covered with oil that came from airplanes flying overhead. She then brought up that the Airport also wants to cut trees on private property. The trees are the only buffer that keeps the toxin from hurting them. She felt that cutting the trees was all about money. There are no regulations any more. It

all goes to the businesses on how much money they can make. She said that it was outrageous these aircraft goes over a populated community and where does she go for help.

Mr. Heady had some questions for this presenter and he asked the Mayor if he could ask her some questions or does he have to wait.

Mayor Sawnick told him not at this moment.

Ms. Nancy Wood commented that back in 1994 she started coming to the Council meetings to talk about Airport noise and safety. She has served on many Committees and spent a lot of time on this. She said that unfortunately they are still where they were before. She has a solution to solve the problem, which she will be presenting to Council. She explained that FAA owns the air space, but they (City Council) are responsible and liable for Vero Beach. She brought up the newest proposal to spend \$1.6 million for 88 acres for an Industrial Park, which is in direct competition with the tax payers who would have to foot the bill and ultimately find themselves in competition with their own tax dollars. She mentioned that at times the Tower is closed when these flight trainings are taking place. She felt that all the complaints that have been mentioned this morning are valid. A Part 150 Noise Study was completed by the Airport, though it falls short of a Part 161 Study, which would expand the City's ability to explore reasonable strategies for impact mitigation. She would like to know the process and the City's interest to invest in a Part 161 Study given the potential growth in flight operations and their impact on this community (written speech attached to these minutes).

Mayor Sawnick commented that this issue has been going on for some time and there are a lot of things that need to be fixed. He asked that they proceed with public comments.

Ms. Wood felt that in following with proper protocol they would like to see a line item on the Council agenda so that they could continue with this conversation.

Mr. Daige reminded Council that once the presentations have been completed by these speakers that Council could ask questions.

Mayor Sawnick noted that there were roughly about 10 more people requesting to speak and maybe some of those people who are on their lunch break will not be able to. He suggested limiting Council questions to ten minutes.

Mr. Heady objected to the ten minute time limit. He said that if Council has questions then they should be able to ask them. Their job is to be responsive to the people and make sure that the facts are out and on the table. If they have questions then they should be allowed to ask them.

Mr. Heady began his questions with Ms. Licata. He said that Ms. Licata's house is in glide path and asked her what year did she buy her house. Ms. Licata answered 1997. She mentioned that 60% of the students training at Flight Safety are not from this

country. He asked if she had any backup to provide on this. Ms. Licata said that she could probably provide that information. Mr. Heady asked her where did she obtain the 60% number from. Ms. Licata said that it was quoted in the Press Journal. Mr. Heady asked her did she follow up or check with Flight Safety to make sure that this information was accurate. Ms. Licata answered no. Mr. Heady said that his next question was for the Airport Director. He said that Ms. Licata talked about “stall” and he asked him if a stall procedure is done at an altitude where a plane can still recover. Mr. Eric Menger, Airport Director, answered yes. Mr. Heady made it clear that the stall was about lift and not about turning the engine off. Mr. Heady then asked when the crash at Riverside occurred. He was told about 25 years ago. Mr. Heady told Ms. Licata that she said that Mr. Menger’s salary was tax payer funded. He asked Mr. Menger if his salary was paid out of Airport funds. Mr. Menger said that he is paid out of the Airport funds that are Airport revenues. Ms. Licata asked if Mr. Menger was a City employee. Mr. Heady said that is why he asked the question to see where his salary was coming from. Ms. Wood added that the Airport has its own fund that is different from the other entities of the City and that is why they are able to do so many things. Mr. Heady understood that. He just wanted to clear up in his own mind where Mr. Menger’s salary was coming from. Ms. Licata said that it ultimately comes from tax payer’s money. Mr. Heady did not dispute that. He agreed that it was all tax payers’ money. Mr. Heady asked about the \$5,200 study. Ms. Licata said that was mentioned at a Council meeting when Mr. Menger showed a three phase proposal. Mr. Menger made it clear that the \$5,200 came from Airport revenue. Ms. Licata reiterated that it is still tax payer’s money. Mr. Heady agreed that it was all tax payers’ money, but as a Councilmember one of the things that he has to be cautious of is a lot of tax money is categorical and can be only spent in certain areas. As a Councilmember he needs to know where this money is coming from because if it has an impact on the ad valorem tax, he acts one way and if it is coming in from a source that is going to come in anyway then he will act another way. Ms. Licata stated that her point is that they need to display all of the information about the Airport at public disposal so that people in this community can see what revenue is generated, how it is generated, how does it impact their community, how does it benefit their community and whether or not they really want it.

Mr. Heady said that his next questions were for Ms. DeBiase. He asked Ms. DeBiase when she purchased her home. Ms. DeBiase answered in 2000. Mr. Heady asked her to explain her comments about toxic waste being dumped. Ms. DeBiase said it is the fuel coming from the planes. Ms. Licata added that it was not disclosed to her that there was an Airport when she purchased her home in 1997 and the Airport that was there in 1997 is in no way like the Airport that is there now. Mr. Heady asked Mr. Menger if there are any airplanes dropping fuel over the City of Vero Beach. Mr. Menger answered no. Mr. White interjected and said that this is turning into a debate. Mr. Heady corrected him and said that it is not a debate, these are questions.

At this time Mayor Sawnick asked if anyone else from the Council had questions. He was told they had no questions. He gave Mr. Heady a few more minutes for questions and said they would continue on with public comments.

Mr. Heady referred to the oil in the bird bath and said that it is not from dumping toxic waste, it is from exhaust. Mr. Menger thought that was correct. Mr. Heady then asked Mr. Menger if there were any procedures with cutting engines off on a landing. Mr. Menger answered no. Ms. Licata expressed to Mr. Heady that they don't understand all the technology because they are not aviators. They only know that when a plane is coming overhead and the engine sounds like it stops, they hope that it will start again. Ms. DeBiase made it clear that they never mentioned noise one time. She also said it has been proven that there is an increase in cancer for people that live near an Airport.

Mayor Sawnick felt at this time that they needed to move on. Mr. Heady said that he still had some questions for the last speaker. Mayor Sawnick told him that they needed to move on because there are other people wishing to be heard. Mr. Heady said that he hasn't gone ten minutes yet. Mayor Sawnick said that it has been ten minutes. Mayor Sawnick told Ms. Wood that he would get back with her on this matter. Mr. Heady still had questions and he challenged the Mayor's ruling. He has some questions for Ms. Wood that will take two more minutes and it seems ridiculous that the Mayor once again interferes with Councilmembers trying to find answers to legitimate questions. He told the Mayor that he challenges his ruling. There was no second, therefore the appeal died.

Mayor Sawnick said they would continue with public comments.

Mr. Daige noted that Mr. Heady had two more minutes to ask his questions.

Mr. White suggested holding a Town Hall meeting to discuss this matter.

Ms. Wood commented that has already been done and do they want to do it again.

Mr. White explained that it would be a way to hear from the rest of the public. They could start looking into a Part 161 Study and the Airport Director would be better prepared.

Ms. Wood asked Council if they would have the availability of the resources that Mr. Menger has. She asked could they put together Power Point presentations and hold meetings in the Chambers. Mr. White told her yes. She said so what they are saying is that they can use the resources that the City has and Mr. Menger will leave his doors open to answer their questions and be polite and forth coming.

Mr. Heady noted that Ms. Wood feels that the solution would be to have a Part 161 Study done. He asked her if she knew what that would cost. Ms. Wood was guessing probably around \$350,000. Mr. Heady also mentioned that Ms. Wood said that there was an answering machine hooked up to handle noise complaints, but it only allowed ten calls. Ms. Wood said that was correct. She said that Mr. Menger was responsible for checking the messages and clearing the machine. A question was asked about what time the Tower closes at night. Mr. Menger stated that the Tower closes at 9:00 p.m. every night. Mr. Heady asked if after the Tower closes is most of Flight Safety's training done before 9:00 p.m. Mr. Menger said that most of it is completed. He said that night training is required

in order for someone to get their Pilot's License. Mr. Heady asked Ms. Wood to provide him with documents of complaints from the 1970's. Ms. Wood said that she would. Mr. Heady asked how Flight Safety is an economic benefit to the community. Mr. Menger explained that there was a study done in 2010 showing that Flight Safety is bringing in over \$300 million per year and will be creating approximately 4,000 jobs. Mr. Heady commented that there was an allocation that Flight Safety was training a percentage of students from particular areas. Mr. Menger explained that all students are cleared through Homeland Security. However, this is not under his jurisdiction.

Mr. White recalled that some years back Flight Safety invited the Council to tour their facilities and showed them the chip that each student has, which covers their background, finger prints, and all the things necessary for security. He said that Flight Safety has their own security that they do on the pilots.

Mr. Daige expressed the concerns that he has regarding safety. He said that if there is a safety problem then it needs to be fixed. He agreed with having a Special Call meeting or Town Hall meeting to discuss this item further. They would handle the meeting like they handle some of their visioning plan meetings.

Mayor Sawnick noted that there were more speakers wishing to be heard and wondered if they should enforce the three minute speaking rule. Mr. Heady had a problem with doing that and Mr. Daige did also. Mr. Daige said that he was not in favor of it because they did not do it in the beginning of the meeting.

Mayor Sawnick asked the public to try to keep their comments to three minutes.

Mr. Heady had a problem with restricting anyone from speaking. Mr. Wood stood up and said that only residents who live here all year long should be allowed to speak. Mr. Heady said it doesn't matter whether they live here all year long or not.

Mr. Daige added it would be okay if three minutes had been enforced at the beginning.

Ms. Lee Skinner, John's Island and Rosewood Road, Sebastian River, requested to speak. She was here today to share with the Council that they were not alone. She said that the County Commission also has a problem. This is a problem that is all over the southern Florida area. She said that FAA has not been available at all for the last three years. She said that Flight Safety and some of the other training schools started coming into the Sebastian Airport about three years ago and her home was never invaded like that before. When she talked to the Sebastian City Council she didn't get anywhere. They are calling this their "economic engine." She talked to the Mayor of Sebastian who asked her what do you want me to do, have the planes fly over my home. She said at her home it sounds like a Pearl Harbor movie. She could give them some statics of how many planes fly over her house for a certain time period (similar to what Ms. DeBiase gave) She felt that this is a dialogue that needs to take place possibly over the four counties on the Treasure Coast. She suggested working with the four Treasure Coast counties in putting a training facility that would not be flying over children, elderly people, and families.

Mr. Robert Losey commented that his son in law is an Air Traffic Controller in Jacksonville and has a pilot's license, but Air Traffic Controllers are not required to have one. He has been in this community for 15 years and it is a wonderful town. He has a problem with bicyclist riding down A-1-A and that many of them are defiant. He mentioned that the "old money" runs this town. He also had some concerns with Florida not requiring people to wear helmets when riding motorcycles.

Mrs. Linda Hillman (read a prepared speech that is attached to the minutes) complimented the City workers on the sidewalk project that they are doing on Royal Palm Pointe and Royal Palm Boulevard. She then referred to an article that was in the Press Journal on Saturday. She said that the article was entitled "Neighborhoods may get speed limit cut." She thought finally, because it has been over two years since she started working with the City Council and other City departments to get this done. She was disappointed because the article talked about the beachside neighborhoods. Since Sept 9, 2009 it has been one of their neighborhoods goals to reduce the cut through traffic and also reduce the speed limit to 25 mph. They have not approached Council lately because they knew how many other issues that they have been dealing with. However, they have waited long enough. She pleaded with Council to get the signs made, get them up and have the Police Department enforce the speed limit. This is something that has been approved and should have been done within a month of being approved. Mrs. Hillman moved on to the issue of the Go-Line Bus Hub in Original Town. She knows that the property the buses are picking up and dropping off is County property. But, she also knows that it is within the City limits. This should not be put in the lap of the neighborhood to remove. She said that the neighborhood has no privacy. They have people walking through the neighborhood to catch the buses, or to walk to wherever they are going. There are also port-o-lets near the bus stop. She has received calls from neighbors about the trash lying around. They do not need, nor do they want a bus terminal in their neighborhood. She pleaded with the Council to help them in removing this bus terminal. It has taken them a long time for the people in this neighborhood to fight for what they have and this does not make any of them happy. She then commented that she has sat in this audience for three years and is embarrassed for the sitting Council when they have to listen to the words liars, cheats and thieves. She thinks that it is disgusting. The citizens and tax payers of Vero Beach are being cheated out of their rights to bring forth other issues to this Council which may not include "electric issues." This Councilman (referring to Mr. Heady) is grandstanding everything and everyone by consistently bringing up the same things at every meeting. She then read the definition of grandstanding. She has done her homework and has found several cities that have speaking limits, not only for the audience, but for City Councilmembers where five minutes is the limit. The Mayor has the right to do the ruling on how long the City Council is allowed to speak. She then asked the City Attorney does the State of Florida or the City of Vero Beach have a law or procedure that allows the recall of an elected Councilmember. She said if so, what is the procedure and who would she contact to start the procedure. She wishes to petition a recall on Councilmember Brian Heady. She said that she would call the Mayor.

Mayor Sawnick said to not call him.

Mr. Vitunac explained that recalls are handled by State law. He suggested calling the Supervisor of Elections for further information and hiring her own attorney to handle this. Mr. Joseph Guffanti was happy that he did call Vero Beach is home town. He said that the answers to the problems mentioned by Ms. Woods should have been addressed a long time ago and will be addressed in November.

Mr. Ken Bennett commented that he has been in Vero Beach for 30 years and there are some days that these planes fly over his house and there is a problem. He mentioned the last plane crashes that have occurred. He thought that flight training should take place West of I-95 and that the planes should be required to have insurance. He commented that the citizens of this community may look at putting this on the ballot as a referendum item to find out if the community wants an Airport.

Ms. Dorothy Napp supported Mrs. Hillman's comments about changes in their neighborhood since the busses started coming through. She said there is more trash in their neighborhood than she has ever seen. She doesn't know whose job it is to pick up the trash, but it is not being done. She even saw a man trying to break into cars that were in the parking lot near the bus terminal.

Mr. Daige brought up the Go-Line buses and said that what he is hearing today is the neighbors don't like what is going on in their neighborhood. He said that Council will find out why this area is not being patrolled. They (the neighbors) don't have to fight the County, we (the City) will take care of it. He promised the residents of the neighborhood that they would have an answer by the next meeting. There will be more patrolling in the area done and the port-o-lets would be taken care of. He knows that the City Manager is on board to do everything he can to get this resolved. He also said that they will work on getting the speed limit dropped. These are things that can be taken care of immediately. He asked the City Manager if that was correct. Mr. Gabbard answered yes.

Mr. White asked if the bus stop was on County or City property.

Mr. Gabbard explained that it is on the East side of the parking lot where the old County Administration building used to be. He was advised about ten days ago that the port-o-lets were there and he was told that it was a temporary solution to the problem. He mentioned that there was a proposal to have a bus terminal out West where the Supervisor of Election's office is located. He feels that they should move the whole transfer station out West. However, he doesn't know what the County's thoughts are on that. He said that the crime and trash issues will be addressed and he will call each City Councilmember personally and tell them what they are doing.

Mr. Daige told the audience who were concerned with this matter that the situation you have there will be taken care of now.

Mr. Bob Walsh mentioned that they ended up with a 68 page contract from OUC that was not even voted on. When Mr. Heady asked to see the original contract it was discovered that it had been in Boston for the last two years and when it was returned no one could prove that it was the original contract. It disturbs him that former City Manager John Little and former Mayor David Gregg were not allowed to help with the negotiations between the City and FP&L. He said that someone has their own agenda.

Mrs. Pilar Turner, Vice President of the Taxpayer's Association, made the following requests on behalf of the Board and members of the Taxpayer's Association, (prepared statement attached to the minutes): 1) That the City Council support Mayor Sawnick's initiative to hire an efficiency expert to conduct an honest assessment of City Departments where money can be saved to avoid the transfer of funds from the utilities to the General Fund, 2) City Council respond to Mayor Sawnick's request that each of them present five suggestions for reducing the budget at the next Council meeting 3) City Council vote to phase in zero-based budgeting for all departments; 4) City Council be proactive in encouraging the out-sourcing of some City services to reduce costs to taxpayers 5) That the City's health insurance premiums and retirement benefits be adjusted to be in line with the private sector 6) City Council adopt an across the board salary freeze until the City becomes more financially stable 7) City Council make it their priority to reduce the City electric rates and consider all options in order to achieve this 8) City Council allow the Finance Commission to review the City's annual budget and make recommendations 9) City Council develop a plan to allow public input during the budget hearing process; 10) City Council adopt a pro-taxpayer position and less of the pro-employee and pro-status quo attitude when dealing with public funds and 11) The City Council be proactive in achieving transparency in all aspects of City finances.

Mr. Stuart Kennedy commended staff and the departments involved in the successful Memorial Day service that was held yesterday at Memorial Island. He referred to item 4-A) on the agenda and was not clear as to why they no longer were having these rate increases. Mayor Sawnick told him that this item is on the agenda and the Water and Sewer Director will be explaining it. He then asked the Council if they were comfortable that they have been provided with enough revenue over the next couple of years to cover the increase proposed by the consultants. He wondered why the improvements were ever approved in the first place if they are no longer required. He also wondered if this has anything to do with the on-going discussions with the County and Indian River Shores. He then said that he is sad by the way that this Council seems to be operating. He doesn't think that they are all singing off the same hymn sheet. All of them are elected by the people and he wished that they would get their act together and look after the interest of the public and have the public's interest in mind. If they have arguments on how things should be done, he asked that they be discussed outside of the Council Chambers. He said that it doesn't look good when it is done publically. If people are asking questions and not getting the answers then the thought that comes to mind is why the answers aren't forthcoming.

Mr. White wanted to let Mr. Kennedy know that back when the rate increases were approved by the consultants, the Council voted 4-1 to approve the rates and he voted

against it. He said after working with staff they were able to reduce the rate increase by half and then after looking over the budget and doing away with some capital items they were able to cut the budget so that there would not be a rate increase on October 1<sup>st</sup>. He said that is the reason they need to stop this Resolution because it would automatically kick into place if they did not repeal it. He said that they have been working diligently to get the rates decreased.

Mr. M.J. Wicker was at today's meeting hoping to hear something about the golf course. He said that he has not heard anything from Mr. Gabbard. He talked to Mr. Joe Baird, County Administrator, who believed that they were talking about a very small piece of pie. Mr. Wicker said that he sees a great opportunity with this golf course. He said that it would be nice to have someone get started on a proposal for the golf course and put it back to the way that it was. He would also want people to be able to play on the golf course at a reasonable rate. He said time is of the essence because it would be nice to have it open before the season starts.

Mr. Gabbard stated that the last conversation he had with the County was on Wednesday. He said there are other entities that they have to work with on this piece of property. They want to make sure that everyone involved knows what the contract entails before they sign it. He said that the County has arranged a meeting with MILB to work out some sort of agreement. He cannot make this thing move any faster than it is moving.

Mr. White felt that Mr. Wicker needs to be talking to Mr. Gabbard about this.

Mr. Wicker stated that Mr. Gabbard told him that the property would be leased for one dollar a month. He said right now it is costing the City money to keep the property maintained and having it off of the tax rolls. He doesn't believe that this is as complicated as Mr. Gabbard makes it out to be.

Mr. Gabbard told Mr. Wicker that there are other people interested in the golf course other than him. The City Council has to consider what the proposals are and then decide what to do with the land, if anything at all.

Mr. Daige recalled that he has requested a Special Call meeting on the golf course where they can have all of the facts in front of them. He also went back to when Mr. Kennedy was speaking and wanted it made clear that he was against any rate increases. He keeps asking staff to get rates down for both the water and sewer and the electric.

Mrs. Barbara Drndak, Chairman of the Airport Commission, commented that she was sorry that the Airport issue was coming up again. She said that they can reeducate the public to know what happens in terms of revenue diversion. She said that none of the money by Federal law, can go into the general fund. The health of the Airport is important to the City. If the Airport can't pay for itself then it does go back to the City to take care of it. She would be happy to participate in a Special Call meeting to go in depth about this and is available to help.

Council took a five-minute break at 11:34 a.m.

Mr. White excused himself from the meeting at 11:34 a.m.

After the meeting was called back to order, Mr. Daige requested that they take a lunch break and reconvene the meeting once Mr. White returns.

Mrs. Vock noted that Mr. White had a speaking engagement with the Rotary Club. The City Attorney said all three remaining Councilmembers would have to be in agreement to pass anything.

Mayor Sawnick said that he has a Mayor's meeting at 2:00 p.m. and would like to continue with the meeting. He made it clear that to pass anything it would take a 3-0 vote.

#### **D. Adoption of Consent Agenda**

##### **1. Regular City Council Minutes – May 18, 2010**

Mr. Heady had some corrections that he wanted made to the May 18, 2010 minutes. He asked that this item be pulled off of the agenda and put back on their next agenda for approval. In the meantime he would get with the Clerk on what changes that he would like to see made to the minutes.

##### **3. PUBLIC HEARINGS**

- A) An Ordinance of the City of Vero Beach, Florida, instituting a one hundred eighty (180) day moratorium on the issuance of development orders to establish "Pain Clinics" or "Pain Management Clinics" within the City of Vero Beach to allow time for the City staff to further review regulatory options and formulate and adopt regulations for these Clinics; providing for severability; and providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. Vitunac explained that this Ordinance, if adopted, would provide for a six month moratorium and would not allow any permits to be issued by the City for any new pain clinics. It is his recommendation that Council passes this Ordinance and then by October 1<sup>st</sup> the State will have adopted the new law concerning pain clinics.

Mayor Sawnick opened and closed the public hearing at 11:49 a.m., with no one wishing to be heard.

Mr. Heady had some questions before they opened and closed the public hearing, but was ignored by the Mayor. He continued by referring to the Doctor that attended their last

meeting concerning the pain clinics. He asked Mr. Vitunac if he received any input from the Doctor concerning this Ordinance.

Mr. Vitunac explained that he corresponded with the Doctor via email. The Doctor had some recommendations for a comprehensive regulatory scheme for pain clinics at the City level. He explained to him that what they have is a simple moratorium that needs to be passed in order to stop any new pain clinics from coming into the area. The Doctor's issue is whether you would want local regulations, in addition to the State regulations, that will go into effect on October 1<sup>st</sup>. Mr. Vitunac's recommendation is that they don't need it. He said that by the time this moratorium expires the State regulations will be in effect, which will cover them.

Mayor Sawnick commented that this Ordinance helps them now and the State Ordinance goes into effect before the moratorium ends.

Mr. Heady stated any pain clinics that have pulled a permit that continues to expand their operation is not restricted by this moratorium except to the extent that is outlined in the moratorium. Mr. Vitunac said that is correct. Mr. Heady continued and said that if they had included what the Doctor asked for in this moratorium that would further restrict anyone from expansion that currently has a license. Mr. Vitunac did not agree. He said if this Ordinance passes, the City will not issue any more permits for any pain clinics and that includes expansions. What it does not do is take present medical offices that are existing and shut them down. However, they will be shut down if they violate the State law. The new State law allows the State Inspector to inspect pain clinic records without needing a subpoena. Mr. Heady noted that Mr. Daige raised some issues at the last meeting and he asked for a temporary 30 day provision, which Council approved. That 30 day provision was to put everything on hold until this 180 day moratorium passed. Once this Ordinance passes the organization which Mr. Daige was concerned about, will be limited not by a 30 day hold rather by the provisions of this Ordinance. Mr. Vitunac stated that in effect they have the 30 day hold and this moratorium is in effect at the same time.

Mayor Sawnick made a motion to adopt the Ordinance. Mr. Daige seconded the motion.

Mr. Daige commented that it was his understanding that this moratorium that they put into place will have no effect on the existing pain management clinic that is under operation now because they have been given the okay to proceed. He referred to the paperwork provided by the Planning Director after their last meeting. He said that this information was not told to them at the first meeting when pain clinics were brought up. He said that what he would like to do and will be bringing this back to Council, is with change of use/code compliance certificates, he wants Council to look at them first. This way if something like this comes up again, Council will see it will be the approving body and not the Planning Director. He is not happy with the way this has played out so he wants to eliminate any future problems.

Mayor Sawnick agreed with Mr. Daige's suggestions.

Mr. Heady stated that the document provided to them by the Planning Director demonstrates some of these things that were issued after their City Council meeting, which was pretty clear from the Council at that point that they did not want to see this happen. A couple of concerns he has is when they discussed this there was something already in the works and staff had an obligation to tell them at that meeting. Then after they had that meeting, the direction at that point from the Council to staff was that they wanted a moratorium Ordinance to stop this from happening within the City. Then a license was issued after that meeting which is a major concern to him. He asked Mr. Vitunac with the Ordinance they have before them could they incorporate in the Ordinance any restrictions and State regulations that the State is now considering. Mr. Vitunac felt that would require a new Ordinance. He said that this gives them a six month moratorium and protects them until October and gives them time to come back with a local Ordinance if they decide one is needed, which would be from June until October.

Mr. Heady referred to the pain clinic that was allowed to come into the City and said that since this clinic hasn't actually opened their doors for business, aren't they covered by any Ordinance that Council approves today.

Mr. Vitunac explained that is when vested rights issues and private property rights come into play. He said at a certain point when someone has gone through the process they have the right to continue it.

Mr. Heady asked if there was anything in this Ordinance that restricts private property rights. Mr. Vitunac answered no. Mr. Heady said if they include in this Ordinance the future State regulations, is that an infringement on their property rights. Mr. Vitunac explained that was not noticed in this Ordinance when it was published for a public hearing, so they could not amend the moratorium Ordinance to adopt an entire scheme of regulations adopted by the State that is about sixty pages long.

Mayor Sawnick made it clear that if they don't pass this Ordinance then the 30 day moratorium will end and pain clinics will be allowed after the 30 day period has passed. He said that Council needed to pass this Ordinance now so that the emergency moratorium does not end. If they wish to pass something that the State has done, which will take effect in October, they can come back and do that.

Mr. Heady said that he did not finish with his questions. He referred to Mr. Vitunac's answer to his question before the Mayor interrupted and that was that the Ordinance could not be changed at this point. He said that the intent of the Ordinance is pretty clear and just incorporating the future State regulations does not change the intent of this Ordinance so he could not understand why that would be a major change.

Mayor Sawnick said that he has not seen the regulations that the State intends to impose.

Mr. Vitunac explained that the published notice does not say that they were considering adopting the State law concerning the pain clinics. He said if Council wishes to do this then they can start it at their next meeting and it could be done quickly.

Mr. Wayne Coment, Assistant City Attorney, added that the moratorium Ordinance is a land use moratorium. He said that the State regulations is a business regulation. He said that these are two different types of things.

Mr. Daige commented that to apply for the business tax you have to have either a County license or a State license. He asked Mr. Coment in the paperwork provided to them by Mr. McGarry it asks for a driver's license number, federal ID number or social security number. He asked why this individual was allowed not to fill those in.

Mr. Hank Flores, Current Planning Manager, explained that he only approved the change of use from professional office to business. He said as far as the business tax it was handled by Mr. McGarry. He said that if the social security number was on the application then it would have been covered. He would need to check with staff on this.

Mr. Daige could not understand why the federal id # and driver's license number was not made available.

Mr. Gabbard also did not know, but said that he would find out.

Mr. Daige then asked since it is not there, will they require it to be in the paper work.

Mr. Gabbard said that it is required and maybe the information was deleted because of it being personal information.

Mr. Heady said that if there is a redaction then shouldn't the document show a redaction. He said Council should know whether a document has been redacted or not. He said if it is a requirement for the permit and these items have not been filled out then the permit is not valid.

Mr. Gabbard will look into this and report back to Council and give them something in writing.

Mr. Vitunac added that an applicant has to give the essential information required by law. He does not know why this information is not filled out, but they will look into this.

Mr. Daige was in favor of moving the Ordinance through. He said that it was important for the safety of their community to approve it as it stands now. The questions that he has he will follow up with the City Manager and the City Attorney to get his answers and report back to the Council.

Mayor Sawnick called the question to adopt the Ordinance and made it clear that in order for the Ordinance to pass that there must be a 3-0 vote. Mr. Heady objected. Mayor Sawnick asked the Clerk to call the roll.

The Clerk polled the Council on the motion to adopt the Ordinance and it passed 3-0 with Mr. Daige voting yes, Mr. Heady yes, and Mayor Sawnick yes.

#### **4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING**

**A) A Resolution of the City of Vero Beach, Florida, repealing the rate increases for fiscal year 2010, 2011, 2012, and 2013 Water and Sewer as described in Attachment "A" and "B" of Resolution 2009-31; providing for an effective date.**

Mayor Sawnick read the Resolution by title only.

Mr. Rob Bolton, Water and Sewer Director, reported that this Resolution was to repeal the future increases that were originally adopted. Since the adoption of the Resolution, they have been working to try and lower the water and sewer rates. The problem is that the increases approved sometime back were still on the books. He became aware of this about three weeks ago and asked Mr. Vitunac to look at repealing this. He noted that the reason they were able to repeal the Resolution was because they have worked through and restructured their capital improvements program. They have delayed some of their projects, which he went over, because of timing issues. He said they also have decreased their expenditures for operating by cutting back on personnel.

Mayor Sawnick appreciated their hard work and thanked them for reducing costs. He said that if anything comes up then they would bring it back to Council and if agreed they could adjust the rates as they go. This is for the time being and if something comes up that needs to be changed then they can bring it back to Council. One thing they don't want to see in 2013-2014 is that they have to raise their rates, because these rates were not imposed. He explained that they need to look forward five and ten years down the road so that if they do have to have an increase they can do it gradually and not in one big hit.

Mr. Bolton said that he was trying to work on the budget so that they are saving up funds, stabilizing their rates and predicting their capital improvements over the next four or five years so they would not have the rollercoaster type of effect as far as rate increases.

Mr. Daige made a motion to pass the Resolution repealing the rate increases for fiscal year 2010, 2011, 2012, and 2013 Water and Sewer as described in Attachments A and B of Resolution 2009-39. Mayor Sawnick seconded the motion.

Mr. Daige said that he has been working with the City Manager who has been working with staff and they have done a good job in getting these rates reduced. He said that he told the City Manager that the rates need to continue to come down. He said that he is

also working on the electric side. He said that staff and Council have been working hard on reducing costs and they are going to continue to reduce costs.

Mr. Heady asked are the capital improvements that are delayed to 2013-2014 necessary for the system.

Mr. Bolton answered yes. He said it appears that some of the lime softening costs were getting to a breakeven point. The lime softening has more maintenance requirements. So it would be a good time to look at doing a shift in the equipment and put in another RO Train. As employees leave and retire they won't need to fill those positions, which would lower their staff levels even more.

Mr. Heady asked in looking out over a five year term, do you think the decrease is stable that they could operate with the decrease in personnel.

Mr. Bolton answered yes. He said that in April he cut out a lot of vacant positions and there are some retirement positions this year that they would not fill.

Mr. Heady said that they decreased operating personnel that was a cost to the City. Those were the ones that he was concerned about.

Mr. Bolton said that they restructured some of the Plant ratings and doing some SCADA improvements. As they do some of the improvements, they should be able to reduce staff.

Mr. Heady said there was a typical 90-day cash requirement for a loan or bond issue and the usual is 45 days. He asked what they have today.

Mr. Bolton said that he would need to ask the Finance Director. He said that it has been fluctuating because they have been paying for the capital improvements for the loan prior to getting reimbursed. Therefore, until they complete the projects for the SRF Fund, it fluctuates.

Mr. Heady asked it fluctuates from what to what.

Mr. Bolton said it could be zero and it could be \$500,000 one month.

Mr. Heady said recently they had on hand cash requirements to where they had nothing left. He said there was a speaker who mentioned the cost of the rate consultant and he had some cost reporting at \$65,000 and one was \$200,000. He asked what the cost of that rate study was.

Mr. Bolton answered about \$40,000 for the water and sewer side. He thought that the total for both the water and sewer and the electric was about \$80,000.

Mr. Heady asked when a consultant does a study like this, do they break out the components. He asked is there something that he could go back and look at to see what the water and sewer component was as opposed to the electric component.

Mr. Bolton answered yes. He said that there were three work orders. One was for the Water and Sewer Rate Study, one was for the Deep Injection Well and he was not sure what the third work order was for.

Mr. Heady said in the component portion of the revenue repealing the increases will it decrease the projected income. He asked Mr. Bolton what percentage is County, what percentage is City and what percentage is Indian River Shores in the Water and Sewer customer receipts.

Mr. Bolton asked what does that have to do with this Resolution.

Mr. Heady asked are you reducing rate increases.

Mr. Bolton answered yes. He was not sure of Mr. Heady's question.

Mr. Heady explained that he wanted to know what the component parts of the City, Indian River Shores and Indian River County were.

Mr. Bolton thought that it was around 38% outside City usage.

Mr. Heady asked do the accounts correspond to the income and do they represent a larger portion of the income because they are bigger users.

Mr. Bolton answered no.

Mr. Heady said they were are starting at the County and Indian River Shores leaving the City as early as 2016.

Mr. Bolton said that no one has told him that.

Mr. Heady asked in the current agreements between Indian River Shores and the County, isn't there an exit provision.

Mr. Bolton answered yes.

Mr. Heady asked what year is the exit provision.

Mr. Bolton answered 2017.

Mr. Heady asked if he was to vote to repeal the rate increases that it would clearly be a politically popular thing for him to do. He said that his question with regards to delay on the capital improvements, the answer is that they are necessary improvements. If he

approved repealing the increases, but these are necessary requirements, what he is going to do is offload the payment for those by 38% and increase the City's taxpayers' burden after 2017.

Mr. Bolton answered no, because they were working off of cash. They were not borrowing any money. He said that they were going to build cash and have a balanced budget in 2013. They were going to build the improvements with cash.

Mr. Heady said that they would have 38% less cash.

Mr. Bolton said in the year 2016 – 2017 if they were to exit.

Mr. Heady commented that if they decrease that income, but the expenditures were going to be necessary in the future, then he was going to really transfer the burden to pay for those improvements from the income the City would have received from outside City residents to City residents later on.

Mr. Bolton answered no. He explained that the improvements would be done in 2013 and 2014, which would be done through the current rates.

Mayor Sawnick said the capital improvements would be done before anyone exits the agreement.

Mr. Daige said playing it forward it is going to work. He said that they would not be doing this if it was not going to work and was going to impact the City's ratepayers down the road. He said that they need to do something now for their ratepayers. He said that they can do this and it will not hurt the system. He said that they need to do this reduction. He asked that Council please pass this Resolution.

Mr. Heady commented that the 2013-2014 improvements would be paid for in that year.

Mr. Bolton said that he did not state all in one year. He explained that they would be building up cash over the next few years to pay for the improvements. In other words, they would be creating a sinking fund for those improvements.

Mr. Heady asked do you anticipate loans on the improvements.

Mr. Bolton said that they would be using cash to pay for the projects.

Mr. Heady asked, total cash with no loans at all.

Mr. Bolton answered yes.

Mr. Heady asked how the 90-day cash requirement came into play as a consideration.

Mr. Bolton answered because they were looking at borrowing money for this year and next year to cover these capital projects and those projects have been delayed.

Mr. Heady asked what is the total debt for the water and sewer department right now for the City taxpayers.

Mr. Bolton thought that there was a Bond Issue in the amount of \$14 million dollars. He said that they also have the SRF loan.

Mr. Heady asked what is the yearly debt service.

Mr. Bolton thought that there was about \$1.46 million dollar on the \$14 million dollar loan and it was about \$560,000 next year on the SRF loan.

Mr. Heady asked what is the total yearly loss in income with the rate decrease.

Mr. Bolton said that they were not decreasing anything.

Mr. Heady said the Resolution before them was to repeal the rate increases. He asked what is the dollar amount, per year, that those increases would yield to the City.

Mr. Bolton said next year's increases that were proposed was seven and one half percent on the water side and nine and one half percent on the sewer side.

Mr. Heady asked how many years are left on the \$14 million dollar debt.

Mr. Bolton answered that the debt would go to the year 2022.

Mr. Heady asked how many years are left on the \$10.5 million dollar debt.

Mr. Bolton answered until year 2030.

Mayor Sawnick felt that Mr. Bolton was doing a good job in answering these questions without having the information in front of him. He was sorry that they didn't have these questions before hand.

Mr. Heady said there was a study that showed that the City needed these increases, but there was a comprehensive report that shows that they don't need these increases.

Mr. Bolton reported that he spoke with the consultant and they ran through some of their numbers, which showed that next year would have reduced the nine and one half percent to seven percent. He said that this still had the assumption that they were working with the cash requirements of 90 days and they did not have the decrease in salaries. He said that it also has assumptions that last year they had a zero percent increase in salaries, but they actually had a five percent decrease in costs because they were working off of furlough days.

Mr. Heady said that no employee, other than furlough days, took a decrease in their salary. The reduction in salaries was a reduction because of a decrease in personnel.

Mr. Bolton said there is a five percent decrease in salary because of the furlough days.

Mr. Heady asked what is the five percent in dollars.

Mr. Bolton did not have that information.

The Clerk polled the Council on the motion and it failed 2-1 with Mr. Daige voting yes, Mr. Heady no and Mayor Sawnick yes.  
Mayor Sawnick asked Mr. Vitunac if this Resolution could be brought back before the Council at a future meeting.

Mr. Vitunac said this Resolution could be brought back before the Council at their next meeting when there is a full Council present.

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

None

**6. CITY CLERK'S MATTERS**

None

**7. CITY MANAGER'S MATTERS**

**A) Award of RFP No. 170-10/PJW – Unit 5 Heat Recovery Steam Generator Superheater Retrofit**

Mr. Jim Stevens, Power Resources Director, recommended that this project be awarded to Vogt Power International (VPI) for the design, removal, and installation of superheater modules required to meet compliance with American Society of Mechanical Engineers. The project requires an eight month lead time in order to fabricate the superheater modules.

Mayor Sawnick made a motion to approve the Award of RFP No. 170/10/PJW, for Unit 5 Heat Recovery Steam Generator to Vogt Power International. Mr. Daige seconded the motion.

Mr. Daige referred to the proposal schedule and asked for the line cost for 1,2,3,4,5,6 and where it states 15% what does this cover and what does that mean. He also asked that in the future that the City Manager makes sure that staff puts page numbers on the backup material that they receive.

Mr. Stevens explained that at the end of project they need to conduct a steamblow to make sure that all of the contaminants are out of the steam system. So they contracted VPI to do the monitoring of the system because he does not have anyone on his staff that is competent enough to do that. It was an estimate based on previous steamblows that they did.

Mr. Daige asked to complete the entire project, which includes doing some inside work, taking the roof apart, etc., are those costs separate or included in this bid.

Mr. Stevens stated that they are separate costs and they have estimated \$100,000 for the roof work.

Mr. Daige asked if there was any other work that needed to be completed to get this unit up and running. Mr. Stevens answered no. Mr. Daige said then they would be under \$150,000 to do the additional work. Mr. Stevens told him that was correct. Mr. Daige then referred to the firm who was going to do the main work and asked how much bond they posted.

Mr. Stevens said that 125% of the job was posted.

Mr. John O'Brien, Purchasing Manager, explained that standard bonding is 125% and the other issue that they were looking at was when liquidated damages would start. He said that once the project is completed the firm will do the steam blow and that was going to be unrelated to liquidated damages.

Mr. Daige said by approving this item today that the bond is part of the deal.

Mr. O'Brien answered yes. He explained that when the contract is signed, then the necessary insurance will be provided.

Mr. Daige wanted it in the record that according to the testimony of the Purchasing Manager this does include the bond and the monies for the bond.

Mr. O'Brien explained that since they do not know the exact number on the bond in this case the cost of the bond will be given to them and they will reimburse that.

Mr. Daige requested that in the future that this information be provided in their backup material.

Mr. Daige asked how many firms bid on this project.

Mr. Stevens stated that there were two firms and the bid was given to the lowest bidder.

Mr. Daige asked Mr. Stevens if he talked to other generator cities where these people have worked.

Mr. Stevens answered yes. He said that they checked their references.

Mr. Heady asked Mr. Stevens if generally speaking, is Unit 5 an efficient Unit. Mr. Stevens answered yes. He said that it is the Unit that they run most of the time. Mr. Heady asked what is the cost per kWh to produce electric for Unit #5. He asked is it more or less than what they pay for bulk power. Mr. Stevens answered that it is more. Mr. Heady then asked if there was any savings that this \$2 million dollars provides that would be a return on investment or is this just a necessary requirement to keep the equipment running efficiently. Mr. Stevens said that it was a necessary requirement to keep the equipment running efficiently. Mr. Heady then said that the \$2 million dollars doesn't buy them any savings in any way. Mr. Stevens said that it would make the Unit more reliable. He explained that right now they have thermal issues and a lot of the tubes are warped. Mr. Heady asked if they closed Unit 5 down and bought bulk power then the costs in terms of bulk power would be less than operating Unit 5.

Mr. John Lee Acting Electric Utilities Director, commented that the term bulk power is not a term that people like. The power is the total cost for all the power that they bring in to the system. They have a contract with OUC and Unit 2 and Unit 5 are a part of the contract.

Mr. Heady asked if there was a penalty if they don't run Unit 2 and Unit 5. Mr. Lee could not answer that question. He explained that when this system is called to run they run and the City makes money. If they don't run and had to purchase the power then they would have to do a market analysis to see how much more money they would paying. Mr. Heady asked if they could buy power to meet their own load cheaper than they could run Unit 5. Mr. Lee said they could not. Mr. Heady mentioned that they also buy power under the OUC contract and he asked if the cost of that power from OUC is greater than the cost of running Unit 2 and Unit 5. Mr. Lee explained that part of the contract it includes running Unit 2 and Unit 5. There was a brief discussion regarding penalties.

Mr. Daige mentioned that he attended the Utilities Commission meeting when this item was discussed and agreed that it is time to replace this equipment. He said that there are safety issues.

Mayor Sawnick added that if they don't pass this and a hurricane comes, it would be drastic especially if there were not able to run the Units. He was told that is true.

Mr. Stevens commented that Unit 5 and Unit 2 are their most run units. He said these units are run just about every day of the week and they are very dependable units. He said that they did the mechanical and thermal stress studies and the recommendation is to change.

Mr. Heady commented that the Mayor says if a hurricane came through they would not be able to turn this on. He asked aren't they running this Unit right now. He was informed that this information was not accurate.

Mr. Heady noted that there is a meeting scheduled with FP&L and he doesn't know if they want the combined cycles Unit 2 and Unit 5 or not, he guesses that no one else really knows the answer to that question because they haven't discussed this with FP&L. Mayor Sawnick interjected that they would be discussing the meeting with FP&L later on in today's meeting. He referred to the item that they are discussing now and said that whatever happens they have to take care of their City. He told Mr. Heady that his point is well taken and he knows where he is heading with the statement that he just made. Mayor Sawnick said that there has been enough discussion on this item.

The motion died 2-1 with Mr. Heady voting no. Mr. Heady said that he is opposed because the Mayor will not allow further discussion and for him to get answers to his questions.

Mr. Daige understood that this work needed to be done. He requested that there be a Special Call meeting held for the two items that did not pass this morning because a majority of the Council was not present for the meeting.

Mr. Gabbard did not see any problems with waiting until the regularly scheduled meeting.

Mr. Stevens added that if they don't make these repairs in the time frame allotted there are penalties if the Unit is not available.

Mr. Heady asked Mr. Lee if there was any backup for his discussion. Mr. Lee said no, he only saw the information himself for the first time this morning. Mr. Lee said he could lower the rates by 2% in response to Mr. Heady's question.

## **B) Electric Utility Discussion**

Mr. John Lee, Acting Electric Utilities Director, went over some new data basic comparisons for utilities in the State of Florida (on file in the City Clerk's office).

Mr. Daige was not in agreement with Mr. Lee that they cannot go any lower with their utility bills. He expressed that people are struggling to pay their bills and their benchmark is to be close to what customers for FP&L are paying. He knows it will be hard to reach that, but they need to get the utility bills lower. They are all going to have to work together to get the bills lowered.

Mr. Gabbard expressed that they are doing everything that they can. They are very concerned about their customers and do a lot of things that the bigger utilities won't even consider doing in order to help their customers. They recognize that they have to continue to work to cut costs. He will start looking at the different department's budgets tomorrow and will continue to work at dropping these rates.

Mr. Daige reiterated that what he is looking for is more of a reduction and they have to work hard to do that.

Mr. Lee continued with his presentation. He understands Mr. Daige's concerns, but his job is to give Council the facts and there are some tough decisions that have to be made if they want to reach some of their goals.

Mr. Gabbard commented that he was notified a couple of weeks ago that FP&L wished to meet with them. They said that they would come to the City of Vero Beach, but preferred to meet at their headquarters. They said that the meeting would take about two hours and that it was an information session to share some of their thoughts. He said that no negotiations will take place. He was told that FP&L still had not made a decision as to whether or not they were interested in purchasing the system. The meeting will be held this Thursday morning at 9:00 a.m.

Mr. Daige went over the people that will be attending the meeting. He would prefer that they be the only ones at the table at this meeting.

Mr. Gabbard said that is how they planned it. He understands that there was some discussion last week about a County Commissioner wishing to attend the meeting. However they (Mayor, City Manager, City Attorney, Finance Director, and Acting Electric Utilities Director) plan on going as a group from the City.

Mr. Daige would appreciate that the City Manager keep it that way.

Mr. Gabbard said that is the plan.

Mr. Daige expressed that he wanted him to stick with the plan and if it changes he asked that they not go. He understands their plan and who is going and reiterated let's keep it that way.

Mr. Heady commented that the perception in the community is that a couple of other people would be sitting in on the meeting. They are Bill Kenyon and Peter O'Bryan. He thought that they received assurances that they would be allowed to observe.

Mayor Sawnick told him that was not the case.

Mr. Gabbard added that he has had no conversation with anyone regarding that.

Mr. Heady asked if what he was hearing was that there is no knowledge that the people indicated have been invited.

Mr. Gabbard said that he has had no communication with either elected official.

## **8. CITY ATTORNEY'S MATTERS**

None

**9. CITY COUNCIL MATTERS**

**A. Old Business**

- 1. Another Reconsideration of Date for Presentation by Dr. Faherty and Glenn Heran – Requested by Councilmember Heady**
- 2. Still Waiting for Written Answers from City Manager – Requested by Councilmember Heady**
- 3. OUC Contract – Requested by Councilmember Heady**
- 4. 50MM Penalty – Requested by Councilmember Heady**
- 5. November Elections – Requested by Councilmember Heady**
- 6. Debate on Sale of Electric – Requested by Councilmember Heady**
- 7. 8/12/08 to be Played and Discussion to Follow – Requested by Councilmember Heady**
- 8. Ending A Federal Lawsuit – Requested by Councilmember Heady**
- 9. Honest Services Fraud – Requested by Councilmember Heady**
- 10. Golf Course – Requested by Councilmember Heady**

These items were pulled off of the agenda. The motion passed 3-1 with Mr. Heady voting no.

**B. New Business**

- 1. How to Settle a Lawsuit – Requested by Councilmember Heady**
- 2. Water and Sewer Presentation – Requested by Councilmember Heady**

These items were pulled off of the agenda.

**3. Hurricane Preparedness – Requested by Councilmember Daige**

Mr. Gabbard reported that staff is preparing to have their first annual meeting on June 8<sup>th</sup>. They will go over their hurricane plans and there is only one new Department Head Director that has joined the City since the 2004 hurricanes so there are capable veterans that understand the issues. He noted that there are three notebooks that outline their disaster plan (available in the Clerk's office).

Mrs. Vock noted that on their web site [www.covb.org](http://www.covb.org) and on Channel 13 the hurricane video is running periodically. She said that anyone wanting to purchase a copy of the DVD can do so in her office.

Mr. Daige referred to the reports that they are being provided regarding the oil spill. He wanted to know if where it talks about municipal information, that page could be put on their website and on Channel 13. This way in the future people will be able to view these reports on these two different sites. He said there are a number of links that they can go

to. He asked the City Manager to provide a link on their website to the Florida League of Cities Government Task Force (Governor's Gulf Oil Spill Recovery Task Force). This task force was established so that all parties involved receive fair compensation for damages that they may receive as a result of the spill. He said that they need to be prepared and to give their citizens all the information that they need in the event that this area is affected.

Mr. Heady wanted to make sure that he was going through this agenda properly. He asked Mr. Daige if this was something that he just added to the agenda. Mr. Daige referred to his memo, which was the only backup provided on the hurricane preparedness. However, he did add discussion about the oil spill which Mr. Heady said that he did not have a problem with.

## **10. INDIVIDUAL COUNCILMEMBERS' MATTERS**

### **A. Mayor Kevin Sawnick's Matters**

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

Mayor Sawnick attended the Charter High School graduation ceremony, he attended both Amtrak public meetings, the Boardwalk dedication at Pelican Island, the Mayor's beach clean up that was held at Waldo's and reported that the next Coffee with the Council will be held on June 13th at Mulligan's.

Mayor Sawnick added that they are looking into the GoLine bus situation to make sure that this issue is addressed.

### **B. Vice Mayor Sabin Abell's Matters**

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

### **C. Councilmember Tom White's Matters**

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

### **D. Councilmember Brian Heady's Matters**

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

#### **A) FPL and Public Business in the Public Eye**

Mr. Heady felt that it would serve the public well if two people (Chair of the County Commission, Peter O'Bryan and Mayor of Indian River Shores, Bill Kenyon) were allowed to attend the meeting being held with FP&L as observers, but not take part in the discussion.

**B) Liars, Cheats and Thieves**

Mr. Heady stated that he has stood at the podium many times saying that liars, cheats, and thieves should not be in charge of governing agencies and he believes that to be true. That means when you act in your official capacity you should not lie about anything and you should not cheat or steal from the public.

**C) Bad Information = Bad Decisions**

Mr. Heady commented that if they are going to make decisions on anything one thing that they need is good information. He said that when the Mayor continuously cuts off information from being supplied to the public then the only thing that can possibly do is result in bad decisions. It is unfortunate that they have a Mayor who wants to silence the public and silence the Councilmembers, but it is clear that the rest of the Council seems to want to go along with that. He would hope that changes in this calendar year.

**D) Correspondence**

**E. Councilmember Ken Daige's Matters**

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

Mr. Daige read his Committee Report (please see attached).

**10. ADJOURNMENT**

Mayor Sawnick made a motion to adjourn the meeting at 1:36 p.m. Mr. Daige seconded the motion and it passed unanimously.

/tv

2c)1

Vock, Tammy

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From: Aquavistastudios@aol.com  
Sent: Wednesday, May 26, 2010 10:45 AM  
To: Vock, Tammy  
Cc: flozme@juno.com; nbjguere@yahoo.com; tedebiase@bellsouth.net  
Subject: June 1 City Council Meeting

Tammy: Please be advised that Ms. Florence Licata, Ms. Nancy Wood, and Ms. Toni DeBiase wish to be placed on the June 1, 2010 City Council Meeting under "Public Matters."

They wish to address the City Council regarding certain issues and concerns regarding the Vero Beach Airport.

Thank you in advance for your time attention to this matter.

Best,

David Risinger



3-A)

**ORDINANCE NO. 2010-\_\_**

**AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, INSTITUTING A ONE HUNDRED EIGHTY (180) DAY MORATORIUM ON THE ISSUANCE OF DEVELOPMENT ORDERS TO ESTABLISH "PAIN CLINICS" OR "PAIN MANAGEMENT CLINICS" WITHIN THE CITY OF VERO BEACH TO ALLOW TIME FOR THE CITY STAFF TO FURTHER REVIEW REGULATORY OPTIONS AND FORMULATE AND ADOPT REGULATIONS FOR THESE CLINICS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Article VII, Section 2 of the Florida Constitution and Chapter 166 of the Florida Statutes, the City of Vero Beach is authorized and required to protect the public health, safety and welfare of its citizens and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

**WHEREAS**, the public health, safety and welfare is a legitimate public purpose of the City of Vero Beach; and

**WHEREAS**, on November 19, 2009, the Broward County Grand Jury issued an interim report entitled "The Proliferation of Pain Clinics in South Florida" after an investigation and review of the "Pill Mill" proliferation in South Florida and the effect on Broward County as a major source of Oxycodone, a controlled substance; and

**WHEREAS**, the Grand Jury found that the number of pain clinics increased from 4 to 176 in two years in South Florida and that 9 million dose units of Oxycodone was dispensed every 6 months; and

**WHEREAS**, the Grand Jury recommended that the state prescription drug monitoring program be swiftly implemented and adequately funded, as of the time of the Grand Jury report the program had not been funded by the State; and

**WHEREAS**, the Grand Jury found that in the State of Florida in 2006 there were 2,780 lethal dose reports of prescription drugs, in 2007 there were 3,317 lethal dose reports of prescription drugs, in 2008 there were 3,750 lethal dose reports of prescription drugs and in 2008 an additional 6,286 reports of non-lethal prescription drugs detected in deceased persons that may have been found in combination with other substances to be lethal; and

**WHEREAS**, the Grand Jury found that burglaries and robberies in the areas where pain clinics are located have increased; drug trafficking in prescription drugs and street level sales of prescription drugs have increased; and identity theft and organized criminal activities have increased; and

**WHEREAS**, cities in Broward and Palm Beach Counties have seen an increase of “pain clinics” and “pain management clinics”; and

**WHEREAS**, the City Council has been made aware that local governments in Broward, Martin and Palm counties have recently enacted moratoria pertaining to pain management clinics in their jurisdictions; and

**WHEREAS**, the City of Vero Beach could become a target for the location of pain management clinics in Indian River County as it becomes more difficult to establish such clinics in South Florida communities; and

**WHEREAS**, the City of Vero Beach believes that by establishing a moratorium for 180 days on the issuance of development orders for “pain clinics” and “pain management clinics”, the City staff will have the opportunity to research various regulatory options and prepare appropriate regulations for adoption by the City Council that protect the health, safety, and welfare of its citizens; and

**WHEREAS**, the City Council deems it is appropriate and in the best interest of the City of Vero Beach to enact an ordinance enacting a moratorium on issuance of development orders for “pain clinics” and “pain management clinics;”

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

Section 1. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and hereby made part of this Ordinance.

Section 2. For the purposes of this Ordinance, the following definitions are used:

- a. “Controlled substance” means substances identified in Schedules II, III, and IV in Sections 893.03, 893.05 or 893.0355, Florida Statutes.
- b. “Development order” means a building permit, code compliance certification, or minor or major site plan approval including amendments to site plans.
- c. “Pain clinic” or “pain management clinic” means a privately owned pain-management clinic, facility, or office, which advertises in any medium for any type of pain-management services, or employs a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substances, and is required to register with the Florida Department of Health pursuant to Sec. 458.309 or Section 459.005, Florida Statutes (2009).

Section 3. A moratorium on the issuance of a-developments orders for the operation of pain clinics and pain management clinics, as defined herein, is hereby established for a period of one hundred and eighty (180) days from the effective date of this ordinance to provide time for the City staff to research the nature and scope of possible measures of mitigation and regulation of pain clinics and pain management clinics and to formulate regulations for adoption by the City Council.

Section 4. Any application for a development order pertaining to the establishment of a medical office or clinic or medical services as defined under the City’s Land Development Regulations, Part III of the City Code, shall be required to provide a written affidavit that such a service, office or clinic is not or will not be a “pain clinic” or “pain management clinic” as defined by this Ordinance. No application shall be accepted, processed, or approved without such a written affidavit.

Section 5. This moratorium shall not affect any medical service, medical clinic or office currently operating within the City of Vero Beach pursuant to a valid development order as long as the business and property are in compliance with all applicable, local, county, state and federal laws.

Section 6. 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 7. This Ordinance shall take effect immediately upon adoption by the City Council and shall expire one hundred eighty (180) days from its effective date or upon its earlier repeal.

\*\*\*\*\*

This Ordinance was read for the first time on the \_\_\_\_ day of \_\_\_\_\_, 2010, and was advertised in the Indian River Press Journal on the \_\_\_\_ day of \_\_\_\_\_, 2010, as being scheduled for a public hearing to be held on the \_\_\_\_ day of \_\_\_\_\_, 2010, and was also advertised in the Indian Press Journal on the \_\_\_\_ day of \_\_\_\_\_, 2010, as being scheduled for a second public hearing to be held on the \_\_\_\_ day of \_\_\_\_\_, 2010, at the conclusion of which hearing it was moved for adoption by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, and adopted by the following vote:

<b>Mayor Kevin Sawnick</b>	<input type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
<b>Vice Mayor Sabin C. Abell</b>	<input type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
<b>Councilmember Thomas P. White</b>	<input type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
<b>Councilmember Brian Heady</b>	<input type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>
<b>Councilmember Kenneth J. Daige</b>	<input type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>

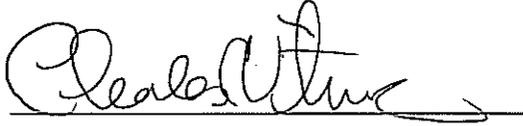
**ATTEST:**

**CITY OF VERO BEACH, FLORIDA**

\_\_\_\_\_  
Tammy K. Vock  
City Clerk

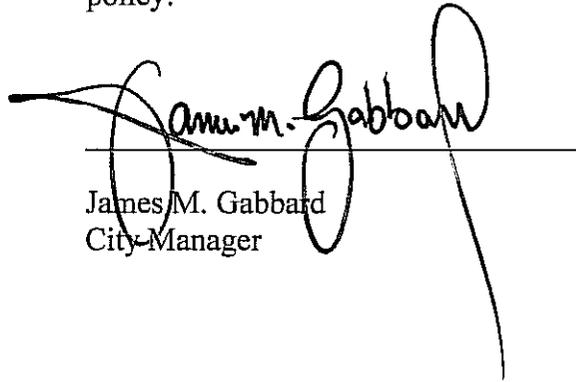
\_\_\_\_\_  
Kevin Sawnick  
Mayor

Approved as to form and legal sufficiency:



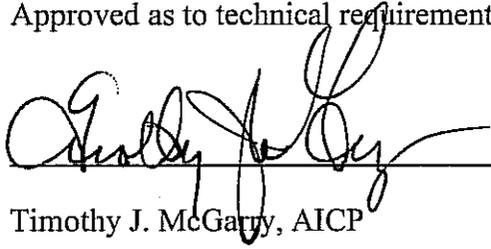
Charles P. Vitunac  
City Attorney

Approved as conforming to municipal policy:



James M. Gabbard  
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP  
Planning and Development Director

4-A)

**RESOLUTION NO. 2010 - \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF VERO BEACH, FLORIDA, REPEALING THE RATE INCREASES FOR FISCAL YEAR 2010, 2011, 2012, AND 2013 WATER AND SEWER AS DESCRIBED IN ATTACHMENT "A" AND "B" OF RESOLUTION 2009-31; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Vero Beach owns and operates a water and sewer system for all of the City and parts of the Town of Indian River Shores and unincorporated area of the County as an enterprise fund supported only by revenues of the system and not by property taxes; and

**WHEREAS**, the City of Vero Beach adopted Resolution 2009-31 as a result of a cost of service and rate study that reviewed its rate structure; and

**WHEREAS**, the City of Vero Beach has determined that the need for the scheduled increases as originally adopted with the rate study no longer exists; and

**WHEREAS**, the Water and Sewer and Finance Directors have recommended that there is no immediate need to change the current rate structure to keep the system financially sound;

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

**Section 1 – Repeal of a portion of Attachment "A" and "B" of Resolution 2009-31.**

The rate increases shown in Attachments "A" and "B" of Resolution 2009-31 effective October 1, 2010, October 1, 2011, October 1, 2012, and October 1, 2013 are hereby repealed.

**Section 2 – Effective Date.**

This Resolution shall become effective upon adoption.

This Resolution was heard on the \_\_\_\_ day of \_\_\_\_\_, 2010, at which time it was moved for adoption by Councilmember \_\_\_\_\_ seconded by Councilmember \_\_\_\_\_, and adopted by the following vote:

<b>Mayor Kevin Sawnick</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Vice Mayor Sabin C. Abell Jr.</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Councilmember Thomas P. White</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Councilmember Brian T. Heady</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Councilmember Kenneth J. Daige</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**ATTEST**

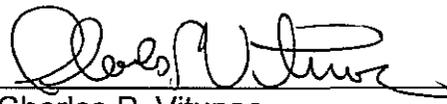
**CITY OF VERO BEACH, FLORIDA:**

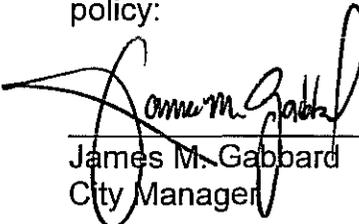
\_\_\_\_\_  
Tammy K. Vock  
City Clerk

\_\_\_\_\_  
Kevin Sawnick  
Mayor

Approved as to form and legal sufficiency:

Approved as conforming to municipal policy:

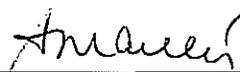
  
\_\_\_\_\_  
Charles P. Vitunac  
City Attorney

  
\_\_\_\_\_  
James M. Gabbard  
City Manager

Approved as to technical requirements:

Approved as to technical requirements:

  
\_\_\_\_\_  
Robert J. Bolton  
Water & Sewer Director

  
\_\_\_\_\_  
Steve Maillet  
Finance Director

This document was prepared in  
The Office of the City Attorney  
Post Office Box 1389  
Vero Beach, Florida 32961-1389

**COUNCIL AGENDA REPORT**  
**MEETING OF JUNE 1, 2010**

**TO:** The Honorable Mayor and Members of the City Council

**FROM:** James M. Gabbard, City Manager

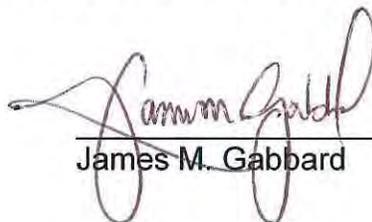
**DATE:** May 26, 2010

**SUBJECT: AWARD OF RFP NO. 170-10/PJW – UNIT 5 HEAT RECOVERY  
STEAM GENERATOR SUPERHEATER RETROFIT**

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Attached is a memorandum from Jim Stevens, dated May 24, 2010, which provides background information and a recommendation on the above-referenced subject. A copy of the RFP will be on file in the City Clerk's Office.

**It is the recommendation of the City Manager's Office that Council approve the Award of RFP No. 170-10/PJW, for Unit 5 Heat Recovery Steam Generator, to Vogt Power International, in the amount of \$1,281,540.00. Funding will be from Account No. 403.5000.531.697312.**

  
\_\_\_\_\_  
James M. Gabbard

:jav  
Attachments

xc: Jim Stevens  
John Lee  
John O'Brien  
Stephen J. Maillet

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**MEMO**  
**VERO BEACH MUNICIPAL POWER PLANT**

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**DATE:** May 24, 2010

**TO:** James Gabbard  
City Manager

**THROUGH:** John Lee  
Acting Utilities Director

**FROM:** Jim Stevens  
Director of Power Resources

**SUBJECT:** *Unit 5 Heat Recovery Steam Generator Superheater Tube Replacement*

This memo pertains to the pulled agenda item 7A of the City Manager's Matters of May 18, 2010 regarding the Award of RFP No. 170-10/PJW the Unit 5 Heat Recovery Steam Generator superheater module (3 modules) retrofit.

Item 7A was pulled in order to negotiate changes, recommended by the City of Vero Beach Purchasing Department, with Vogt the selected vendor of choice. The Attorney's Office, Risk Management, Purchasing, and Power Resources have completed their review of the bid documents submitted and recommend the project be awarded to the Original Equipment Manufacturer (OEM) Vogt Power International for the design, removal, and installation of superheater modules required to meet compliance with American Society of Mechanical Engineers (ASME) code Section I and B 31. The quoted cost for the project referenced in the bid documents submitted is \$1,281,540.00. This project requires an eight (8) month lead time in order to fabricate the superheater modules.

Work will be performed during the February scheduled outage of the Vero Beach Combined Cycle unit. We have differed this project every year since 2003.

Funding for this project will come from capital budget item FY 2010 Account # 403.5000.531.697312.

Please advise if there are any questions concerning this matter.



May 24, 2010

**City of Vero Beach**  
3455 Airport West Drive  
Vero Beach, FL 32960

Attention:                   Manager of Purchasing

Reference:                  Heat Recovery Steam Generator Superheater Retrofit 170-10/PJW  
Vogt Power International Inc. Proposal No. V69054, Rev. 2

Dear Manager of Purchasing:

Vogt Power International Inc. (VPI) greatly appreciates your invitation to provide this proposal to the City of Vero Beach for design, material supply, fabrication, delivery, and installation of high pressure superheater (HPSH) components for one (1) HRSG originally supplied to the Vero Beach Municipal Power Plant under Henry Vogt Machine Company job number 17328.

In response to your request for quotation, we are pleased to enclose for your information and review our proposal number V69054, Revision 2, dated May 24, 2010. Revisions to the attached documents reflect conversations between VPI and the City of Vero Beach regarding the 'Variances' submitted with our revision 1 proposal. Every concerted effort has been made to satisfy your requirements and provide you with a timely and cost effective product.

Please keep in mind that our company has been in operation for over 125 years with experience ranging from coal fired boilers to the largest HRSGs of our time. We have sold over 650 HRSGs and are ISO 9001:2008 certified. Our service and reputation are unmistakable.

The City of Vero Beach is a very important customer to VPI, and we would welcome the opportunity to discuss our proposal with you in more detail.

Once again, we would like to take this opportunity to thank you for your interest in our company. We trust that if you have any questions concerning our proposal, you will not hesitate to contact us.

Respectfully,

A handwritten signature in cursive script that reads "Amy Goss".

Amy Goss  
Product Manager of HRSG Retrofits  
Vogt Power Aftermarket Products & Services  
Email: AGoss@VogtPower.com  
Phone: 502-899-4652  
Fax: 502-891-1960

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A Babcock Power Inc Company

Vogt Power International Inc  
4000 Dupont Circle  
Louisville, Kentucky 40207 USA

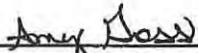
Telephone: 502-899-4500  
Fax: 502-891-1960  
www.vogtpower.com

## **DRUG-FREE WORKPLACE COMPLIANCE FORM**

### **IDENTICAL TIE BIDS**

Preference shall be given to business with drug-free workplace programs. Whenever two or more Bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or Contractual services, a Bid received from a business that certifies that it has implemented a drug-free Work place program shall be given preference in the award process. Established procedures for processing tie Bids will be followed if none of the tied vendors has a drug-free Workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or Contractual services that are under Bid a copy of the statement specified in Subsection 1.
4. In the statement specified in Subsection 1, notify the employees that, as a condition of working on the commodities or Contractual services that are under Bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any State for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employer's community by, any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through the implementation of this section. As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

  
\_\_\_\_\_  
VENDOR'S SIGNATURE

**BID PROPOSAL**  
**RFP NO:170-10/PJW**  
**HEAT RECOVERY STEAM GENERATOR SUPERHEATER RETROFIT**

To: The City Manager  
City of Vero Beach  
P.O. Box 1389  
Vero Beach, Florida 32961

The Undersigned Proposer has carefully examined the Contract Documents and visually examined any and all Work Sites. The undersigned is familiar with the nature and extent of the Work and any local conditions that may in any manner affect the Work to be done, and the equipment, materials and labor required, but excluding conditions not reflected in information provided by the City, and further subject to express clauses contained elsewhere in the Contract Documents.

The undersigned agrees to do all the Work in accordance with the Contract Documents and according to the standards of quality and performance established by the City, for the unit prices as provided in the attached Bid Schedule, for each of the items or combination of items stipulated. It is understood that certain quantities shown in the Bid Schedule are approximate only, subject to increases and decreases, and for the purpose of Proposal comparisons for determination of low Proposer. It is further understood that payment will be in accordance with actual quantities placed in the construction as more specifically provided in the Contract Documents. The undersigned further agrees as follows:

1. To do any Work, not covered by the Bid Schedule, which may be ordered by the City in accordance with provisions contained in the Contract Documents upon authorization by the City Council, and to accept as full compensation therefore such prices as may be agreed upon, in writing, by the City and the Contractor in accordance with Article 6, of the General Conditions.
2. To begin and complete Work as required in the Notice to Proceed, provided such Notice to Proceed does not conflict with the agreed Contract Documents.
3. To allow the City of Vero Beach to reduce invoices per fines in the amount and under the conditions specified in the Contract Documents.
4. To keep in force all insurance and bonding requirements as set forth in the Contract Documents for the duration of the Contract and to give thirty (30) days notice of expiration of insurance and/or bonding.

Dated this 24th day of May, 2010.

Respectfully submitted

Proposer Vogt Power International Inc.   
Address: 4000 Dupont Circle  
Louisville, KY 40207  
City, State and Zip Code



**QUESTIONNAIRE**

The undersigned guarantees the truth and accuracy of all statements and answers herein contained.

1. How many years has your organization been in business as a supplier of these materials/services?

Vogt Power International Inc. (VPI) was incorporated under the laws of the state of Delaware on December 13, 2002. Prior to that an affiliated company, Vogt-NEM, Inc., supplied HRSGs since 1996. Vogt-NEM, Inc. bought the assets of the Henry Vogt Machine Company, which was one of the original companies in the HRSG business beginning in the early 1960s.

2. What is the last project of this nature that you have completed?

Supply of design, materials, and fabrication of components required for HRSG modifications to meet desired thermal and emissions performance based on operation with a new gas turbine. This included addition of, replacement of, and/or modifications to the inlet transition duct, distribution grid, duct burner system, heat transfer surface, CO system, SCR system, partial economizer bypass system, platforms, expansion joints, and casing seals.

3. Have you ever failed to complete Work awarded to you; if so, where and why?

No.

4. Name three (3) individuals or corporations for which you have performed Work of this size and nature to which you refer:

Montgomery Power Partners (Jeff Maida) Phone (713) 560-6640

Calpine Corporation (Gene Fahey) Phone (831) 385-7942

Dupont-Sabine River Works (Ed Gormley) Phone (409) 886-6775

5. Have you personally inspected the proposed Work and have you a complete plan for its performance?

VPI's Construction Manager has been to the jobsite for the construction walkdown. In addition, we will have an Engineering site visit during order execution for the purpose of gathering information and/or checking preliminary designs (e.g., for consideration of pipe routing, etc.).

6. Will you sublet any part of this Work? If so, give details:

VPI will use fabricators and vendors for supply of components. VPI presumes that such suppliers fall outside the restrictions of the subletting requirements within the Customer's Instructions to Proposers and General Conditions. VPI will however subcontract the installation services and the steam blow-related activities.

7. What equipment do you own that is available for the Work?

Computers and other office equipment

8. What equipment will you purchase for the proposed Work?

None

9. What equipment will you rent for the proposed Work?

None, however our subcontractors may rent equipment, such as cranes, for performance of the work.

10. Minority Business Statement:

Is your firm a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act of 1985? No.

11. State the true, exact, correct, and complete name of the partnership, corporation, limited liability company, or trade name under which you do business, and the address of the place of business. (If a partnership, state the name of all partners. If a corporation, state the name of the President and Secretary. If a Limited Liability Company, state the names of all members. If a trade name, state the names of the individuals who do business under the trade name.)

Vogt Power International Inc.

(Correct Name of Proposer)

a. The business is a Sole Proprietorship, Partnership, Corporation, or Limited Liability Company.

Corporation

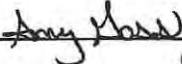
b. The address and phone number of principal place of business is

4000 Dupont Circle Louisville, KY 40207

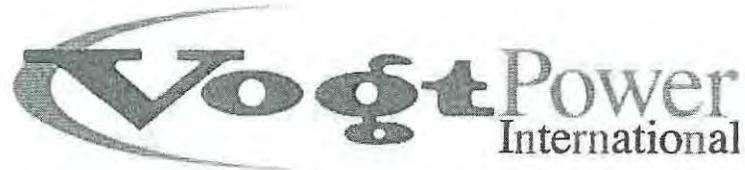
c. The names of the partners, corporate officers, members, or individuals doing business under a trade name, are as follows:

President – Stephen Kapsalis

Secretary – William Ferguson

  
(Proposer)

**Aftermarket Technical and Commercial Proposal**



A Babcock Power Inc. Company

**Vogt Power International Inc.  
4000 Dupont Circle  
Louisville, Kentucky 40207 USA**

**Vogt Power International Inc. proposes to furnish to:**

**Vero Beach Municipal Power Plant  
Vero Beach, FL**

**For the Project:**

**HPSH Retrofit  
Proposal Ref. Number: V69054, Rev.2**

the equipment and services as described in the following pages.

*Customer:* Vero Beach Municipal Power Plant  
*Plant ID:* 17328  
*VPI Ref. No.:* V69054, Rev.2  
*Project:* HPSH Retrofit  
*Date:* May 24, 2010  
*Validity Date:* June 8, 2010

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## 1 INTRODUCTION

Vogt Power International Inc. greatly appreciates your invitation to provide this proposal for design, material supply, fabrication, delivery, and installation of high pressure superheater (HPSH) components for one (1) HRSG originally supplied to the Vero Beach Municipal Power Plant under Henry Vogt Machine Company job number 17328.

For the purposes of this Proposal, "Customer" is defined as meaning Vero Beach Municipal Power Plant, and "VPI" is Vogt Power International Inc.

The components being proposed were identified in the Thermal Study report prepared for the Customer by VPI in April of 2009 under VPI project number V25306. VPI cannot account for HRSG issues or design features which are not known or have not been expressly provided, and our proposal pricing and schedule do not account for any matters or parameters that have not already been identified or been made known to us. In the event that VPI discovers (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this Contract; or (2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this Contract, VPI will give prompt notice of such condition and VPI shall be entitled to make a claim for a change to the Contract in accordance with Section 6, of the General Conditions, Changes In Scope Of Work; Extra Work.

In addition, the Customer provided specification documents to VPI on March 10, March 18, March 23, and April 1, 2010. Information regarding resolution of VPI's exceptions and clarifications to the specification documents is provided in Appendix 1. Included therein are the required signed copies of the Addenda documents.

### 1.1 HRSG Walkdown

VPI shall visit the jobsite within 3-6 weeks after receipt of the purchase order, on a date to be agreed upon by VPI and the Customer, for an external walkdown in order to gather information and/or check preliminary designs (e.g., for consideration of pipe routing).

### 1.2 Quality

VPI is an ISO 9001:2008 certified company for the design, production, supply & installation of components in the field of energy technology.

### 1.3 Project Schedule

A Preliminary Project Schedule is located in Appendix 2.

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## 2 SCOPE OF SUPPLY

### 2.1 Scope Table

VPI will supply the following services and equipment for one (1) HRSG at the Customer's facility:

Item	Scope of Supply	Furnished By VPI	Furnished By Customer	Existing	Option	N/A
<b>I.</b>	<b>Heat Transfer Components, Casing, and Structural Steel</b>					
1.	Three (3) HPSH module harps	X				
2.	All other heat transfer modules			X		
3.	HPSH bare tube and sidewall baffles	X				
4.	All other heating surface baffling			X		
5.	Casing, insulation, and liner material, as required to close the HRSG access window created during installation	X				
6.	Remainder of HRSG casing for heat transfer surface			X		
7.	Bellows seals, as required for HPSH inlet, outlet, drain, and interconnecting piping casing penetrations	X				
8.	Structural supports for the VPI-supplied components	X				
9.	Other structural steel			X		
10.	Prime painting of VPI-supplied casing external surfaces required to close the HRSG access window created during installation	X				
11.	Prime painting of VPI-supplied external structural supports	X				
12.	Foundation design					X
<b>II.</b>	<b>HRSG Piping</b>					
1.	Inlet piping to connect the new HPSH3 module to the existing HP drum nozzles	X				
2.	Crossovers to connect the new HPSH3 module to the new HPSH2 module	X				
3.	Piping to connect the new HPSH2 module to the attemperator inlet header	X				

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Item	Scope of Supply	Furnished By VPI	Furnished By Customer	Existing	Option	N/A
4.	Piping as required to modify the attemperator inlet header and attemperator loop to accommodate the new HPSH arrangement (quantity to be determined by VPI)	X				
5.	Remaining attemperator piping			X		
6.	Piping to connect the attemperator outlet header to the new HPSH1 module	X				
7.	Outlet piping to connect the new HPSH1 module to the existing HP steam outlet header	X				
8.	Remaining HP system outlet piping			X		
9.	Vent piping to connect the new HPSH components with the existing HPSH vent piping	X				
10.	Drain piping to connect the new HPSH and attemperator components with the existing HPSH drain piping	X				
11.	Redesign of HPSH drain piping				Option 1	
12.	Remaining HRSG piping			X		
13.	Pipe supports, as required for the VPI-supplied piping	X				
14.	Insulation and lagging, as applicable, for external piping and valves	X				
<b>III.</b>	<b>Valves</b>					
1.	Manual HPSH module drain valves	X				
2.	Actuated HPSH module drain valves in lieu of manual HPSH module drain valves				Option 1	
3.	Actuated attemperator drain valves	X				
4.	Other valves, including attemperator			X		
<b>IV.</b>	<b>Instrumentation &amp; Controls</b>					
1.	Attemperator drain thermowell	X				
2.	Attemperator drain thermocouple	X				
3.	All other instrumentation & controls			X		

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Item	Scope of Supply	Furnished By VPI	Furnished By Customer	Existing	Option	N/A
<b>V.</b>	<b>Platforms &amp; Ladders</b>					
1.	Ladder & platform for access to VPI-supplied attemperator drain valves, thermowell, and thermocouple				Option 2	
2.	Other platforms & ladders			X		
<b>VI.</b>	<b>Construction &amp; Field Services</b>					
3.	Building/construction permits, if required		X			
4.	Removal & reinstallation of building and/or roof materials, electrical components, heat tracing, instrumentation & tubing, and control elements, as required for VPI's subcontractor(s) to gain adequate access to the HRSG		X			
5.	Removal & reinstallation of external piping insulation and lagging, as required for VPI's subcontractor(s) to gain adequate access to the HRSG	X				
6.	Mechanical construction/erection services for demolition and installation of HRSG components, as described herein	X				
7.	Hole watch, as needed	X				
8.	Oxygen sniffing equipment and readings, as needed	X				
9.	Foundation and civil work					X
10.	Commissioning & startup		X			
11.	Shop hydrostatic test	X				
12.	Site hydrostatic/"in-service pressure" test, as applicable	X				
13.	Steam blow-related activities	X (T&M)				
14.	Operation of the gas turbine for the steam blow(s)		X			
15.	Touch-up and finish painting	X				
16.	General cleaning of the internal and external areas used by VPI	X				
<b>VII.</b>	<b>Site Materials, Services &amp; Work</b>					
1.	Electrical power for welders and other equipment		X			

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Item	Scope of Supply	Furnished By VPI	Furnished By Customer	Existing	Option	N/A
2.	Welding machines	X				
3.	Supply and disposal of demineralized water for site hydrostatic/"in-service" pressure test (per ABMA standards)		X			
4.	Pumps and piping for site hydrostatic/"in-service" pressure test		X			
5.	Construction and tool trailer(s)	X				
6.	Trailer setup area		X			
7.	Office space for VPI project and construction management while onsite		X			
8.	Laydown/storage areas		X			
9.	Disposal dumpsters for use by installation personnel		X			
10.	Offsite disposal of removed components & construction debris		X			
11.	Hookups for contractors' trailer(s)		X			
12.	Telephone lines to contractors' trailer(s)		X			
13.	Portable sanitary facilities	X				
14.	Potable water		X			
15.	Drainage		X			
16.	Compressed air for contractors' use		X			
17.	Parking		X			
18.	Security		X			
<b>VIII.</b>	<b>Other</b>					
1.	Applicable Code documentation for VPI-supplied components	X				

## 2.2 Other Customer-Supplied Items

- All utilities required during installation and commissioning.
- All necessary control, field instruments, etc. required to complete the system not supplied by VPI.
- All electrical wiring, conduit, cable trays, etc. required to tie in the system.
- All piping required to complete the installation outside the scope specified herein.
- Plant and equipment lighting.
- Other items required to make the HRSG operational but not included in VPI's scope specified herein.
- Plant safety orientation.
- Lock-out and tag-out of equipment.
- Plant security and work permits.
- Any required notifications to Customer's insurance carrier regarding changes to the HRSG.

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## **2.3 Terminal Points**

VPI's terminal points are as indicated below, however VPI reserves the right to re-use existing material within those terminal points (e.g., piping, valves, etc.) in its design.

### **2.3.1 Casing**

Within one (1) foot of the HRSG casing modified to gain top access to the module harps or to penetrate the bottom casing for the drain line.

### **2.3.2 Pressure Parts**

- At the weld connecting the piping to the HP drum saturated steam nozzle outlet.
- Upstream of the first bend in the HPSH outlet piping downstream of the heating surface.
- At the weld connecting the vent connections for the VPI-supplied HPSH piping components to the existing vent system.
- At the weld connecting the outlet of the second drain valve to the existing drain system.
- At the location of the existing connection of the attemperator spray water piping to the attemperator.

### **2.3.3 Baffles**

At the point of contact with the components to which the baffles are attached.

### **2.3.4 Pipe Supports**

The mounting surfaces of the new pipe supports.

### **2.3.5 Structural Steel**

The mounting points of the new steel to the existing HRSG structural members.

### **2.3.6 Electrical/Pneumatic**

All VPI-supplied controls, instrumentation, and power connections will be provided with tubing and wiring connections only. All interconnecting wiring and tubing is by the Customer.

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### **3 MAJOR COMPONENT DESCRIPTION**

This section is included to briefly describe the equipment and the components supplied. It is not intended to replace the scope of supply section of this proposal.

Equipment quoted is based on preliminary design. VPI reserves the right to change the design of the equipment if it is determined to constitute an improvement over former practice.

#### **3.1 Pressure Parts**

##### **3.1.1 Heating Surface**

All VPI-supplied heating surfaces will be constructed of module "harps", each consisting of two rows of finned tubes welded to top and bottom headers. The harps are designed for single pass flow on the gas side and single or multi-pass flow on the waterside. The module harps will be equipped with low point drains for a "fully drainable" design.

##### **3.1.2 Interconnecting Piping**

The HPSH piping will be selected based on steam design pressure and temperature. VPI-supplied piping will be provided with the required supports.

An option is also being provided herein for redesign of the HPSH module drain piping, which will include enlarging of the drain lines and supply of actuated drain valves in lieu of manual drain valves.

#### **3.2 Non-Pressure Parts**

##### **3.2.1 Ductwork and Casing**

VPI will design and furnish casing components to repair the HRSG casing removed for access to the module harps being replaced. The casing is fabricated from carbon steel plate. The replacement casing panel(s) will be pre-insulated and prefabricated to the maximum extent possible.

Internal insulation will be designed to provide an acceptable average casing surface temperature per OSHA requirements. Select, small, localized areas can be expected to exceed the design skin temperature requirement. These areas would include casing test or instrumentation connections, support attachment points for flow distribution devices, and similar areas. The VPI design will minimize on a practical basis the skin temperature excursion.

#### **3.3 Fabrication**

##### **3.3.1 Codes and Standards**

The equipment supplied will be designed, manufactured, tested, and will be in accordance with the approved applicable addendum of the following codes and standards or their international equivalent:

- ASME Boiler and Pressure Vessel Code, Section I, VIII, IX, "Power Boilers"

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- American National Standards Institute (ANSI)
- American Society for Testing and Materials (ASTM)
- Environmental Protection Agency (EPA)
- Institute of Electrical and Electronic Engineers (IEEE)
- American Iron and Steel Institute (AISI)
- National Electrical Manufacturers Association (NEMA)
- National Fire Protection Association (NFPA)
- Occupational Safety & Health Act (OSHA)
- Scientific Apparatus Manufacturers Association (SAMA)
- Instrument Society of America (ISA)
- Boiler Water Requirements and Associated Steam Purity for Commercial Boilers, American Boiler Manufacturers Association (ABMA)
- HRSG Performance Testing (ANSI/ASME PTC 4.4)
- Steel Structures Painting Council (SSPC)
- National Electric Code (NEC)
- American Welding Society (AWS)
- American Institute of Steel Construction (AISC)
- American Society of Civil Engineers (ASCE)
- American Petroleum Institute (API)

### **3.3.2 World-wide Sourcing of Components and Labor**

The basis for this proposal is for all the design, materials, and labor associated with this contract to be procured from any place in the world. VPI has extensive experience with pressure part and steelwork fabrication in different parts of the world and has a long list of proven suppliers. Workshops issued with an order for the fabrication of pressure parts are audited before these orders are issued and must adhere to rigorous quality plans and standards.

### **3.3.3 Inspection and Shop Certificates**

The Customer has the right to inspect the HRSG components during fabrication to ensure that all materials are in accordance with the contract and to assure that proper fabrication procedures are used.

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## 4 DEMOLITION AND ERECTION

### 4.1 General

VPI's erection subcontractor(s) will mobilize approximately one week prior to the start of the outage. The outside construction and tool trailers will be set up, construction equipment and machinery will be brought in and set up, construction materials will be received and, if possible, most worker safety training will be carried out prior to the shutdown.

VPI subcontractor(s) will perform demolition, installation, and cleanup services as described herein. These services will be provided by qualified subcontractor(s). The following is a list of the subcontractors that VPI would potentially utilize during execution of the proposed project. VPI's pricing and schedule are predicated on use of any of the subcontractors listed therein. In the absence of express written notification of subcontractor disapproval from the Customer prior to Contract award, VPI shall be entitled to an equitable adjustment to the Contract Price and time of performance for any resulting impact arising from or relating to any disapproval.

- TEi Construction Services
- Titan Contracting and Leasing Company
- Enerfab
- Bluewater Energy Solutions
- Arthur T. Astle & Associates, Inc. (ATA&A)

Depending on the final choice of erection subcontractor(s), VPI will work 6 to 7 days per week during the outage, 1 shift per day at 10 hours per shift. A VPI technical site representative will generally be onsite or readily available during most all of these working hours. Holidays during the outage will not be worked. Specific holidays will be defined after selection of the erection subcontractor(s).

### 4.2 Demolition and Dismantling

The Customer will remove sections of the roof and/or building (including electrical, lighting, etc.) to provide adequate access to all working areas. In addition, the Customer will remove HRSG instrumentation & tubing, heat tracing, control elements, and electrical connections, as needed for removal and re-installation of VPI-supplied components.

VPI's subcontractor(s) will perform the following:

- Remove any additional exterior obstructions on the HRSG (e.g., structurals, platforms, ladders, piping insulation and lagging, external piping, etc.), as required to gain adequate access to the HRSG.
- Remove casing, internal insulation and expanded metal to gain access to the HPSH module harps.
- Detach the connections for the inlet, outlet, interconnecting, vent, and drain piping.
- Remove the baffles, bumpers, or any other internal obstructions between the existing HPSH module harps and the accessway created above.
- Remove the existing HPSH module harps.

All components permanently removed by VPI will be discarded in dumpsters provided by the Customer.

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### 4.3 Reinstallation of Equipment, Testing, and Steam Blow

VPI's subcontractor(s) will perform the following:

- Install the new HPSH module harps.
- Reinstall bumpers, baffles, supports, and any other internal obstructions that were previously removed.
- Install crossover connections, superheater inlet and outlet connections, attemperator loop piping, vents, and drain lines. Bellows seals will be installed on the HPSH piping casing penetrations.
- Install pre-insulated/prefabricated casing panel(s) to close the HRSG access window that was created to gain access to the modules.
- Install any new structural supports and reinstall all previously-removed structurals, platforms, ladders, and external piping.
- Perform any hydrostatic/"in-service" pressure testing required by the Authorized Inspector.
- Install insulation and lagging on external piping, as applicable.
- Apply touch-up and finish paint.

After mechanical installation, VPI's subcontractor(s) will perform a steam blow. The steam blow scope of work (which will be performed on a time and material basis) includes but may not be limited to the following:

- Design of temporary blow equipment (will be performed offsite prior to outage)
- Field labor personnel to install & remove temporary blow equipment
- VPI technical advisor during steam blow-related work
- VPI steam blow subcontractor technical field service advisor
- Temporary large bore exit piping
- New tie-in piping
- Valves
- Flanged fittings
- Standard target inserter
- Brass targets
- Quench assemblies
- Exhausters
- Consumables

The Customer will be responsible for re-installation of HRSG instrumentation & tubing, heat tracing, control elements, electrical connections, and roof/building materials.

### 4.4 Completion

To ensure timely completion, a punchlist must jointly be generated prior to the completion of the installation. Input to this punchlist will be by the Customer, VPI and the erection subcontractor(s). VPI requires Customer's complete cooperation in the timely reviewing of all items pertaining to the completion of the unit.

Upon completion of the unit, the worksite shall be cleaned and returned as close as reasonably possible to its former condition. Some touch-up painting, insulation work, and removal of temporary steam blow equipment not affecting operational turnover may be completed after turnover/startup of the unit. All such work shall be completed within 30 days after turnover/startup of the unit.

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Vogt Power International - Louisville, Kentucky, USA  
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Customer: Vero Beach Municipal Power Plant  
Proposal: HPSH Retrofit

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#### 4.5 Hazardous Materials

It shall be the responsibility of Customer to provide VPI and its subcontractor(s) with written documentation that the work performed will not expose personnel to levels at or above the action levels established by OSHA if any hazardous substances may be present. If VPI encounters, at the project site, toxic substances, hazardous waste (as such terms may be defined in any Federal, State or local statute or ordinance or regulations issued thereunder), which require special handling and/or disposal, the Customer shall immediately take whatever precautions are required to legally eliminate such hazardous conditions and properly handle and dispose of such substances or wastes so that the work under the contract may safely proceed. If any such toxic substances, hazardous substances, or hazardous wastes cause an increase in VPI's cost of, or the time required for, performance of any part of the work under this contract, an equitable adjustment shall be made in the price and the schedule. The Customer agrees to properly dispose of all hazardous waste produced or generated in the course of VPI's work at the project site. The plant owner shall indemnify VPI for any and all claims, without limitation to attorneys and consultant fees and expenses, arising out of or relating to the presence of any such toxic or hazardous substances or hazardous wastes which are: (i) present on the site prior to the commencement of VPI's work or (ii) improperly handled or disposed of by the Customer, or (iii) brought to the site or produced thereon by parties other than VPI or its subcontractor(s).

If insulation/refractory removal or restoration is within or added to VPI's scope of work, the Customer will provide VPI with written authorization of removal and attest that the insulation or refractory is free of asbestos and/or any hazardous material as defined by State or Federal law and OSHA prior to work commencement.

#### 4.6 Clarifications

- The site immediately adjacent to the HRSG and building must be available for the sole use of VPI and its erection subcontractor(s), and of sufficient space for effective use of cranes and/or manlifts for the duration of work on each unit.
- The laydown areas shall be well drained.
- Roadways in and around the work area and laydown yard will be adequate for travel by cranes and trailers and shall be maintained free of dust, mud and/or snow by the Customer.
- All materials and services supplied by the Customer will be on site and available as needed by VPI to complete the defined work without delays.
- VPI's proposed pricing and schedule are based on the following assumptions. If changes to any of the assumed conditions causes an increase in VPI's cost of, or the time required for, performance of any part of the work under this contract, an equitable adjustment shall be made to the price and/or schedule.
  - Safety requirements are per OSHA standards.
  - VPI will be given free access to the work area and will not be delayed by the Customer or by other contractors/suppliers that may be working on the project site.
  - Owner will provide cutting and welding permits, if required, in a timely manner. (VPI defines a timely manner as one half hour after requesting the permit.)
  - There will be no restrictions on using cutting torches and/or arc gougers in and around the work area.
  - The project site does not contain any environmentally sensitive areas or items of a similar nature.
  - Any information furnished by the Customer regarding site conditions is accurate and complete.

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Document Title: Aftermarket Technical and Commercial Proposal  
Customer: Vero Beach Municipal Power Plant  
Proposal: HPSH Retrofit

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## 5 COMMERCIAL

### 5.1 Pricing

VPI's price for the scope of supply as described herein for one (1) unit is:

Description	Price (US Dollars)
<b>Base Scope:</b> Design, material supply, fabrication, delivery, and installation of high pressure superheater components. Note that the price shown reflects the agreed discount of \$28,330 (i.e., the price paid by the Customer for VPI Thermal Study number V25306).	\$1,073,970 + Steam blow-related activities at VPI's cost +15%
<b>Optional Adder #1 to Base Scope:</b> Adder for design, material supply, fabrication, delivery, and installation of redesigned high pressure superheater drains, including motor-operated drain valves.	+ \$20,220
<b>Optional Adder #2 to Base Scope:</b> Adder for design, material supply, fabrication, delivery, and installation of ladder and platform for access to VPI-supplied attemperator drain valves, thermocouple, and thermowell.	+ \$37,350

- VPI's price is based solely on our proposal and identified scope.
- VPI's pricing as stated does not include any performance or payment bonds. If the Customer requires VPI to provide any performance or payments bonds, the Customer will reimburse VPI for all premiums, costs and fees associated with issuing the bond(s).
- The duration of the steam blow process can vary greatly. It is for this reason that VPI will provide steam blow-related activities on a time and material basis. VPI's estimate of the price to the Customer for the steam blow work is \$150,000. This is an estimate only. The assumed duration for the site steam blow-related activities is 14 days, which is based on the following assumed schedule of work:
  - 4 days for installation and set up of temporary steam blow components and equipment. (Some of this work will be completed in parallel with the HPSH mechanical installation work.)
  - 6 days for performance of the steam blow(s).
  - 4 days for removal of the temporary steam blow components and equipment.
- Bid validity: Pricing for this proposal is based on a complete and undivided purchase order release to VPI with finalized Terms & Conditions that have been mutually negotiated between VPI and the Customer on or before June 8, 2010.
- VPI retains the right to withdraw this proposal at any time before formal contract acceptance.
- Shipping shall be FOB jobsite.

### 5.2 Progress Milestone Payment Schedule

No.	Payment Milestones	%	Est. Date
1.	Upon receipt of Order or Notice to Proceed, whichever occurs first.	10%	06/08/10
2.	Upon VPI placement of order for harp fabrication.	10%	08/10/10
3.	Upon delivery of bare tubes to the fabrication shop.	20%	11/02/10
4.	Upon shipment of harps (or being ready to ship if Customer delays project).	25%	01/31/11
5.	Upon completion of mechanical installation work by VPI (not including steam blow-related activities).	35%	02/27/11

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Vogt Power International - Louisville, Kentucky, USA  
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No.	Payment Milestones	%	Est. Date
6.	VPI will submit invoice(s) to the Customer for the steam blow-related scope of work upon VPI's receipt of charges for the work.		

### 5.2.1 Conditions for Payment Terms

1. Dates given in the progress payment schedule are estimated dates only. Actual invoices will be sent with reasonable proof of completion of each milestone.
2. Payment terms shall be net thirty (30) days from date of invoice. All amounts not paid within stated terms are subject to a finance charge of 1.5% per month or 18% per annum.
3. Payment terms are based upon current schedule of deliverables. Should schedule change, VPI reserves the right to review applicable terms.

### 5.3 Liquidated Damages

If mechanical installation work prior to the start of steam blow-related activities is not completed within 28 consecutive calendar days after VPI's subcontractor commences site work, provided that VPI's subcontractor is permitted unrestricted access during such period and that such delay is not otherwise excused by the terms of the Contract, VPI shall pay to the Customer as liquidated damages and not as a penalty \$8,000 per day of late completion as the sole and exclusive liability for such failure to achieve the work completion date. Some touch-up painting, insulation work and other work of a punch list nature, not affecting operational turnover, may be completed later and would not give rise to liability for liquidated damages for late completion, or any other damages. Notwithstanding the foregoing, liquidated damages shall be assessed against VPI only if VPI's unexcused delay is the sole cause of delay in the completion of the Customer's outage, and in the event that there is no concurrent delay in any other aspect of the outage that will be taking place. In any event, VPI's maximum liability for liquidated damages for work completion for which liquidated damages are payable shall not exceed 10% of the Contract price.

### 5.4 Delays and Project Standby Charges

The proposal pricing reflects delivery and installation of equipment by March 21, 2011. Customer requests for delays of shipment and/or postponement of installation beyond this date may result in extra charges for storage, handling, project management, etc.

### 5.5 Terms and Conditions

VPI's exceptions and clarification (i.e., variances) to the Customer-supplied Terms and Conditions are provided within Appendix 1.

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## 6 EXPERIENCE LIST

VPI is an Original Equipment Manufacturer of horizontal type HRSGs and has many repowering projects on vertical type HRSGs. VPI has hundreds of HRSGs in service. VPI also provides turnkey services for repair and retrofit of HRSGs. Below is a reference list of Aftermarket projects that VPI has recently conducted on HRSGs.

**1998-2008 VPI Aftermarket Experience (Abbreviated)**

Client	Location	Boiler Manufacturer	Scope
Arizona Public Service	Phoenix, AZ	GE	<ul style="list-style-type: none"> <li>• Turnkey retrofit of a vertical HRSG</li> <li>• Site supervision &amp; project management</li> </ul>
Bechtel	South America	Vogt	<ul style="list-style-type: none"> <li>• Replacement economizer</li> </ul>
Beaver Station-PGE	Portland, OR	GE	<ul style="list-style-type: none"> <li>• Turnkey retrofit of six (6) vertical HRSGs</li> </ul>
BP Amoco	Alvin, TX	Vogt	<ul style="list-style-type: none"> <li>• Replacement of superheater &amp; economizer</li> </ul>
Calpine – Androscoggin Energy	Jay, ME	Nooter Eriksen	<ul style="list-style-type: none"> <li>• Turnkey redesign/replacement of three (3) economizer headers</li> <li>• Site supervision &amp; project management</li> </ul>
Calpine – Greenleaf II	Yuba City, CA	Deltak	<ul style="list-style-type: none"> <li>• Turnkey retrofit &amp; installation of water preheater and LP EVAP modules</li> </ul>
Calpine – Tiverton	Tiverton, RI	Nooter Eriksen	<ul style="list-style-type: none"> <li>• Turnkey retrofit of three (3) reheat attemperator piping systems</li> <li>• Site supervision &amp; project management</li> </ul>
CIPCO	Creston, Iowa	Vogt	<ul style="list-style-type: none"> <li>• Replacement of superheater &amp; economizer</li> <li>• Project management</li> </ul>
ConocoPhillips	Rodeo, CA	Vogt	<ul style="list-style-type: none"> <li>• SCR retrofits (3 units)</li> <li>• Site supervision</li> </ul>
Dominion Generation – Chesterfield	Chester, VA	Vogt	<ul style="list-style-type: none"> <li>• Turnkey re-insulation of inlet duct, basement section, and attic sections</li> <li>• Turnkey reinforcement of bottom base beam</li> <li>• Site supervision &amp; project management</li> </ul>
Dow Chemical Company	Texas City, TX	Vogt	<ul style="list-style-type: none"> <li>• Turnkey retrofit &amp; installation of nine (9) economizer modules</li> <li>• Site supervision &amp; project management</li> </ul>
Dow Chemical Company	Freeport, TX	Vogt	<ul style="list-style-type: none"> <li>• Supply of SCR system components and required HRSG modifications to incorporate the SCR system</li> </ul>
Dow Chemical Company	Freeport, TX	Vogt	<ul style="list-style-type: none"> <li>• HRSG modifications to accommodate the addition of a Gas Turbine DLN system</li> </ul>
El Paso Natural Gas	Farmington, NM	Vogt	<ul style="list-style-type: none"> <li>• Turnkey retrofit of economizer</li> <li>• Site supervision &amp; project management</li> </ul>
General Electric Company	Dabhol, India	Vogt	<ul style="list-style-type: none"> <li>• Replacement of expansion bellows</li> <li>• Site supervision &amp; project management</li> </ul>

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Client	Location	Boiler Manufacturer	Scope
Motiva Enterprises	Port Arthur, TX	Vogt	<ul style="list-style-type: none"> <li>• Turnkey SCR retrofit</li> <li>• Site supervision</li> </ul>
Praxair	Texas City, TX	Deltak	<ul style="list-style-type: none"> <li>• Turnkey retrofit &amp; installation of six (6) economizer modules</li> <li>• Site supervision &amp; project management</li> </ul>
Proctor & Gamble - Oxnard	Oxnard, CA	Vogt	<ul style="list-style-type: none"> <li>• Turnkey retrofit of one (1) HRSG for CO catalyst system addition</li> <li>• Turnkey upgrade of the existing SCR system.</li> </ul>
Reedy Creek Utilities	Orlando, FL	Vogt	<ul style="list-style-type: none"> <li>• Addition of CO Catalyst System</li> <li>• Project management</li> <li>• Site technical advisor</li> </ul>
Reliant Energy	Houston, TX	GE	<ul style="list-style-type: none"> <li>• Economizer retrofit on eight (8) vertical HRSGs</li> <li>• Project management</li> </ul>
SIGEN S.A.	Santiago, Chile	Vogt	<ul style="list-style-type: none"> <li>• Emergency retrofit of module support system</li> </ul>
Texas Petrochemicals Corp.	Houston, TX	ATS	<ul style="list-style-type: none"> <li>• Turnkey retrofit</li> <li>• Redesign of HRSG</li> <li>• Replacement/Addition of heating surface</li> <li>• Site supervision &amp; project management</li> </ul>
Texas Petrochemicals Corp.	Houston, TX	Vogt	<ul style="list-style-type: none"> <li>• Turnkey replacement economizer</li> <li>• Site supervision &amp; project management</li> </ul>
Turlock Irrigation District – Almond Power	Turlock, CA	Deltak	<ul style="list-style-type: none"> <li>• Computer Flow Modeling Study (i.e., CFD)</li> <li>• Turnkey installation of inlet duct distribution grid to improve the flow distribution on the existing SCR catalyst blocks.</li> </ul>
TransCanada – Ocean State Power	Harrisville, RI	Vogt	<ul style="list-style-type: none"> <li>• Redesign of HPEV piping</li> <li>• Site supervision &amp; project management</li> </ul>
University of Texas	Austin, TX	Vogt	<ul style="list-style-type: none"> <li>• Turnkey replacement of all heating surface</li> <li>• Site supervision &amp; project management</li> </ul>
University of Texas	Austin, TX	Vogt	<ul style="list-style-type: none"> <li>• Complete plant assessment &amp; efficiency study</li> </ul>

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Vogt Power International - Louisville, Kentucky, USA

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## 7 APPENDICES

### 7.1 APPENDIX-1 EXCEPTIONS & CLARIFICATIONS TO CUSTOMER RFP/SPECIFICATION

Below is a list of the RFP and Specifications documents that were provided by the Customer and reviewed by VPI. Attached is a completed copy of the Customer's "Variances" form and revised copies of the RFP and Specifications documents reflecting discussions between VPI and the Customer. VPI is not responsible for Specifications not provided.

VPI's exceptions and clarifications to the following documents have been discussed with the Customer. The resolved items are reflected in the attached documents.

- City of Vero Beach Heat Recovery Steam Generator Superheater Retrofit RFP No. 170-10/PJW, dated March 2010 (revised May 2010), including:
  - Request for Proposal
  - Instructions to Proposers
  - General Conditions
  - Supplementary General Conditions
  - Bid Proposal
  - Form of Agreement, including Notary forms
  - Affidavit
  - Scope of Work
  - Type III Insurance Required, Revised 02/13/02
- COVB Bid 170-10/PJW, Addendum No.1 to City of Vero Beach Bid, Heat Recovery Steam Generator Superheater Retrofit, dated March 10, 2010.

Also attached are signed copies of each addendum to the RFP, as revised.

VPI had no comments, exceptions, or clarifications regarding the following Customer-provided specification documents:

- Drug Free Compliance
- Addendum No. 2 To COVB RFP 170-10/PJW, Heat Recovery Steam Generator Superheater Retrofit, dated March 17, 2010.
- Addendum No. 3 To COVB RFP 170-10/PJW, Heat Recovery Steam Generator Superheater Retrofit, dated March 23, 2010.
- Addendum No. 4 To COVB RFP 170-10/PJW, Heat Recovery Steam Generator Superheater Retrofit, dated April 1, 2010.
- SSPC-SP 11: Surface Preparation Specification No.11, Power Tool Cleaning to Bare Metal
- SSPC-SP 3: Surface Preparation Specification No.3, Power Tool Cleaning
- Intertherm 751CSA: Heat Resistant Cold Spray Aluminum
- BAR-RUST 321: Multi-Purpose Epoxy Mastic
- DEVTHANE 379UVA: Aliphatic Urethane Gloss Enamel

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## CITY OF VERO BEACH

### VARIANCES

State any variances to the specifications, terms, conditions, or any part of these documents, in the space provided below or reference in the space provided below all variances contained on any of the pages of the Request for Bid, attachments or bid pages. No variances by the bidder will be deemed to be part of the submitted bid unless each variance is listed and contained within the bid documents and referenced in the space provided below. If no statement is contained in the below space, it shall be implied by the bidder that your bid complies with the full and complete scope of the original bid request.

¶ Reference	Comment/Exception
N/A	All variances submitted with Vogt Power proposal number V69054, Rev.1, dated April 6, 2010 have been discussed with the City of Vero Beach. The attached documents reflect resolution of those variances.

**COUNCIL AGENDA REPORT**  
**MEETING OF JUNE 1, 2010**

**TO:** The Honorable Mayor and Members of the City Council

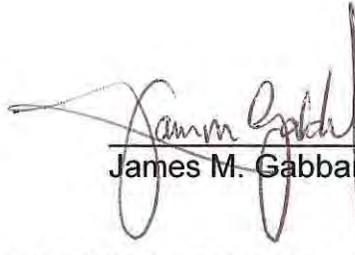
**FROM:** James M. Gabbard, City Manager

**DATE:** May 26, 2010

**SUBJECT: ELECTRIC UTILITY DISCUSSION**

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John Lee, Acting Electric Utilities Director, will provide an update to the City Council on the City's electric utility.

  
James M. Gabbard

JMG:jav

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**MEMORANDUM**

**TO:** James Gabbard, City Manager  
**FROM:** Ken Daige, Councilmember <sup>KD</sup><sub>sp</sub>  
**DATE:** May 26, 2010  
**RE:** Hurricane Preparedness

---

I would like you to give an update on how the City is prepared for a hurricane, or other event, if one should approach the City at the June 1, 2010 City Council meeting. Included in the information, I would like you to explain how the City Department Heads brief their employees before, during and after such an event.

KD/sp

**SUBJECT TO CHANGE**

**AGENDA**

**CITY MANAGER'S OFFICE**

**JUNE 1, 2010**

**Consent Agenda**

2D)1. Regular City Council Minutes – May 18, 2010

**City Manager's Matters**

- 7A) Award of RFP No. 170-10/PJW – Unit 5 Heat Recovery Steam Generator Superheater Retrofit
- 7B) Electric Utility Discussion

**CITY OF VERO BEACH, FLORIDA**  
**JUNE 1, 2010 – 9:30 A.M.**  
**REGULAR CITY COUNCIL MINUTES**  
**CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**1. CALL TO ORDER**

**A. Roll Call**

Mayor Kevin Sawnick, present; Vice Mayor Sabin Abell, excused absence; Councilmember Tom White, present; Councilmember Brian Heady, present and Councilmember Ken Daige, present **Also Present:** James Gabbard, City Manager; Charles Vitunac, City Attorney and Tammy Vock, City Clerk

**B. Invocation**

The invocation was given by Pastor Jerry Shepherd of Twentieth Avenue Church of God.

**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**

Mr. White commented that at their last meeting they were told by the City Attorney that anything that has to do with the lawsuit filed by Mr. Heady must go through the Attorney that the City has hired to represent them. He asked Mr. Vitunac if that was correct.

Mr. Vitunac answered yes. He said that Mr. Brennan (hired attorney) advises against discussing matters that concern the lawsuit.

Mr. White reiterated what is allowed under Old Business, New Business and Councilmember's Matters. He said that under Old Business there are ten items that have no backup material available. He made a motion that items 9A-3), 4, 6, 7, 8, and 9B-1) be removed the agenda. Mr. Daige seconded the motion.

Mr. Daige asked that items 9A-1, 2, 5, 9, 10, and 9B-2) be removed from the agenda. He first asked that under 9B-2) Water and Sewer Presentation if Mr. Heady could discuss this when they are discussing item 4-A), which has to do with the water and sewer rates.

Mayor Sawnick noted that they really did not know what Mr. Heady wanted to discuss (referring to item 9B-2).

Mr. Daige then asked that item 9B-2) also be pulled from the agenda.

Mayor Sawnick read out loud the items that were being pulled off of the agenda.

The motion made by Mr. White and seconded by Mr. Daige passed 3-1 with Mr. Heady voting no.

Mr. Daige made a motion that items 9A-1, 2, 5, 9, 10 and 9B-2) be pulled off of the agenda. Mayor Sawnick seconded the motion and it passed 3-1 with Mr. Heady voting no.

Mayor Sawnick made a motion to adopt the agenda as amended. Mr. White seconded the motion and it passed 3-1 with Mr. Heady voting no.

### **B. Proclamations**

#### **1) Proclamation to be presented to John M. Lynn for his 40 years of service to the City of Vero Beach**

Mayor Sawnick presented Mr. John Lynn with a plaque thanking him for his 40 years of service to the City of Vero Beach.

### **C. Public Comment**

#### **1) Ms. Nancy Wood, Ms. Toni DeBiase, and Ms. Florence Licata to speak about the Vero Beach Airport**

Ms. Florence Licata commented that their government spends millions of dollars on homeland security when someone wants to fly but then flight training students can fly without any clearance. They are acting like this is 1950 and they need to wake up. She said that Vero Beach is the second largest Airport in the Country. They have 57 flight operations per hour. She said that these students are terrorizing their City. She also had some concerns about these students being able to fly and not required to carry insurance. She then brought up that the Airport Director wants to spend money to build an Industrial Park at the Airport, which would be in direct competition with the people. She then asked does the community even want an Airport. She said that is a good question. She noted that in 2009 something at the Airport changed and there were a lot more flights taking place, which continues today. She met with the Airport officials and asked what has changed and was told nothing. She said that in short their questions were met with hostility. She felt that all of these jets that are flying in this community are impacting their environment. She said that since taxpayers pay Mr. Menger's salary, is he the best person for the job. She felt that the Airport has turned her neighborhood into a war like zone. The impact that it has on their community is devastating. They would like to see not only a vision plan for the Airport spelled out, but also told what the benefits of having the Airport are. She suggested having a referendum item on the ballot in the November election to ask the people of this community if they really want an Airport. She said lets lay the cards out on the table and let the people decide.

Mr. Heady asked the Mayor if he could ask Ms. Licata a couple of questions.

Mayor Sawnick asked the Council if they had a problem with this.

Mr. Daige preferred that all the people speaking from the public get through with their comments before Council starts asking questions.

Mr. Heady told the Mayor that the speaker identified some issues that he thinks are meaningful to her presentation. If they wait until everyone is finished and rehash all of her issues, that in the interest of time, which seems to be of an interest to this Council, that it would be more meaningful and less time consuming if they were allowed to ask the questions at this point.

Mayor Sawnick asked for a show of hands on who from the public would like to speak at today's meeting. There were nine hands that went up.

Ms. Nancy Wood asked to speak and said that this issue (Airport) has been addressed before the Council for the last 15 years and it would be nice to clear it up.

Mr. Daige suggested that anyone speaking on the Airport issue come up and make their presentation and then Council can ask questions. He said if it is the wishes of the people speaking to handle it this way then Council wants to honor their wishes.

Mr. Heady told the Mayor that he still would request to be able to ask questions right after someone speaks. The questions that he has for Ms. Licata might clear up some issues for the rest of the speakers. It seems to him that if the Council is going to proceed in a meaningful way that they should be able to ask questions about the presentation.

Mr. Daige asked the City Attorney if they needed to vote on the matter or could they just move on with the Mayor's recommendation.

Mr. Vitunac explained that the Mayor has made a recommendation and it would have to be challenged and overturned by a majority vote.

Ms. Wood said that she was ready for open dialogue with the Council.

Mr. Heady challenged the Mayor's ruling. The appeal died for lack of a second.

Ms. Tony DeBiase went over with Council a flight schedule that she logged the day after Christmas. She noted that the times were so close together because there were five planes flying overhead. She expressed that she is physically and emotionally destroyed. She showed a slide of Mr. Bennett's bird bath, which is covered with oil that came from airplanes flying overhead. She then brought up that the Airport also wants to cut trees on private property. The trees are the only buffer that keeps the toxin from hurting them. She felt that cutting the trees was all about money. There are no regulations any more. It

all goes to the businesses on how much money they can make. She said that it was outrageous these aircraft goes over a populated community and where does she go for help.

Mr. Heady had some questions for this presenter and he asked the Mayor if he could ask her some questions or does he have to wait.

Mayor Sawnick told him not at this moment.

Ms. Nancy Wood commented that back in 1994 she started coming to the Council meetings to talk about Airport noise and safety. She has served on many Committees and spent a lot of time on this. She said that unfortunately they are still where they were before. She has a solution to solve the problem, which she will be presenting to Council. She explained that FAA owns the air space, but they (City Council) are responsible and liable for Vero Beach. She brought up the newest proposal to spend \$1.6 million for 88 acres for an Industrial Park, which is in direct competition with the tax payers who would have to foot the bill and ultimately find themselves in competition with their own tax dollars. She mentioned that at times the Tower is closed when these flight trainings are taking place. She felt that all the complaints that have been mentioned this morning are valid. A Part 150 Noise Study was completed by the Airport, though it falls short of a Part 161 Study, which would expand the City's ability to explore reasonable strategies for impact mitigation. She would like to know the process and the City's interest to invest in a Part 161 Study given the potential growth in flight operations and their impact on this community (written speech attached to these minutes).

Mayor Sawnick commented that this issue has been going on for some time and there are a lot of things that need to be fixed. He asked that they proceed with public comments.

Ms. Wood felt that in following with proper protocol they would like to see a line item on the Council agenda so that they could continue with this conversation.

Mr. Daige reminded Council that once the presentations have been completed by these speakers that Council could ask questions.

Mayor Sawnick noted that there were roughly about 10 more people requesting to speak and maybe some of those people who are on their lunch break will not be able to. He suggested limiting comments to ten minutes.

Mr. Heady objected to the ten minute time limit. He said that if Council has questions then they should be able to ask them. Their job is to be responsive to the people and make sure that the facts are out and on the table. If they have questions then they should be allowed to ask them.

Mr. Heady began his questions with Ms. Licata. He said that Ms. Licata's house is in glide path and asked her what year did she buy her house. Ms. Licata answered 1997. She mentioned that 60% of the students training at Flight Safety are from Icadia. He

asked if she had any backup to provide on this. Ms. Licata said that she could probably provide that information. Mr. Heady asked her where did she obtain the 60% number from. Ms. Licata said that it was quoted in the Press Journal. Mr. Heady asked her did she follow up or check with Flight Safety to make sure that this information was accurate. Ms. Licata answered no. Mr. Heady said that his next question was for the Airport Director. He said that Ms. Licata talked about "stall" and he asked him if a stall procedure is done at an altitude where a plane can still recover. Mr. Eric Menger, Airport Director, answered yes. Mr. Heady made it clear that the stall was about lift and not about turning the engine off. Mr. Heady then asked when the crash at Riverside occurred. He was told about 25 years ago. Mr. Heady told Ms. Licata that she said that Mr. Menger's salary was tax payer funded. He asked Mr. Menger if his salary was paid out of Airport funds. Mr. Menger said that he is paid out of the Airport funds that are Airport revenues. Ms. Licata asked if Mr. Menger was a City employee. Mr. Heady said that is why he asked the question to see where his salary was coming from. Ms. Wood added that the Airport has its own fund that is different from the other entities of the City and that is why they are able to do so many things. Mr. Heady understood that. He just wanted to clear up in his own mind where Mr. Menger's salary was coming from. Ms. Licata said that it ultimately comes from tax payer's money. Mr. Heady did not dispute that. He agreed that it was all tax payers' money. Mr. Heady asked about the \$5,200 study. Ms. Licata said that was mentioned at a Council meeting when Mr. Menger showed a three phase proposal. Mr. Menger made it clear that the \$5,200 came from Airport revenue. Ms. Licata reiterated that it is still tax payer's money. Mr. Heady agreed that it was all tax payers' money, but as a Councilmember one of the things that he has to be cautious of is a lot of tax money is categorical and can be only spent in certain areas. As a Councilmember he needs to know where this money is coming from because if it has an impact on the ad valorem tax, he acts one way and if it is coming in from a source that is going to come in anyway then he will act another way. Ms. Licata stated that her point is that they need to display all of the information about the Airport at public disposal so that people in this community can see what revenue is generated, how it is generated, how does it impact their community, how does it benefit their community and whether or not they really want it.

Mr. Heady said that his next questions were for Ms. DeBiase. He asked Ms. DeBiase when she purchased her home. Ms. DeBiase answered in 2000. Mr. Heady asked her to explain her comments about toxic waste being dumped. Ms. DeBiase said it is the fuel coming from the planes. Ms. Licata added that it was not disclosed to her that there was an Airport when she purchased her home in 1997 and the Airport that was there in 1997 is in no way like the Airport that is there now. Mr. Heady asked Mr. Menger if there are any airplanes dropping fuel over the City of Vero Beach. Mr. Menger answered no. Mr. White interjected and said that this is turning into a debate. Mr. Heady corrected him and said that it is not a debate, these are questions.

At this time Mayor Sawnick asked if anyone else from the Council had questions. He was told they had no questions. He gave Mr. Heady a few more minutes for questions and said they would continue on with public comments.

Mr. Heady referred to the oil in the bird bath and said that it is not from dumping toxic waste, it is from exhaust. Mr. Menger thought that was correct. Mr. Heady then asked Mr. Menger if there were any procedures with cutting engines off on a landing. Mr. Menger answered no. Ms. Licata expressed to Mr. Heady that they don't understand all the technology because they are not aviators. They only know that when a plane is coming overhead and the engine sounds like it stops, they hope that it will start again. Ms. DeBiase made it clear that they never mentioned noise one time. She also said it has been proven that there is an increase in cancer for people that live near an Airport.

Mayor Sawnick felt at this time that they needed to move on. Mr. Heady said that he still had some questions for the last speaker. Mayor Sawnick told him that they needed to move on because there are other people wishing to be heard. Mr. Heady said that he hasn't gone ten minutes yet. Mayor Sawnick said that it has been ten minutes. Mayor Sawnick told Ms. Wood that he would get back with her on this matter. Mr. Heady still had questions and he challenged the Mayor's ruling. He has some questions for Ms. Wood that will take two more minutes and it seems ridiculous that the Mayor once again interferes with Councilmembers trying to find answers to legitimate questions. He told the Mayor that he challenges his ruling. There was no second, therefore the appeal died.

Mayor Sawnick said they would continue with public comments.

Mr. Daige noted that Mr. Heady had two more minutes to ask his questions.

Mr. White suggested holding a Town Hall meeting to discuss this matter.

Ms. Wood commented that has already been done and do they want to do it again.

Mr. White explained that it would be a way to hear from the rest of the public. They could start looking into a Part 161 Study and the Airport Director would be better prepared.

Ms. Wood asked Council if they would have the availability of the resources that Mr. Menger has. She asked could they put together Power Point presentations and hold meetings in the Chambers. Mr. White told her yes. She said so what they are saying is that they can use the resources that the City has and Mr. Menger will leave his doors open to answer their questions and be polite and forth coming.

Mr. Heady noted that Ms. Wood feels that the solution would be to have a Part 161 Study done. He asked her if she knew what that would cost. Ms. Wood was guessing probably around \$350,000. Mr. Heady also mentioned that Ms. Wood said that there was an answering machine hooked up to handle noise complaints, but it only allowed ten calls. Ms. Wood said that was correct. She said that Mr. Menger was responsible for checking the messages and clearing the machine. A question was asked about what time the Tower closes at night. Mr. Menger stated that the Tower closes at 9:00 p.m. every night. Mr. Heady asked if after the Tower closes is most of Flight Safety's training done before 9:00 p.m. Mr. Menger said that most of it is completed. He said that night training is required

in order for someone to get their Pilot's License. Mr. Heady asked Ms. Wood to provide him with documents of complaints from the 1970's. Ms. Wood said that she would. Mr. Heady asked how Flight Safety is an economic benefit to the community. Mr. Menger explained that there was a study done in 2010 showing that Flight Safety is bringing in over \$300 million per year and will be creating approximately 4,000 jobs. Mr. Heady commented that there was an allocation that Flight Safety was training a percentage of students from particular areas. Mr. Menger explained that all students are cleared through Homeland Security. However, this is not under his jurisdiction.

Mr. White recalled that some years back Flight Safety invited the Council to tour their facilities and showed them the chip that each student has, which covers their background, finger prints, and all the things necessary for security. He said that Flight Safety has their own security that they do on the pilots.

Mr. Daige expressed the concerns that he has regarding safety. He said that if there is a safety problem then it needs to be fixed. He agreed with having a Special Call meeting or Town Hall meeting to discuss this item further. They would handle the meeting like they handle some of their visioning plan meetings.

Mayor Sawnick noted that there were more speakers wishing to be heard and wondered if they should enforce the three minute speaking rule. Mr. Heady had a problem with doing that and Mr. Daige did also. Mr. Daige said that he was not in favor of it because they did not do it in the beginning of the meeting.

Mayor Sawnick asked the public to try to keep their comments to three minutes.

Mr. Heady had a problem with restricting anyone from speaking. He said it doesn't matter whether they live here all year long or not.

Ms. Lee Skinner, John's Island and Rosewood Road, Sebastian River, requested to speak. She was here today to share with the Council that they were not alone. She said that the County Commission also has a problem. This is a problem that is all over the southern Florida area. She said that FAA has not been available at all for the last three years. She said that Flight Safety and some of the other training schools started coming into the Sebastian Airport about three years ago and her home was never invaded like that before. When she talked to the Sebastian City Council she didn't get anywhere. They are calling this their "economic engine." She talked to the Mayor of Sebastian who asked her what do you want me to do, have the planes fly over my home. She said at her home it sounds like a Pearl Harbor movie. She could give them some statics of how many planes fly over her house for a certain time period (similar to what Ms. DeBiase gave) She felt that this is a dialogue that needs to take place possibly over the four counties on the Treasure Coast. She suggested working with the four Treasure Coast counties in putting a training facility that would not be flying over children, elderly people, and families.

Mr. Robert Losey commented that his son in law is an Air Traffic Controller in Jacksonville and has a pilot's license, but Air Traffic Controllers are not required to have

one. He has been in this community for 15 years and it is a wonderful town. He has a problem with bicyclist riding down A-1-A and that many of them are defiant. He mentioned that the "old money" runs this town. He also had some concerns with Florida not requiring people to wear helmets when riding motorcycles.

Mrs. Linda Hillman (read a prepared speech that is attached to the minutes) complimented the City workers on the sidewalk project that they are doing on Royal Palm Pointe and Royal Palm Boulevard. She then referred to an article that was in the Press Journal on Saturday. She said that the article was entitled "Neighborhoods may get speed limit cut." She thought finally, because it has been over two years since she started working with the City Council and other City departments to get this done. She was disappointed because the article talked about the beachside neighborhoods. Since Sept 9, 2009 it has been one of their neighborhoods goals to reduce the cut through traffic and also reduce the speed limit to 25 mph. They have not approached Council lately because they knew how many other issues that they have been dealing with. However, they have waited long enough. She pleaded with Council to get the signs made, get them up and have the Police Department enforce the speed limit. This is something that has been approved and should have been done within a month of being approved. Mrs. Hillman moved on to the issue of the Go-Line Bus Hub in Original Town. She knows that the property the buses are picking up and dropping off is County property. But, she also knows that it is within the City limits. This should not be put in the lap of the neighborhood to remove. She said that the neighborhood has no privacy. They have people walking through the neighborhood to catch the buses, or to walk to wherever they are going. There are also port-o-lets near the bus stop. She has received calls from neighbors about the trash lying around. They do not need, nor do they want a bus terminal in their neighborhood. She pleaded with the Council to help them in removing this bus terminal. It has taken them a long time for the people in this neighborhood to fight for what they have and this does not make any of them happy. She then commented that she has sat in this audience for three years and is embarrassed for the sitting Council when they have to listen to the words liars, cheats and thieves. She thinks that it is disgusting. The citizens and tax payers of Vero Beach are being cheated out of their rights to bring forth other issues to this Council which may not include "electric issues." This Councilman (referring to Mr. Heady) is grandstanding everything and everyone by consistently bringing up the same things at every meeting. She then read the definition of grandstanding. She has done her homework and has found several cities that have speaking limits, not only for the audience, but for City Councilmembers where five minutes is the limit. The Mayor has the right to do the ruling on how long the City Council is allowed to speak. She then asked the City Attorney does the State of Florida or the City of Vero Beach have a law or procedure that allows the recall of an elected Councilmember. She said if so, what is the procedure and who would she contact to start the procedure. She wishes to petition a recall on Councilmember Brian Heady.

Mr. Vitunac explained that recalls are handled by State law. He suggested calling the Supervisor of Elections for further information and hiring her own attorney to handle this.

Mr. Joseph Guffanti was happy that he did call Vero Beach is home town. He said that the answers to the problems mentioned by Ms. Woods should have been addressed a long time ago and will be addressed in November.

Mr. Ken Bennett commented that he has been in Vero Beach for 30 years and there are some days that these planes fly over his house and there is a problem. He mentioned the last plane crashes that have occurred. He thought that flight training should take place West of I-95 and that the planes should be required to have insurance. He commented that the citizens of this community may look at putting this on the ballot as a referendum item to find out if the community wants an Airport.

Ms. Dorothy Napp supported Mrs. Hillman's comments about changes in their neighborhood since the busses started coming through. She said there is more trash in their neighborhood than she has ever seen. She doesn't know whose job it is to pick up the trash, but it is not being done. She even saw a man trying to break into cars that were in the parking lot near the bus terminal.

Mr. Daige brought up the Go-Line buses and said that what he is hearing today is the neighbors don't like what is going on in their neighborhood. He said that Council will find out why this area is not being patrolled. They (the neighbors) don't have to fight the County, we (the City) will take care of it. He promised the residents of the neighborhood that they would have an answer by the next meeting. There will be more patrolling in the area done and the port-o-lets would be taken care of. He knows that the City Manager is on board to do everything he can to get this resolved. He also said that they will work on getting the speed limit dropped. These are things that can be taken care of immediately. He asked the City Manager if that was correct. Mr. Gabbard answered yes.

Mr. White asked if the bus stop was on County or City property.

Mr. Gabbard explained that it is on the East side of the parking lot where the old County Administration building used to be. He was advised about ten days ago that the port-o-lets were there and he was told that it was a temporary solution to the problem. He mentioned that there was a proposal to have a bus terminal out West where the Supervisor of Election's office is located. He feels that they should move the whole transfer station out West. However, he doesn't know what the County's thoughts are on that. He said that the crime and trash issues will be addressed and he will call each City Councilmember personally and tell them what they are doing.

Mr. Daige told the audience who were concerned with this matter that the situation you have there will be taken care of now.

Mr. Bob Walsh mentioned that they ended up with a 68 page contract from OUC that was not even voted on. When Mr. Heady asked to see the original contract it was discovered that it had been in Boston for the last two years and when it was returned no one could prove that it was the original contract. It disturbs him that former City Manager John

Little and former Mayor David Gregg were not allowed to help with the negotiations between the City and FP&L. He said that someone has their own agenda.

Mrs. Pilar Turner, Vice President of the Taxpayer's Association, made the following requests on behalf of the Board and members of the Taxpayer's Association, (prepared statement attached to the minutes): 1) That the City Council support Mayor Sawnick's initiative to hire an efficiency expert to conduct an honest assessment of City Departments where money can be saved to avoid the transfer of funds from the utilities to the General Fund, 2) City Council respond to Mayor Sawnick's request that each of them present five suggestions for reducing the budget at the next Council meeting 3) City Council vote to phase in zero-based budgeting for all departments; 4) City Council be proactive in encouraging the out-sourcing of some City services to reduce costs to taxpayers 5) That the City's health insurance premiums and retirement benefits be adjusted to be in line with the private sector 6) City Council adopt an across the board salary freeze until the City becomes more financially stable 7) City Council make it their priority to reduce the City electric rates and consider all options in order to achieve this 8) City Council allow the Finance Commission to review the City's annual budget and make recommendations 9) City Council develop a plan to allow public input during the budget hearing process; 10) City Council adopt a pro-taxpayer position and less of the pro-employee and pro-status quo attitude when dealing with public funds and 11) The City Council be proactive in achieving transparency in all aspects of City finances.

Mr. Stuart Kennedy commended staff and the departments involved in the successful Memorial Day service that was held yesterday at Memorial Island. He referred to item 4-A) on the agenda and was not clear as to why they no longer were having these rate increases. Mayor Sawnick told him that this item is on the agenda and the Water and Sewer Director will be explaining it. He then asked the Council if they were comfortable that they have been provided with enough revenue over the next couple of years to cover the increase proposed by the consultants. He wondered why the improvements were ever approved in the first place if they are no longer required. He also wondered if this has anything to do with the on-going discussions with the County and Indian River Shores. He then said that he is sad by the way that this Council seems to be operating. He doesn't think that they are all singing off the same hymn sheet. All of them are elected by the people and he wished that they would get their act together and look after the interest of the public and have the public's interest in mind. If they have arguments on how things should be done, he asked that they be discussed outside of the Council Chambers. He said that it doesn't look good when it is done publically. If people are asking questions and not getting the answers then the thought that comes to mind is why the answers aren't forthcoming.

Mr. White wanted to let Mr. Kennedy know that back when the rate increases were approved by the consultants, the Council voted 4-1 to approve the rates and he voted against it. He said after working with staff they were able to reduce the rate increase by half and then after looking over the budget and doing away with some capital items they were able to cut the budget so that there would not be a rate increase on October 1<sup>st</sup>. He said that is the reason they need to stop this Resolution because it would automatically

kick into place if they did not repeal it. He said that they have been working diligently to get the rates decreased.

Mr. M.J. Wicker was at today's meeting hoping to hear something about the golf course. He said that he has not heard anything from Mr. Gabbard. He talked to Mr. Joe Baird, County Administrator, who believed that they were talking about a very small piece of pie. Mr. Wicker said that he sees a great opportunity with this golf course. He said that it would be nice to have someone get started on a proposal for the golf course and put it back to the way that it was. He would also want people to be able to play on the golf course at a reasonable rate. He said time is of the essence because it would be nice to have it open before the season starts.

Mr. Gabbard stated that the last conversation he had with the County was on Wednesday. He said there are other entities that they have to work with on this piece of property. They want to make sure that everyone involved knows what the contract entails before they sign it. He said that the County has arranged a meeting with MILB to work out some sort of agreement. He cannot make this thing move any faster than it is moving.

Mr. White felt that Mr. Wicker needs to be talking to Mr. Gabbard about this.

Mr. Wicker stated that Mr. Gabbard told him that the property would be leased for one dollar a month. He said right now it is costing the City money to keep the property maintained and having it off of the tax rolls. He doesn't believe that this is as complicated as Mr. Gabbard makes it out to be.

Mr. Gabbard told Mr. Wicker that there are other people interested in the golf course other than him. The City Council has to consider what the proposals are and then decide what to do with the land, if anything at all.

Mr. Daige recalled that he has requested a Special Call meeting on the golf course where they can have all of the facts in front of them. He also went back to when Mr. Kennedy was speaking and wanted it made clear that he was against any rate increases. He keeps asking staff to get rates down for both the water and sewer and the electric.

Mrs. Barbara Drndak, Chairman of the Airport Commission, commented that she was sorry that the Airport issue was coming up again. She said that they can reeducate the public to know what happens in terms of revenue diversion. She said that none of the money by Federal law, can go into the general fund. The health of the Airport is important to the City. If the Airport can't pay for itself then it does go back to the City to take care of it. She would be happy to participate in a Special Call meeting to go in depth about this and is available to help.

Council took a five-minute break at 11:34 a.m.

Mr. White excused himself from the meeting at 11:34 a.m.

After the meeting was called back to order, Mr. Daige requested that they take a lunch break and reconvene the meeting once Mr. White returns.

Mayor Sawnick said that he has a Mayor's meeting at 2:00 p.m. and would like to continue with the meeting. He made it clear that to pass anything it would take a 3-0 vote.

#### **D. Adoption of Consent Agenda**

##### **1. Regular City Council Minutes – May 18, 2010**

Mr. Heady had some corrections that he wanted made to the May 18, 2010 minutes. He asked that this item be pulled off of the agenda and put back on their next agenda for approval. In the meantime he would get with the Clerk on what changes that he would like to see made to the minutes.

##### **3. PUBLIC HEARINGS**

- A) An Ordinance of the City of Vero Beach, Florida, instituting a one hundred eighty (180) day moratorium on the issuance of development orders to establish "Pain Clinics" or "Pain Management Clinics" within the City of Vero Beach to allow time for the City staff to further review regulatory options and formulate and adopt regulations for these Clinics; providing for severability; and providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. Vitunac explained that this Ordinance, if adopted, would provide for a six month moratorium and would not allow any permits to be issued by the City for any new pain clinics. It is his recommendation that Council passes this Ordinance and then by October 1<sup>st</sup> the State will have adopted the new law concerning pain clinics.

Mayor Sawnick opened and closed the public hearing at 11:49 a.m., with no one wishing to be heard.

Mr. Heady had some questions before they opened and closed the public hearing, but was ignored by the Mayor. He continued by referring to the Doctor that attended their last meeting concerning the pain clinics. He asked Mr. Vitunac if he received any input from the Doctor concerning this Ordinance.

Mr. Vitunac explained that he corresponded with the Doctor via email. The Doctor had some recommendations for a comprehensive regulatory scheme for pain clinics at the City level. He explained to him that what they have is a simple moratorium that needs to be passed in order to stop any new pain clinics from coming into the area. The Doctor's issue is whether you would want local regulations, in addition to the State regulations, that will go into effect on October 1<sup>st</sup>. Mr. Vitunac's recommendation is that they don't

need it. He said that by the time this moratorium expires the State regulations will be in effect, which will cover them.

Mayor Sawnick commented that this Ordinance helps them now and the State Ordinance goes into effect before the moratorium ends.

Mr. Heady stated any pain clinics that have pulled a permit that continues to expand their operation is not restricted by this moratorium except to the extent that is outlined in the moratorium. Mr. Vitunac said that is correct. Mr. Heady continued and said that if they had included what the Doctor asked for in this moratorium that would further restrict anyone from expansion that currently has a license. Mr. Vitunac did not agree. He said if this Ordinance passes, the City will not issue any more permits for any pain clinics and that includes expansions. What it does not do is take present medical offices that are existing and shut them down. However, they will be shut down if they violate the State law. The new State law allows the State Inspector to inspect pain clinic records without needing a subpoena. Mr. Heady noted that Mr. Daige raised some issues at the last meeting and he asked for a temporary 30 day provision, which Council approved. That 30 day provision was to put everything on hold until this 180 day moratorium passed. Once this Ordinance passes the organization which Mr. Daige was concerned about, will be limited not by a 30 day hold rather by the provisions of this Ordinance. Mr. Vitunac stated that in effect they have the 30 day hold and this moratorium is in effect at the same time.

Mayor Sawnick made a motion to adopt the Ordinance. Mr. Daige seconded the motion.

Mr. Daige commented that it was his understanding that this moratorium that they put into place will have no effect on the existing pain management clinic that is under operation now because they have been given the okay to proceed. He referred to the paperwork provided by the Planning Director after their last meeting. He said that this information was not told to them at the first meeting when pain clinics were brought up. He said that what he would like to do and will be bringing this back to Council, is with change of use/code compliance certificates, he wants Council to look at them first. This way if something like this comes up again, Council will see it will be the approving body and not the Planning Director. He is not happy with the way this has played out so he wants to eliminate any future problems.

Mayor Sawnick agreed with Mr. Daige's suggestions.

Mr. Heady stated that the document provided to them by the Planning Director demonstrates some of these things that were issued after their City Council meeting, which was pretty clear from the Council at that point that they did not want to see this happen. A couple of concerns he has is when they discussed this there was something already in the works and staff had an obligation to tell them at that meeting. Then after they had that meeting, the direction at that point from the Council to staff was that they wanted a moratorium Ordinance to stop this from happening within the City. Then a license was issued after that meeting which is a major concern to him. He asked Mr.

Vitunac with the Ordinance they have before them could they incorporate in the Ordinance any restrictions and State regulations that the State is now considering. Mr. Vitunac felt that would require a new Ordinance. He said that this gives them a six month moratorium and protects them until October and gives them time to come back with a local Ordinance if they decide one is needed, which would be from June until October.

Mr. Heady referred to the pain clinic that was allowed to come into the City and said that since this clinic hasn't actually opened their doors for business, aren't they covered by any Ordinance that Council approves today.

Mr. Vitunac explained that is when invested rights issues and private property rights come into play. He said at a certain point when someone has gone through the process they have the right to continue it.

Mr. Heady asked if there was anything in this Ordinance that restricts private property rights. Mr. Vitunac answered no. Mr. Heady said if they include in this Ordinance the future State regulations, is that an infringement on their property rights. Mr. Vitunac explained that was not noticed in this Ordinance when it was published for a public hearing, so they could not amend the moratorium Ordinance to adopt an entire scheme of regulations adopted by the State that is about sixty pages long.

Mayor Sawnick made it clear that if they don't pass this Ordinance then the 30 day moratorium will end and pain clinics will be allowed after the 30 day period has passed. He said that Council needed to pass this Ordinance now so that the emergency moratorium does not end. If they wish to pass something that the State has done, which will take effect in October, they can come back and do that.

Mr. Heady said that he did not finish with his questions. He referred to Mr. Vitunac's answer to his question before the Mayor interrupted and that was that the Ordinance could not be changed at this point. He said that the intent of the Ordinance is pretty clear and just incorporating the future State regulations does not change the intent of this Ordinance so he could not understand why that would be a major change.

Mayor Sawnick said that he has not seen the regulations that the State intends to impose.

Mr. Vitunac explained that the published notice does not say that they were considering adopting the State law concerning the pain clinics. He said if Council wishes to do this then they can start it at their next meeting and it could be done quickly.

Mr. Wayne Coment, Assistant City Attorney, added that the moratorium Ordinance is a land use moratorium. He said that the State regulations is a business regulation. He said that these are two different types of things.

Mr. Daige commented that to apply for the business tax you have to have either a County license or a State license. He asked Mr. Coment in the paperwork provided to them by

Mr. McGarry it asks for a driver's license number, federal ID number or social security number. He asked why this individual was allowed not to fill those in.

Mr. Hank Flores, Current Planning Manager, explained that he only approved the change of use from professional office to business. He said as far as the business tax it was handled by Mr. McGarry. He said that if the social security number was on the application then it would have been covered. He would need to check with staff on this.

Mr. Daige could not understand why the federal id # and driver's license number was not made available.

Mr. Gabbard also did not know, but said that he would find out.

Mr. Daige then asked since it is not there, will they require it to be in the paper work.

Mr. Gabbard said that it is required and maybe the information was deleted because of it being personal information.

Mr. Heady said that if there is a redaction then shouldn't the document show a redaction. He said Council should know whether a document has been redacted or not. He said if it is a requirement for the permit and these items have not been filled out then the permit is not valid.

Mr. Gabbard will look into this and report back to Council and give them something in writing.

Mr. Vitunac added that an applicant has to give the essential information required by law. He does not know why this information is not filled out, but they will look into this.

Mr. Daige was in favor of moving the Ordinance through. He said that it was important for the safety of their community to approve it as it stands now. The questions that he has he will follow up with the City Manager and the City Attorney to get his answers and report back to the Council.

Mayor Sawnick called the question to adopt the Ordinance and asked the Clerk to call the roll.

The Clerk polled the Council on the motion to adopt the Ordinance and it passed 3-0 with Mr. Daige voting yes, Mr. Heady yes, and Mayor Sawnick yes.

#### **4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING**

- A) A Resolution of the City of Vero Beach, Florida, repealing the rate increases for fiscal year 2010, 2011, 2012, and 2013 Water and Sewer as described in Attachment "A" and "B" of Resolution 2009-31; providing for an effective date.**

Mayor Sawnick read the Resolution by title only.

Mr. Rob Bolton, Water and Sewer Director, reported that this Resolution was to repeal the future increases that were originally adopted. Since the adoption of the Resolution, they have been working to try and lower the water and sewer rates. The problem is that the increases approved sometime back were still on the books. He became aware of this about three weeks ago and asked Mr. Vitunac to look at repealing this. He noted that the reason they were able to repeal the Resolution was because they have worked through and restructured their capital improvements program. They have delayed some of their projects, which he went over, because of timing issues. He said they also have decreased their expenditures for operating by cutting back on personnel.

Mayor Sawnick appreciated their hard work and thanked them for reducing costs. He said that if anything comes up then they would bring it back to Council and if agreed they could adjust the rates as they go. This is for the time being and if something comes up that needs to be changed then they can bring it back to Council. One thing they don't want to see in 2013-2014 is that they have to raise their rates, because these rates were not imposed. He explained that they need to look forward five and ten years down the road so that if they do have to have an increase they can do it gradually and not in one big hit.

Mr. Bolton said that he was trying to work on the budget so that they are saving up funds, stabilizing their rates and predicting their capital improvements over the next four or five years so they would not have the rollercoaster type of effect as far as rate increases.

Mr. Daige made a motion to pass the Resolution repealing the rate increases for fiscal year 2010, 2011, 2012, and 2013 Water and Sewer as described in Attachments A and B of Resolution 2009-39. Mayor Sawnick seconded the motion.

Mr. Daige said that he has been working with the City Manager who has been working with staff and they have done a good job in getting these rates reduced. He said that he told the City Manager that the rates need to continue to come down. He said that he is also working on the electric side. He said that staff and Council have been working hard on reducing costs and they are going to continue to reduce costs.

Mr. Heady asked are the capital improvements that are delayed to 2013-2014 necessary for the system.

Mr. Bolton answered yes. He said it appears that some of the lime softening costs were getting to a breakeven point. The lime softening has more maintenance requirements. So it would be a good time to look at doing a shift in the equipment and put in another RO Train. As employees leave and retire they won't need to fill those positions, which would lower their staff levels even more.

Mr. Heady asked in looking out over a five year term, do you think the decrease is stable that they could operate with the decrease in personnel.

Mr. Bolton answered yes. He said that in April he cut out a lot of vacant positions and there are some retirement positions this year that they would not fill.

Mr. Heady said that they decreased operating personnel that was a cost to the City. Those were the ones that he was concerned about.

Mr. Bolton said that they restructured some of the Plant ratings and doing some SCADA improvements. As they do some of the improvements, they should be able to reduce staff.

Mr. Heady said there was a typical 90-day cash requirement for a loan or bond issue and the usual is 45 days. He asked what they have today.

Mr. Bolton said that he would need to ask the Finance Director. He said that it has been fluctuating because they have been paying for the capital improvements for the loan prior to getting reimbursed. Therefore, until they complete the projects for the SRF Fund, it fluctuates.

Mr. Heady asked it fluctuates from what to what.

Mr. Bolton said it could be zero and it could be \$500,000 one month.

Mr. Heady said recently they had on hand cash requirements to where they had nothing left. He said there was a speaker who mentioned the cost of the rate consultant and he had some cost reporting at \$65,000 and one was \$200,000. He asked what the cost of that rate study was.

Mr. Bolton answered about \$40,000 for the water and sewer side. He thought that the total for both the water and sewer and the electric was about \$80,000.

Mr. Heady asked when a consultant does a study like this, do they break out the components. He asked is there something that he could go back and look at to see what the water and sewer component was as opposed to the electric component.

Mr. Bolton answered yes. He said that there were three work orders. One was for the Water and Sewer Rate Study, one was for the Deep Injection Well and he was not sure what the third work order was for.

Mr. Heady said in the component portion of the revenue repealing the increases will it decrease the projected income. He asked Mr. Bolton what percentage is County, what percentage is City and what percentage is Indian River Shores in the Water and Sewer customer receipts.

Mr. Bolton asked what does that have to do with this Resolution.

Mr. Heady asked are you reducing rate increases.

Mr. Bolton answered yes. He was not sure of Mr. Heady's question.

Mr. Heady explained that he wanted to know what the component parts of the City, Indian River Shores and Indian River County were.

Mr. Bolton thought that it was around 38% outside City usage.

Mr. Heady asked do the accounts correspond to the income and do they represent a larger portion of the income because they are bigger users.

Mr. Bolton answered no.

Mr. Heady said they were are starting at the County and Indian River Shores leaving the City as early as 2016.

Mr. Bolton said that no one has told him that.

Mr. Heady asked in the current agreements between Indian River Shores and the County, isn't there an exit provision.

Mr. Bolton answered yes.

Mr. Heady asked what year is the exit provision.

Mr. Bolton answered 2017.

Mr. Heady asked if he was to vote to repeal the rate increases that it would clearly be a politically popular thing for him to do. He said that his question with regards to delay on the capital improvements, the answer is that they are necessary improvements. If he approved repealing the increases, but these are necessary requirements, what he is going to do is offload the payment for those by 38% and increase the City's taxpayers' burden after 2017.

Mr. Bolton answered no, because they were working off of cash. They were not borrowing any money. He said that they were going to build cash and have a balanced budget in 2013. They were going to build the improvements with cash.

Mr. Heady said that they would have 38% less cash.

Mr. Bolton said in the year 2016 – 2017 if they were to exit.

Mr. Heady commented that if they decrease that income, but the expenditures were going to be necessary in the future, then he was going to really transfer the burden to pay for those improvements from the income the City would have received from outside City residents to City residents later on.

Mr. Bolton answered no. He explained that the improvements would be done in 2013 and 2014, which would be done through the current rates.

Mayor Sawnick said the capital improvements would be done before anyone exits the agreement.

Mr. Daige said playing it forward it is going to work. He said that they would not be doing this if it was not going to work and was going to impact the City's ratepayers down the road. He said that they need to do something now for their ratepayers. He said that they can do this and it will not hurt the system. He said that they need to do this reduction. He asked that Council please pass this Resolution.

Mr. Heady commented that the 2013-2014 improvements would be paid for in that year.

Mr. Bolton said that he did not state all in one year. He explained that they would be building up cash over the next few years to pay for the improvements. In other words, they would be creating a sinking fund for those improvements.

Mr. Heady asked do you anticipate loans on the improvements.

Mr. Bolton said that they would be using cash to pay for the projects.

Mr. Heady asked, total cash with no loans at all.

Mr. Bolton answered yes.

Mr. Heady asked how the 90-day cash requirement came into play as a consideration.

Mr. Bolton answered because they were looking at borrowing money for this year and next year to cover these capital projects and those projects have been delayed.

Mr. Heady asked what is the total debt for the water and sewer department right now for the City taxpayers.

Mr. Bolton thought that there was a Bond Issue in the amount of \$14 million dollars. He said that they also have the SRF loan.

Mr. Heady asked what is the yearly debt service.

Mr. Bolton thought that there was about \$1.46 million dollar on the \$14 million dollar loan and it was about \$560,000 next year on the SRF loan.



Mr. Heady asked what is the total yearly loss in income with the rate decrease.

Mr. Bolton said that they were not decreasing anything.

Mr. Heady said the Resolution before them was to repeal the rate increases. He asked what is the dollar amount, per year, that those increases would yield to the City.

Mr. Bolton said next year's increases that were proposed was seven and one half percent on the water side and nine and one half percent on the sewer side.

Mr. Heady asked how many years are left on the \$14 million dollar debt.

Mr. Bolton answered that the debt would go to the year 2022.

Mr. Heady asked how many years are left on the \$10.5 million dollar debt.

Mr. Bolton answered until year 2030.

Mayor Sawnick felt that Mr. Bolton was doing a good job in answering these questions without having the information in front of him. He was sorry that they didn't have these questions before hand.

Mr. Heady said there was a study that showed that the City needed these increases, but there was a comprehensive report that shows that they don't need these increases.

Mr. Bolton reported that he spoke with the consultant and they ran through some of their numbers, which showed that next year would have reduced the nine and one half percent to seven percent. He said that this still had the assumption that they were working with the cash requirements of 90 days and they did not have the decrease in salaries. He said that it also has assumptions that last year they had a zero percent increase in salaries, but they actually had a five percent decrease in costs because they were working off of furlough days.

Mr. Heady said that no employee, other than furlough days, took a decrease in their salary. The reduction in salaries was a reduction because of a decrease in personnel.

Mr. Bolton said there is a five percent decrease in salary because of the furlough days.

Mr. Heady asked what is the five percent in dollars.

Mr. Bolton did not have that information.

The Clerk polled the Council on the motion and it failed 2-1 with Mr. Daige voting yes, Mr. Heady no and Mayor Sawnick yes.



Mayor Sawnick asked Mr. Vitunac if this Resolution could be brought back before the Council at a future meeting.

Mr. Vitunac said this Resolution could be brought back before the Council at their next meeting when there is a full Council present.

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

None

**6. CITY CLERK'S MATTERS**

None

**7. CITY MANAGER'S MATTERS**

**A) Award of RFP No. 170-10/PJW – Unit 5 Heat Recovery Steam Generator Superheater Retrofit**

Mr. Jim Stevens, Power Resources Director, recommended that this project be awarded to Vogt Power International (VPI) for the design, removal, and installation of superheater modules required to meet compliance with American Society of Mechanical Engineers. The project requires an eight month lead time in order to fabricate the superheater modules.

Mayor Sawnick made a motion to approve the Award of RFP No. 170/10/PJW, for Unit 5 Heat Recovery Steam Generator to Vogt Power International. Mr. Daige seconded the motion.

Mr. Daige referred to the proposal schedule and asked for the line cost for 1,2,3,4,5,6 and where it states 15% what does this cover and what does that mean. He also asked that in the future that the City Manager makes sure that staff puts page numbers on the backup material that they receive.

Mr. Stevens explained that at the end of project they need to conduct a steamblow to make sure that all of the contaminants are out of the steam system. So they contracted VPI to do the monitoring of the system because he does not have anyone on his staff that is competent enough to do that. It was an estimate based on previous steamlows that they did.

Mr. Daige asked to complete the entire project, which includes doing some inside work, taking the roof apart, etc., are those costs separate or included in this bid.

Mr. Stevens stated that they are separate costs and they have estimated \$100,000 for the roof work.

Mr. Daige asked if there was any other work that needed to be completed to get this unit up and running. Mr. Stevens answered no. Mr. Daige said then they would be under \$150,000 to do the additional work. Mr. Stevens told him that was correct. Mr. Daige then referred to the firm who was going to do the main work and asked how much bond they posted.

Mr. Stevens said that 125% of the job was posted.

Mr. John O'Brien, Purchasing Manager, explained that standard bonding is 125% and the other issue that they were looking at was when liquidated damages would start. He said that once the project is completed the firm will do the steam blow and that was going to be unrelated to liquidated damages.

Mr. Daige said by approving this item today that the bond is part of the deal.

Mr. O'Brien answered yes. He explained that when the contract is signed, then the necessary insurance will be provided.

Mr. Daige wanted it in the record that according to the testimony of the Purchasing Manager this does include the bond and the monies for the bond.

Mr. O'Brien explained that since they do not know the exact number on the bond in this case the cost of the bond will be given to them and they will reimburse that.

Mr. Daige requested that in the future that this information be provided in their backup material.

Mr. Daige asked how many firms bid on this project.

Mr. Stevens stated that there were two firms and the bid was given to the lowest bidder.

Mr. Daige asked Mr. Stevens if he talked to other generator cities where these people have worked.

Mr. Stevens answered yes. He said that they checked their references.

Mr. Heady asked Mr. Stevens if generally speaking, is Unit 5 an efficient Unit. Mr. Stevens answered yes. He said that it is the Unit that they run most of the time. Mr. Heady asked what is the cost per kWh to produce electric for Unit #5. He asked is it more or less than what they pay for bulk power. Mr. Stevens answered that it is more. Mr. Heady then asked if there was any savings that this \$2 million dollars provides that would be a return on investment or is this just a necessary requirement to keep the equipment running efficiently. Mr. Stevens said that it was a necessary requirement to keep the equipment running efficiently. Mr. Heady then said that the \$2 million dollars doesn't buy them any savings in any way. Mr. Stevens said that it would make the Unit

more reliable. He explained that right now they have thermal issues and a lot of the tubes are warped. Mr. Heady asked if they closed Unit 5 down and bought bulk power then the costs in terms of bulk power would be less than operating Unit 5.

Mr. John Lee Acting Electric Utilities Director, commented that the term bulk power is not a term that people like. The power is the total cost for all the power that they bring in to the system. They have a contract with OUC and Unit 2 and Unit 5 are a part of the contract.

Mr. Heady asked if there was a penalty if they don't run Unit 2 and Unit 5. Mr. Lee could not answer that question. He explained that when this system is called to run they run and the City makes money. If they don't run and had to purchase the power then they would have to do a market analysis to see how much more money they would paying. Mr. Heady asked if they could buy power to meet their own load cheaper than they could run Unit 5. Mr. Lee said they could not. Mr. Heady mentioned that they also buy power under the OUC contract and he said that the cost of that power from OUC is greater than the cost of running Unit 2 and Unit 5. Mr. Lee explained that part of the contract it includes running Unit 2 and Unit 5.

Mr. Daige mentioned that he attended the Utilities Commission meeting when this item was discussed and agreed that it is time to replace this equipment. He said that there are safety issues.

Mayor Sawnick added that if they don't pass this and a hurricane comes, it would be drastic.

Mr. Stevens commented that Unit 5 and Unit 2 are their most run units. He said these units are run just about every day of the week and they are very dependable units. He said that they did the mechanical and thermal stress studies and the recommendation is to change.

Mr. Heady commented that the Mayor says if a hurricane came through they would not be able to turn this on. He asked aren't they running this Unit right now. He was informed that this information was not accurate.

Mr. Heady noted that there is a meeting scheduled with FP&L and he doesn't know if they want the combined cycles Unit 2 and Unit 5 or not, he guesses that no one else really knows the answer to that question because they haven't discussed this with FP&L. Mayor Sawnick interjected that they would be discussing the meeting with FP&L later on in today's meeting. He referred to the item that they are discussing now and said that whatever happens they have to take care of their City. He told Mr. Heady that his point is well taken and he knows where he is heading with the statement that he just made. Mayor Sawnick said that there has been enough discussion on this item.

The motion died 2-1 with Mr. Heady voting no. Mr. Heady said that he is opposed because the Mayor will not allow further discussion and for him to get answers to his questions.

Mr. Daige understood that this work needed to be done. He requested that there be a Special Call meeting held for the two items that did not pass this morning because a majority of the Council was not present for the meeting.

Mr. Gabbard did not see any problems with waiting until the regularly scheduled meeting.

Mr. Stevens added that if they don't make these repairs in the time frame allotted there are penalties if the Unit is not available.

**B) Electric Utility Discussion**

Mr. John Lee, Acting Electric Utilities Director, went over some new data basic comparisons for utilities in the State of Florida (on file in the City Clerk's office).

Mr. Daige was not in agreement with Mr. Lee that they cannot go any lower with their utility bills. He expressed that people are struggling to pay their bills and their benchmark is to be close to what customers for FP&L are paying. He knows it will be hard to reach that, but they need to get the utility bills lower. They are all going to have to work together to get the bills lowered.

Mr. Gabbard expressed that they are doing everything that they can. They are very concerned about their customers and do a lot of things that the bigger utilities won't even consider doing in order to help their customers. They recognize that they have to continue to work to cut costs. He will start looking at the different department's budgets tomorrow and will continue to work at dropping these rates.

Mr. Daige reiterated that what he is looking for is more of a reduction and they have to work hard to do that.

Mr. Lee continued with his presentation. He understands Mr. Daige's concerns, but his job is to give Council the facts and there are some tough decisions that have to be made if they want to reach some of their goals.

Mr. Gabbard commented that he was notified a couple of weeks ago that FP&L wished to meet with them. They said that they would come to the City of Vero Beach, but preferred to meet at their headquarters. They said that the meeting would take about two hours and that it was an information session to share some of their thoughts. He said that no negotiations will take place. He was told that FP&L still had not made a decision as to whether or not they were interested in purchasing the system. The meeting will be held this Thursday morning at 9:00 a.m.

Mr. Daige went over the people that will be attending the meeting. He would prefer that they be the only ones at the table at this meeting.

Mr. Gabbard said that is how they planned it. He understands that there was some discussion last week about a County Commissioner wishing to attend the meeting. However they (Mayor, City Manager, City Attorney, Finance Director, and Acting Electric Utilities Director) plan on going as a group from the City.

Mr. Daige would appreciate that the City Manager keep it that way.

Mr. Gabbard said that is the plan.

Mr. Daige expressed that he wanted him to stick with the plan and if it changes he asked that they not go. He understands their plan and who is going and reiterated let's keep it that way.

Mr. Heady commented that the perception in the community is that a couple of other people would be sitting in on the meeting. They are Bill Kenyon and Peter O'Bryan. He thought that they received assurances that they would be allowed to observe.

Mayor Sawnick told him that was not the case.

Mr. Gabbard added that he has had no conversation with anyone regarding that.

Mr. Heady asked if what he was hearing was that there is no knowledge that the people indicated have not been invited.

Mr. Gabbard said that he has had no communication with either elected official.

## **8. CITY ATTORNEY'S MATTERS**

None

## **9. CITY COUNCIL MATTERS**

### **A. Old Business**

- 1. Another Reconsideration of Date for Presentation by Dr. Faherty and Glenn Heran – Requested by Councilmember Heady**
- 2. Still Waiting for Written Answers from City Manager – Requested by Councilmember Heady**
- 3. OUC Contract – Requested by Councilmember Heady**
- 4. 50MM Penalty – Requested by Councilmember Heady**
- 5. November Elections – Requested by Councilmember Heady**
- 6. Debate on Sale of Electric – Requested by Councilmember Heady**

7. **8/12/08 to be Played and Discussion to Follow – Requested by Councilmember Heady**
8. **Ending A Federal Lawsuit – Requested by Councilmember Heady**
9. **Honest Services Fraud – Requested by Councilmember Heady**
10. **Golf Course – Requested by Councilmember Heady**

These items were pulled off of the agenda.

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**B. New Business**

1. **How to Settle a Lawsuit – Requested by Councilmember Heady**
2. **Water and Sewer Presentation – Requested by Councilmember Heady**

These items were pulled off of the agenda.

3. **Hurricane Preparedness – Requested by Councilmember Daige**

Mr. Gabbard reported that staff is preparing to have their first annual meeting on June 8<sup>th</sup>. They will go over their hurricane plans and there is only one new Department Head Director that has joined the City since the 2004 hurricanes so there are capable veterans that understand the issues. He noted that there are three notebooks that outline their disaster plan (available in the Clerk's office).

Mrs. Vock noted that on their web site [www.covb.org](http://www.covb.org) and on Channel 13 the hurricane video is running periodically. She said that anyone wanting to purchase a copy of the DVD can do so in her office.

Mr. Daige referred to the reports that they are being provided regarding the oil spill. He wanted to know if where it talks about municipal information, that page could be put on their website and on Channel 13. This way in the future people will be able to view these reports on these two different sites. He said there are a number of links that they can go to. He asked the City Manager to provide a link on their website to the Florida League of Cities Government Task Force (Governor's Gulf Oil Spill Recovery Task Force). This task force was established so that all parties involved receive fair compensation for damages that they may receive as a result of the spill. He said that they need to be prepared and to give their citizens all the information that they need in the event that this area is affected.

Mr. Heady wanted to make sure that he was going through this agenda properly. He asked Mr. Daige if this was something that he just added to the agenda. Mr. Daige referred to his memo, which was the only backup provided on the hurricane preparedness. However, he did add discussion about the oil spill which Mr. Heady said that he did not have a problem with.

**10. INDIVIDUAL COUNCILMEMBERS' MATTERS**

- A. Mayor Kevin Sawnick's Matters**
  - 1. Correspondence**
  - 2. Committee Reports**
  - 3. Comments**

Mayor Sawnick attended the Charter High School graduation ceremony, he attended both Amtrak public meetings, the Boardwalk dedication at Pelican Island, the Mayor's beach clean up that was held at Waldo's and reported that the next Coffee with the Council will be held on June 13th at Mulligan's.

Mayor Sawnick added that they are looking into the GoLine bus situation to make sure that this issue is addressed.

- B. Vice Mayor Sabin Abell's Matters**
  - 1. Correspondence**
  - 2. Committee Reports**
  - 3. Comments**

- C. Councilmember Tom White's Matters**
  - 1. Correspondence**
  - 2. Committee Reports**
  - 3. Comments**

- D. Councilmember Brian Heady's Matters**
  - 1. Correspondence**
  - 2. Committee Reports**
  - 3. Comments**

**A) FPL and Public Business in the Public Eye**

Mr. Heady felt that it would serve the public well if two people (Chair of the County Commission, Peter O'Bryan and Mayor of Indian River Shores, Bill Kenyon) were allowed to attend the meeting being held with FP&L as observers, but not take part in the discussion.

**B) Liars, Cheats and Thieves**

Mr. Heady stated that he has stood at the podium many times saying that liars, cheats, and thieves should not be in charge of governing agencies and he believes that to be true. That means when you act in your official capacity you should not lie about anything and you should not cheat or steal from the public.

**C) Bad Information = Bad Decisions**

Mr. Heady commented that if they are going to make decisions on anything one thing that they need is good information. He said that when the Mayor continuously cuts off

information from being supplied to the public then the only thing that can possibly do is result in bad decisions. It is unfortunate that they have a Mayor who wants to silence the public and silence the Councilmembers, but it is clear that the rest of the Council seems to want to go along with that. He would hope that changes in this calendar year.

**D) Correspondence**

**E. Councilmember Ken Daige's Matters**

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

Mr. Daige read his Committee Report (please see attached).

**10. ADJOURNMENT**

Mayor Sawnick made a motion to adjourn the meeting at 1:36 p.m. Mr. Daige seconded the motion and it passed unanimously.

/tv

June 1, 2010

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From: Concerned Citizens  
To: The Vero Beach City Council  
Re: The Vero Beach Airport  
Sub: An Open Letter to the Vero Beach City Council

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Thank you for this opportunity to summarize our ongoing concerns with the Vero Beach Airport (VBA).

At 180,000 air operations --- and the capacity to grow to more than 300,000 air operations annually --- the VBA remains, pound for pound, one of the busiest airports in the US.

Given this distinction, we believe certain actions should be directed at mitigating the impacts of current air operations much less their potential to grow by almost 100%.

We offer the following items of interest and concern:

1. A recent inquiry by members of the City Council to Eric Menger asked if noise impacts might be mitigated during Sunday morning religious services. Mr. Menger essentially stated that a 'voluntary noise mitigation plan' was in place and that the FAA would resist restrictions on air operations. We believe that if the FAA owns the sky, then the CVB controls ground operations through negotiated leases with Flight Safety, or through the issuance of required occupational licenses issued by the City. With the potential for annual flight operations to increase from 180,000 to 300,000 --- we suspect that any effort at impact mitigation should be mandatory, and put into place before, and not after, new leases or occupational licenses are issued by the City.
2. A 'Part 150 Noise Study' was completed by the VBA though it falls short of a 'Part 161 Study' which would expand the City's ability to explore reasonable strategies for impact mitigation. We would like to know more about this process and the VBA's interest to invest in a 'Part 161 Study' given the potential growth in flight operations, and their impacts on our community.

3. Flight Safety accounts for 70%+/- of current air operations at the VBA. When Wal-Mart builds a 'Super Center,' they are required to mitigate their impacts (noise, traffic, light, screening) --- yet a commercial enterprise such as Flight Safety is favored with an impact mitigation plan which is voluntary while they enjoy the use of a Federally funded facility including a proposal to spend \$1.6 million of our money to build a control center.

Alternatively, VBA's newest proposal is to spend \$1.6 million for 88 acres for an Industrial Park---in direct competition with the tax payers who would foot this bill and ultimately find themselves in competition with their own tax dollars. FDOT funds have a higher and better use than to use them against our local economy. We suspect that the airport knows this --- and that if 88 acres is purchased by the public, perhaps it might best be used as an urban storm water management district with the associated green space, recreational amenities, and the "buffer benefits" Mr. Menger recommends for our \$1.6 million. Only this investment will be 'community based' and not in competition with our own tax dollars.

4. Runways have not been extended but 'thickened' in anticipation of larger and heavier jets. Is there a defined carrying capacity for the VBA? Put another way, how bad will it get? Is the 88 acres being purchased to expand aviation related functions such as the production and testing of jet engines? Will the City Council go on record?

5. Other issues of interest and concern include:

- The practice of fuel dumping
- Shallow glide paths
- Tree trimming on private property to sustain the public 'good'
- Recently discovered archeological sites and their management
- The management of scrub habitat
- The use of 'touch and go's' to support FDOT funding
- Homeland security and who is flying over our neighborhoods?
- The safety of our wells and soils
- The protection and management of endangered species
- The 'heart stopping' practice of Flight Safety killing engines for practice
- What are the 'insurance requirements' ALL aircraft flying over neighborhoods?
- Why should the Vero Beach Airport be buying 88 acres? And for what purpose?
- And finally: Will the Vero Beach Airport invest in a 'Part 161 Study' in order to make one of the busiest airports in the US compatible and consistent with locally adopted plans addressing the value and treasure of neighborhoods (some of which) were actually here long before this airport was.

Neighborhoods matter too. At this point we are simply raising legitimate issues of the public health, safety and welfare which we were promised in adopted plans approved by the County, City, and Regional Planning Council.

Creating a more sensitive fit between our neighborhoods and the Vero Beach Airport should not be a challenge given the adopted plans approved by this and former City Councils. By now, it should be adopted public policy. Our Vision Plan calls Vero Beach a "Community of Neighborhoods." We hope that our City Council believes this as much as much as the rest of us do.

We look forward to your attention to this matter.

Best.

Concerned Citizens.

Good Morning Mayor Sawnick, City Manager Gabbard, City Attorney Vitunic, and Council Members. Thank you for the opportunity to speak before you. I have a few issues I wish to talk about, and I will be as brief on them as I can.

*I would like to* thank and compliment the workers of the city who have worked on and are still completing the sidewalk project on Royal Palm Place and Blvd. They have done a great job. The design of the project, the way the sidewalks weave around trees and avoids damage to landscaping on private property, is beautiful. I travel Royal Palm everyday on my way to work, and in the mornings I have seen more and more people walking, exercising and riding bikes. It's wonderful to see. The workers need to know that the job they have done is greatly appreciated. The sidewalks are a great enhancement to that neighborhood. Please thank them.

I'm sure everyone read Saturdays paper? The Indian River County section, headlines "Neighborhoods may get speed limit cut". Boy, I was seiked! I thought, finally. It's been over 2 ½ years since we started the work with the city council and other city departments to get this done, now we're finally getting our first wish. Was I wrong. I could not believe what I was reading. The first paragraph reads "Concerns about safety on the streets in the Bethel Isle and Silver Shores neighborhoods has prompted assistant city engineer Bill Messersmith to consider a 5 mph reduction in the speed limit". I could not believe it. I along with most of my neighbors have worked on this plan for Original Town Neighborhood. It was adopted on Sept. 6<sup>th</sup>, 2009 . We have the very same concerns of safety. On page 55 it states..... We have waited. We made the decision not to harass the City to get this done. We would wait. We knew the only cost to the city was in making the signs. The speed reduction was agreed upon. So, now we say to you, we need this to happen. We are having more and more traffic issues through our neighborhood since the County has decided to bring their major

bus hub to our neighborhood. Please, without further delay, reduce our speed limits. We have waited long enough. This is not rocket science. Make the signs, get them up, and have the Police Dept. enforce the speed limit.

On the issue of the Go-Line Bus Hub in Original Town. We all know that the property the buses are picking up and dropping off at is county property. But, we also know that it is within the city limits. This should not be put in the lap of the neighborhood to remove. The county will present a plan to the planning department and the city for approval to build a bus terminal. I, we as a neighborhood will be there at every meeting to fight this. We hardly have any neighborhood privacy. We have people walking through our neighborhood to catch the buses, or to walk back to where ever they are going to. There are port-o-lets here. Neighbors have called me about trash laying around. I myself had an altercation with a lady that picked up a passenger. The man no sooner sat in the car when he threw a banana peel out the window. I yelled at them that our streets were not their garbage can and the woman stopped her car and got out coming toward me asking what I said, and when I repeated to her that we were not her garbage can, she just went back to her car and left. We do not need, nor do we want a bus terminal at the end of our neighborhood. We have enough businesses and commercial properties that have reduced our residential neighborhood from all directions. Please, work for us. Don't leave us to fight this. Help remove the bus terminal before it gets drawn up on paper. Don't let us come before you to fight this issue.

Lastly, I would like to say to Mayor Sawnick, "I have done my homework". I am referring to the issue of time limitations at city council meetings. Both for public speakers and for council members. So, here are some rules of conduct in different cities:

This refers to council members:

City of Belmont, Calif.:

Section III Rules of Conduct:

Item G:- Length of council members comments: Council Members will govern themselves as to the lengths of their comments or presentations. The city council has delegated to the Mayor, the responsibility to assist it's council members by signaling when said council member has been speaking for over five (5) minutes on any agenda item.

Santa Monica, Calif.:

Rule #12- Rules of debate by council members; Prior to the beginning of each meeting, by a two thirds vote of those present, council members may limit the amount of time that each council member may spend stating his or her views on any particular agenda item.

City of Dallas Texas;

Code of Conduct:

(see separate copy)

This refers to public input:

Boston Mass City Council. These rules of the Council were adopted Jan. 27, 2010. Rule #43 of their charter states that "no persons, except city clerk staff or city council staff are allowed upon the council floor. No person shall be permitted to speak, testify, or otherwise participate in any council meeting, hearing or working council session unless permitted to do so in advance by the presiding officer or committee chair person.

Bridgeport, Conn., my birthplace. The Bridgeport Municipal code

states that any resident may be eligible to address the City Council by requesting, in writing, no later than one week prior to the meeting, to speak to the council. You must include your name, address, and the subject matter, and which date you are requesting to speak to the council. Speaking requests are taken on a first come basis and only six requests are allowed for each meeting. The speaker must sign up on that date previously to the start of the meeting. If you fail to make that meeting and or sign up to speak, your slot is given to the speaker next in line.

Lastly, Corpus Cristi, Texas. Rules of decorum.

No council member, staff member, or persons of the audience shall berate, embarrass, accuse or show disrespect for any member of staff, council, or member of the audience at any City Council meeting. When addressing the City Council, members of the audience must begin by giving their name and address. Time limitations are imposed by the Mayor on any presentation. This shall be strictly enforced.

Lastly, Corpus Cristi, section #19 entitled "Power of Recall", The people of the City reserve the power to recall the Mayor and or any City Council Member and may initiate the process by filing with the City Secretary a petition which must be signed by no less than 10% of the registered voters.

So...."Liars, Cheats, and Thieves"....

I sat in this audience many times, over several years, and listened to those words directed towards the council members. I felt embarrassed for you as members of this council. I knew that you should have responded , yet, your code of conduct prevented you to do so. I have respect for all of you.

However, I wish to add two words to that list

First: Enigma; the definition “something or someone puzzling; mysterious or inexplicable”

Grandstand; “To behave dramatically or showily to impress an audience or observer. To pander to a crowd.”

One or all of these words describe councilman Heady. The citizens. Taxpayers, of Vero Beach, which I am one of, are being cheated out of their right to bring forth other issues to this council which may not include “electric issues”. This councilman is “grandstanding” everything and everyone by consistently bringing up the same things at every meeting. Yes the electric is an issue with most if not all taxpayers, but there are other issues which we would like to address. There just is not enough time. We have families, jobs, dead lines, and we just can’t give up 4 or 5 hours of our time to present other issues. As a taxpayer, I am now having to be without any entitlement because I have to contribute part of my tax dollar to help pay \$300.00 an hour for an attorney so a City Council member can sue his own City Council. What part of this do you feel is not cheating me?

My question for the City Attorney is: Does the State of Florida have a law or procedure that allows the recall of an elected council member? If so, what is the procedure and whom would I contact to start the procedure? I wish to petition a recall on council member Brian Heady.

I have been on the internet...Vero Beach is a big topic...and it is not because we have made the top 100 Cities in America to live in.

Thank you for your attention.

# Public Speaking Information

## REQUIREMENTS TO REQUEST PERMISSION TO ADDRESS THE CITY COUNCIL BRIDGEPORT, CONNECTICUT



Pursuant to Section 2.02.050 of the Bridgeport Municipal Code, anyone who is a resident, taxpayer or representative of a city-based organization or company who is speaking on behalf of the organization or company may be eligible to address the City Council of Bridgeport.

Each request must be in writing, specifically stating:

- Name
- Address (No P.O. Boxes)
- Subject Matter
- Date of City Council Meeting at which you are requesting to speak.

Speaking requests are taken on a first come first serve basis, and must be received by the City Clerk's Office no later than the Wednesday preceding the City Council meeting. A total of six speakers are permitted at each meeting. Five minutes are allowed to each speaker.

You will receive a letter in the mail informing you of the status of your request prior to the scheduled City Council meeting date.

Speakers that meet the above requirements are allowed to sign up at 6:30 p.m. on the evening of the council meeting if all six slots have not been previously scheduled or in the event that a previously scheduled speaker fails to be present at the start of the Public Hearing Forum.

**SUBSTITUTE SPEAKERS WILL NOT BE PERMITTED,  
EXCEPT IN THE CASE OF AN EMERGENCY.**

*Fleeta C. Hudson, City Clerk  
Office of the City Clerk  
45 Lyon Terrace  
Bridgeport, Connecticut  
06604  
(203) 576-7081*

CITY

www...

# Rules of Procedure

## DALLAS - TEXAS

### Section 3

#### CODE OF CONDUCT

##### 3.1. City Council Members.

\* (a) During city council meetings, city council members shall assist in preserving order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings nor refuse to obey the orders of the presiding officer or the rules of the city council.

\* (b) A city council member desiring to speak shall address the chair and, upon recognition by the presiding officer, shall confine discussion to the question under debate, avoid discussion of personalities and indecorous language, and refrain from personal attacks and verbal abuse.

\* (c) A city council member desiring to question the administrative staff shall address questions to the city manager who shall be entitled either to answer the inquiries or to designate some member of city staff for that purpose. City council members shall not berate nor admonish staff members.

(d) A city council member, once recognized, shall not be interrupted while speaking unless called to order by the presiding officer, unless a point of order is raised by another member, or unless the speaker chooses to yield to questions from another member. If a city council member is called to order while speaking, that member shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall remain silent or make additional remarks so as to comply with rules of the city council.

(e) City council members shall confine their questions to the particular matters before the assembly and in debate shall confine their remarks to the issues before the city council.

(f) When there is more than one speaker on the same subject, city council members will delay their comments until after all speakers on the subject have been heard.

(g) City council members shall refrain from eating food inside the council chamber.

# TAXPAYERS ASSOCIATION OF INDIAN RIVER COUNTY

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May 31, 2010

Vero Beach City Council  
1053 20<sup>th</sup> Place  
Vero Beach, Fl 32961

Dear Honorable Mayor and City Council Members,

On behalf of the Board and members of the Taxpayers Association of Indian River County , I would like to make the following recommendations and requests of the Vero Beach City Council:

- That the City Council support Mayor Sawnick's initiative to hire an efficiency expert to conduct an honest assessment of city departments where money can be saved to avoid the transfer of funds from the utilities to the General fund. This assessment should be performed prior to the budget review.
- That the City Council respond to Mayor Sawnick's request that each Council Member present five suggestions for reducing the budget at the next Council meeting.
- That the City Council vote to phase in zero-based budgeting for all departments.
- That the City Council be proactive in encouraging the out-sourcing of some City services to reduce costs to taxpayers for salaries, health care and retirement benefits. i.e. solid waste collection which is partially out-sourced now. We note our Memorial Day trash collection was provided not at time and a half but at three times the usual salary rate.
- That the City's health insurance premiums and retirement benefits be adjusted to be in line with private sector policies and these revisions be presented to Council prior to the budget review.
- That City Council adopt an across -the-board salary freeze until the City becomes more financially stable.
- That the City Council make it a priority to reduce the City electric rates and consider all options to achieve this initiative including the sale of all or part of the City's electric system.
- That the City Council allow the Finance Commission to review the City's annual budget and make their recommendations publicly to the Council prior to the budget hearings.
- We request the City Council develop a plan to allow public input during the budget hearing process as provided by the County and other municipalities.
- That the City Council adopt a pro-taxpayer position and less of the pro-employee and pro-status quo attitude when dealing with public funds.
- We request the City Council be proactive in achieving transparency in all aspects of City finances.

Sincerely,



Phil Turner

Vice-President, Taxpayers Association of Indian River County

Meetings, Seminars and Events Attended 6-1-2010  
Submitted by Councilmember Ken Daige

- 5-19-2010 -appeared on WWCI TV10 to inform the public about actions the City Council is taking concerning Pain Clinics.
- attended the Indian River Tourist Development Council
- 5-25-2010 -attended MPO public workshop on a green and sustainable long range transportation system for Indian River County.
- 5-31-2010 -attended the Memorial Day Ceremonies at Vero Beach Memorial Island.