

**CITY OF VERO BEACH, FLORIDA
OCTOBER 19, 2010 6:00 P.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, present; Councilmember Tom White, present; Councilmember Brian Heady, present and Councilmember Ken Daige, present **Also Present:** Monte Falls, Interim City Manager; Charlie Vitunac, City Attorney and Tammy Vock, City Clerk

B. Invocation

The invocation was given by Rabbi Michael Birnholz of Temple Beth Shalom.

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

Mrs. Tammy Vock, City Clerk, requested that item 7-A) be added on to the agenda under City Manager's Matters, which would be titled "Update on action of the Minor League Baseball Issue."

Mayor Sawnick made a motion to add item 7-A) to the agenda. Mr. Daige seconded the motion and it passed unanimously.

Mayor Sawnick made a motion to delete items 9A-1) through 9A-8) from the agenda because of lack of clarification and that there was no backup material provided for these items. Mr. White seconded the motion.

Mr. White commented that there are a couple of items under Old Business that he would have no objections to if Mr. Heady wanted to discuss them under his matters. The items that he agrees with pulling off the agenda are items 9A-1), 9A-2), 9A-3), and 9A-5).

Mr. Heady told Mr. White whether or not he had a problem with his items he (Mr. Heady) can discuss anything under his comments. The motion is to remove all of his items. He mentioned that there is an Election coming up, and during Election where the things you (Council) say all the time that you want everything on the table, but if certain members of the public want something on the table for discussion they are not interested.

If he wants something on the table to be discussed, they are not interested. He told them that they can remove these items, they have been doing this for months and months. He said that he was clearly opposed to more of their same nonsense.

Mr. Abell felt that it would be very easy for Mr. Heady to do what is required of them and that is to provide backup material. He referred to one of the items under Old Business – item 9A-6) Downtown Parking and he asked Mr. Heady was he talking about downtown on the mainland or downtown on the beachside. He said that Mr. Heady needs to explain what he was wants to speak about. He said that the same thing that they have been accused of not letting him talk on some sort of referendum because all he put on the agenda was “November Elections.” He said that “November Elections” was discussed at one of their meetings and it came out that he (Mr. Heady) wanted to put candidates pictures on the website and information on Channel 13. Mr. Heady stopped Mr. Abell and said to him “I wanted to what”. Mr. Abell informed him that is what he asked for. Mr. Heady asked Mr. Abell what he was saying was that he said at a public meeting he wanted to add the candidates to the City’s website. Mr. Abell answered yes. Mr. Heady asked Mr. Abell if he could refer to the meeting when he said that and is that recorded in the minutes. Mr. Abell said that he would find the information for Mr. Heady. Mr. Heady asked Mr. Abell that during a break tonight would he like to tell him where in the minutes he said that. Mr. Heady said he doesn’t think that is accurate. It is more of the same stuff that he usually does and that is he thinks that he can just sit here and say things for the public to hear and they will accept it. He knows that is not true, it is just not true.

Mayor Sawnick told Mr. Heady that Mr. Abell has said that he would provide him with the information, but it probably would not be during the break.

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

Mayor Sawnick made a motion to adopt the agenda as amended. Mr. Daige seconded the motion and it passed 4-1 with Mr. Heady voting no.

B. Proclamations

1. National Arts and Humanities Month – October 2010

Mayor Sawnick read and presented the proclamation.

C. Public Comment

Mr. Joseph Guffanti stated that back in 2008 the Florida Municipal Power Agency (FMPA) got involved with a future contract regarding the price of natural gas. Not long after that the price of natural gas dropped to about a third. He learned that the City of Vero Beach was involved with that contract. He knew about the contract because the former City Manager, Jim Gabbard, announced it at a public meeting that FMPA had engaged in a contract to buy natural gas at a fixed price. He then brought up the situation

that occurred with Mr. Frank Zorc some time ago. He said that it involved police activity and at that time Jim Gabbard was the Police Chief. He said that he did not approve of anyone being denied their rights to be heard. He can only think that the City Council takes the public for a bunch of fools. He said that next month (November Election) they will find out whether they are right or wrong.

Mrs. Linda Hillman commented that she could not be at the last Council meeting, which was Jim Gabbard's last meeting. She wanted to thank him for everything that he did during the time that he has served the City. She then welcomed Mr. Monte Falls. She recalled that yesterday she sent an e-mail to the City Council, which she read into the record (please see attached). She said even with the new proposed Go-Line bus location that there are neighbors still upset. She said that Council could expect e-mails and phone calls from neighbors who will fight to keep the buses out of their neighborhood.

Mr. White explained that when they talked to the Senior Resource Center they were under the impression that the "hub" would be used for pickup and drop off of passengers. It was not going to be a place where the buses would be parked overnight. He said that the buses should be parked at the County garage or someplace like that. He wanted Council to approve the Mayor or Interim City Manager sending a letter to the Senior Resource Center asking that their buses be stored at a garage overnight.

Mrs. Hillman brought up that they are very close to daylight savings time and at 4:00 p.m. it starts getting dark and that this is not a pleasant situation.

Mr. Monte Falls, Interim City Manager, reported that the Planning and Development Director has been in contact with the County (Mr. Phil Madsen) who has told him that they are working on a temporary site where the hub will be located. They are also working on getting the buses moved temporarily until they come up with a permanent spot for the hub. They are looking at the old Health Department site to see if it is compatible. The Senior Resources Center would like to keep the hub as close to downtown as possible.

Mr. Abell suggested working with the neighbors to make sure that this situation is not sited in the neighborhood.

Mr. Daige mentioned that he had a number of papers on file in the City Clerk's office demonstrating the work that he had done in regards to the hub. He is thankful that the City Council is working on a letter to get those buses out of there (place they currently park at now). He said that the neighbors need some relief. He asked the City Attorney if they needed to make a motion in order to give direction for this letter to be sent out.

Mr. Charles Vitunac, City Attorney, said that they could handle it either with or without a motion.

Mr. White reiterated that the last time they talked about the hub he thought that it was a drop off and pick up location. He asked if there were Codes in place not allowing this activity to take place in certain locations.

Mr. Tim McGarry, Planning and Development Director, explained that the Senior Resource Center does not have site plan approval right now for the temporary hub. He understands the direction that Council wishes to move in.

Mr. White made a motion that a letter be sent from the City Council to Indian River County/Senior Resource Center referencing the hub and that they object to the buses/vehicles being parked in the Original Town neighborhood. Mr. Daige seconded the motion.

Mr. Heady noted that Mrs. Hillman separated the City residents from the County residents. He said that County residents are not City residents, but City residents are County residents. He said with respect to no input, that has been a concern over and over again at these meetings where input is shut down. He said it was nice to see that her input was not shut down. He then welcomed Mr. Falls to his first meeting. He said it is interesting that people talk about a learning curve and the first issue that Mr. Falls has had to respond to it is clear that there is no learning curve. He thanked Mr. Falls for his services.

Mayor Sawnick stated that there was a motion on the floor to send a letter to the County explaining their objections to the buses being parked in that particular area and send a copy of that letter to the Senior Resource Center. The motion passed unanimously.

Mr. Heady commented that he had a question before he voted, but never mind.

Mrs. Hillman then spoke about several letters and articles that she has been reading in the newspaper. She said that Mr. Russ Lemon did an article about Mr. Heady attending the Florida League of Cities conference, where he approached a newsman concerning corruption in local government (Indian River County). She knows that for about a year they have been hearing about this local corruption in government and nothing has ever been proven, yet it is continually talked about. She does not see it and is sure that plenty of the citizens don't see it either. She felt that she could be swayed the other way if there was proof and it was put out in front of everyone. She said that there is no proof and there hasn't been any proof going forward, it is just talk. The article said that Mr. Heady boasted about suing his own City and how he has his own television show. Another item reported by Russ Lemon noted that during Mr. Heady's days as a gadfly he often called the Vero Beach City Council liars, cheats and thieves. Now that he is an elected official is he an exception to that blanket indictment. Mr. Heady said in the article that he has never sat on the dais and lied and he does not cheat or steal from the public. Mrs. Hilman said that she begs to differ. Mr. Heady lied to the public during his campaign. He said that he would never cheat the taxpayers of their money. She said suing the City Council, the same City that is paying him to sit before the citizens, is cheating and lying to the taxpayers. In her opinion that makes Mr. Heady a thief. On October 14th Mr. Heady put

a letter in the Press Journal endorsing Mrs. Carroll, Mrs. Turner and Mr. Kramer for City Council. She then showed an article of September 9th where it stated that FP&L customers were to pay \$31 million dollars for their project. She does not see where the City of Vero Beach is going to be excluded from this if they go with FP&L. She felt getting \$20 million dollars from the Power Plant and putting it into their General Fund is something that she would stay with. She also understands that there is some type of overhaul that is going to be done at the Power Plant, which will make it more efficient. She has heard different people speak (Mr. Heady, Mrs. Carroll and Mr. Heran) that going to FP&L will only raise their taxes 80%. She has some problems in this economy with them looking at going with FP&L who will have to charge them more because of all their nuclear plants. She does not see where City customers will be charged any different then what they are being charging now. She said that FP&L is asking for a raise from the Public Service Commission, which they will get and if the City goes with FP&L she finds it very hard to believe that their taxes will only go up that amount (she referred to earlier in the meeting). She said they will also lose a lot of services. She said if it was a sure thing that FP&L would not charge them anymore than what they are being charged now and give them greater service then what they are being given now, then she would be happy to say maybe it is something they need to look at. She did not think that FP&L was going to make the decision to break down and haul away the Power Plant. She thanked everyone for listening to her.

Mayor Sawnick commented that he was not sure that he has seen the 80% tax increase that Mrs. Hillman was referring to.

Mr. Heady stated that with respect to Mrs. Hillman's comment about corruption that has never been proven. He said that if she follows City Council meetings then she knows that if he was to dare to put something like that on the agenda it would be removed. He has put similar things like that on the agenda and they have been removed. He mentioned that a former speaker said that Council denies the public the opportunity to hear things. With respect to suing the City and he boasted that down at the FLOC conference. What he said was that he is suing the City in Federal Court and it is about amendment one and amendment fourteen (Free Speech and Equal Opportunity). As a citizen of the United States anytime that he stands up for the basic rights that make this Country great, yes he will boast for his support of those rights. He is proud of that. He said what he is not proud of is the City Council that denies those rights to their citizens. With respect to the television show, he thinks that most everyone knows that he has a television show, which is a talk show and Mrs. Hillman is welcome to call in at anytime. If she has something that "fires" her up that she wants to discuss, to please telephone in. The liar, cheat and thieves comment with respect to the promises as a candidate, he did file suit against the City because the City was denying civil rights to both himself and other citizens. He said that was not lying, cheating or stealing. The responsibility for denying those rights to the citizens was not made by him, it was made by the other four sitting Councilmembers who decided that was the proper thing to do. He then referred to the letter in which he endorsed Mrs. Turner, Mrs. Carroll and Mr. Kramer. He agreed that was a letter to the editor and that he does endorse those three candidates. He has received some calls as to why he didn't endorse a fourth candidate and he has since said that he thought the best

fourth choice would be Mr. Michael Thomas. He stands by this and thinks that they are the best candidates to serve the City. With respect to FP&L asking to be allowed to charge the \$1 million dollars for a project, he wondered if Mrs. Hillman realized that was the amount of money that flies out of this community and has each and every single year because of the rate disparity. He also wondered if Mrs. Hillman understood that City ratepayers are paying that amount of money in excess of what they would have to pay if they were on FP&L. He said the point is that \$30 million dollars has flown out of this community because this Council has refused to discuss ways of going forward with the electric utility and water and sewer that would be more cost effective for their ratepayers. That is why he put items on the agenda and they are removed consistently. With respect to the taxes only being raised by 80%, Mayor Sawnick said that he hasn't heard that number and he has not heard that number either. He does not believe that number is accurate and he does not believe that Mrs. Turner, Mrs. Carroll or Mr. Kramer mentioned being raised by that amount and he does not think that was a number quoted by Mr. Heran. However, he does think that Mr. Heran and his model showed what would happen if certain scenarios occurred as to what FP&L offered them. He felt that with an FP&L offer if you look at Mr. Heran's numbers, even if they offered the City zero which can't happen because the Public Service Commission would not allow that to happen. Even in the worst case scenario if their taxes doubled, he knows on his home if his taxes doubled he would recoup the money the first month that he was on FP&L because of the savings to his electric bill. With respect to FP&L rates going up because they are making all of these nuclear plants, he said there is no plan that he knows of that FP&L has to build another nuclear power plant. They have one nuclear Plant now and the City owns generating rights to that Plant. As far as FP&L getting approval for a raise, right now FP&L is not going to get a raise until 2012. Mrs. Hillman made a comment about FP&L charging them what they pay now. He said that the conversations that he has had with FP&L is that their goal would be to charge FP&L rates. These are the rates that they charge to every ratepayer in the State of Florida. He said that there is absolutely no reason to believe that their rates would be any different and FP&L has said that is their goal. If they were paying FP&L rates they would have saved \$20 to \$30 million dollars just last year. He said that this whole FP&L discussion that was pressed when Mr. Charlie Wilson was on Council, has been pressed by him. This is an effort to try to get the ratepayers a decent rate and to try to save them money and put money back into the economy of their City.

Mr. Jim Gillon commented that he had the honor in 2004 to serve as a member on the original Vision Team. It was an experience that he will never forget. When he was on the Vision Team the members went through the City and met with people from different neighborhoods. He treasured what he heard from their citizens, which is that they love the City. They have an opportunity coming up in two weeks for an Election and he hopes that the quality of life in this community will continue. If all those citizens that he met will vote at the polls then they have an excellent chance of keeping Vero Beach that way.

Mr. Al Benkert, a candidate for office, appreciated the chance to come up and say a few things. He agrees a hundred percent with the comments just made by Mr. Gillon. However, they do need to do some things in the City of Vero Beach. One of the things

that has become apparent is that they need to cut costs and do something about the electric utilities. He passed out a memo entitled the City of Vero Beach Action Plan, which he read (please see attached).

Mr. Heady had some comments to make. Mayor Sawnick told him that it would not be appropriate to debate with someone who is running for office. Mr. Heady felt that if it was appropriate to have a candidate stand in front of a Council meeting and basically give a campaign speech, which is exactly what just happened, then he thinks it is appropriate to have a Councilmember respond to it.

Mr. White did not think that a response was needed.

Mayor Sawnick commented that Mr. Benkert has the right to speak. Mr. Heady said that everyone has a right to speak except for him. He asked to be able to make some comments in respect to the speaker. Mayor Sawnick told Mr. Heady because of the aforementioned situation his ruling is that at this point he would not be allowed to ask any questions. He told Mr. Heady that he may appeal his decision and if the majority of Council agrees with him then he may continue. Mr. Heady thought that the comments made by Mrs. Hillman were about him suing the City and he was suing the City because of equal protection, the fourteenth amendment and free speech. Mayor Sawnick told Mr. Heady that at this time they were not debating the issue. If he wants to appeal the ruling then he may do so. Mr. Heady wanted to finish his comments. Mayor Sawnick told him that at this point an appeal is necessary and if there is a second to the appeal they will vote on it and then continue from there. Mr. Heady stated that he certainly appeals the Mayor's decision to cut him off and not allow to him to have any comments at all. They just had a gentleman that stood at the public podium and gave a campaign speech and he feels that he certainly has a right to appeal. Mr. Daige called for a Point of Order. He said that they have heard from people here that obviously have a lot of things important to them and want to speak under public comments. Mr. Daige reserves the right to make a comment once they are finished with the public comment section of the agenda. He said that Mr. Heady is entitled to his opinions and he has made statements on who he is supporting in the Election. He is in agreement with the Mayor that they do need to move on. He felt that Mr. Benkert stood before them and told them his thoughts which he is entitled to do. Mayor Sawnick called the vote on the appeal. It died for lack of a second.

At this time, there was no one else wishing to speak under Public Comments so Mr. Daige was given some time to speak.

Mr. Daige referred to some material that he read from concerning FP&L (all correspondence is on file in the Clerk's office). He mentioned that there was a Public Service Commission Chairwoman who stepped down voluntarily from the Public Service Commission (article also on file in the Clerk's office).

Mr. Heady still had some comments to make.

Mayor Sawnick told Mr. Heady that at this time he stated all of his comments. He then moved on with the agenda.

D. Adoption of Consent Agenda

1. **Regular City Council Minutes – October 5, 2010**
2. **Regular City Council Minutes – September 21, 2010**
3. **Regular City Council Minutes – September 7, 2010**
4. **Special Call City Council Minutes – September 21, 2010**
5. **Request for Vehicle Purchase – Police Department**
6. **2010 Amendment to Lease Agreement for Fire Station #2 Boat Dock**
7. **Request Approval of Florida Inland Navigation District (FIND) Project Agreement for the City Marina South Complex – Part 3 – Project #1R-VB-10-51**
8. **Change Order No. 4 to Work Order No. 1371-1 between Wilbur Smith Associations and the City of Vero Beach (RFQ 340-06/CSS)**
9. **Monthly Capital Projects' Status Reports**

Mr. White made a motion to approve the consent agenda items. Mr. Abell seconded the motion.

Mr. Heady presented the Clerk with some changes that he requested be made to the minutes. The Clerk assured him that those changes had been made. Because Mr. Heady did not have the time to review those changes before tonight's meeting he asked to reserve the right to make changes to the minutes if he needed to. He then asked that item 2D-1) Regular City Council Minutes of October 5, 2010 be pulled off of the agenda because he has not had time to review those minutes yet.

Mr. White had some problems with Mr. Heady not reading the minutes when he has had his agenda packet for almost a week.

The motion passed 4-1 to approve all of the items on the consent agenda except for item 2D-1) with Mr. White voting no.

3. PUBLIC HEARINGS

None

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

None

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) Update on action of the Minor League Baseball (MiLB) Issue

Mr. Falls reported that at their September 21st Special Call City Council meeting, Council voted to approve the concept presented by Mr. Craig Callan, of Minor League Baseball (MiLB), to construct athletic fields on the City owned land located South of Holman Stadium. This location is the first choice of Minor League Baseball because of its proximity to their other facilities. Council indicated that they preferred a transfer of deeds, but were okay with a lease exchange as discussed by Mr. Callan. Staff is of the opinion that either option is fine because they both give MiLB what they need to do to enhance their operation. They also provide regularly shaped parcels to the County and City, which make utilization of the properties easier. Last Friday he received a copy of the County staff's recommendation to construct the athletic fields on the land known as the "Parking Property: located immediately West of Holman Stadium." The recommendation was different than Mr. Callan's proposal. This is the land the City currently leases from the County. Since there was no mention of parking, he assumed that they would use the athletic fields for overflow parking if no other areas were available. After the close of business on Friday, he received an addendum to the County staff's recommendation. This addendum supported the site located South of Holman Stadium with conditions for parking. Today, the County approved the exchange of leases with the condition that all currently required parking be able to be provided on the site, and if that is not possible, that the City make land available to meet the current parking requirements. They are presently working to determine if the parking requirement can be met on site and they feel that it can. In the past the City has always made available any unencumbered City property for overflow parking at Holman Stadium. Once they determine if the parking can be provided on site, he will prepare the lease exchange documents and bring them to Council for their approval.

Mr. Craig Callan, Vero Beach Sports Village, commented that everything that Mr. Falls just said is similar to what was stated at the County Commission meeting this morning. Mr. Joe Baird, County Administrator, has recused himself from further negotiations and has asked the County Attorney to work with the City to facilitate Vero Beach Sports Village in being able to expand. He stated that he is not represented by the County when he is talking to the City; as he did not represent the City while talking with the County. The impression he has is that the County would prefer the City continue to cooperate with the County or with Vero Beach Sports Village as long as existing land is undevelopable to utilize as they have in the past whether it be across the street (where they parked for many years) or even the golf course land before the City decides to do something with the land. In the event over the next 30 years the economy turns for the better and the land is not available anymore, his comment to the County Commission was

that should not stop them from moving forward because they know they can still park cars for any future event at the stadium. He believes the County's feelings are to continue to work with Vero Beach Sports Village in allowing them to park on the unencumbered land or the land that is not being utilized by the City. When that land is no longer available they would be able to park cars on their property on the fields. He doesn't see any problems with staff looking at that especially if it has been done in the past. In the interim what he would like to see happen is that the County Attorney gets with the City Attorney and Interim City Manager to work out the language so that they can move forward and the County and City are both satisfied.

Mayor Sawnick told Mr. Callan that they will work together on this and the document will be brought back to Council for final approval.

Mr. White added that there is still parking across the street and he doesn't foresee anything going on with that property either.

Mr. Callan commented that the worse case scenario would be that people have to be shuttled from one parking area to another.

Mr. White asked Mr. Callan if this will be a lease instead of a land swap. Mr. Callan answered yes. Mr. Falls added that the County did not want to swap land because there may be some disparity in the value of the land. Mr. White asked if that will stop them in the future if they decide to do something with this property. Mr. Falls said that this will be a long-term lease and they will work on some renewals at the end. Mr. White wanted to make it clear that if the City wanted to do something with this rectangular piece of property that they could put in whatever they wanted to. Mr. Callan explained that as long as Vero Beach Sports Village can show that they can accommodate the overflow parking then it benefits the community.

Mr. Daige mentioned that in the newspaper today (on-line) there was an article written by Mr. Henry Stephens which said that the County Commissioners agreed to consider swapping the land. He needed some clarity on this.

Mr. Callan stated if that is what the article says then it is one-hundred percent incorrect. He said that is why he has met with each County Commissioner, with the exception of Mr. Solari, to make it clear that this is a lease agreement and the positive to the City is that it pulls the restrictions and allows them to have a rectangular shape and the positive to the County is having the land adjacent to the existing facilities.

Mr. Daige continued by saying that one of the things that he is in agreement with is that the land will be unencumbered. It has been explained as to why the County is not interested in doing the land swap. The County feels that their land is worth a little bit more than ours (the City) which is the reason that they don't want to do the land swap. He asked the City Attorney to make sure that the land is unencumbered. Also, the City will be helping Vero Beach Sports Village by allowing them to park on this land if they

need to. However, in the future if they wish to do something with that land they have the right to do so, but right now they will be helping Vero Beach Sports Village.

Mr. Falls added that what they are trying to do is find out and show that there is enough room on the old Dodgertown site to park all of the necessary cars. He said that he is not implying that will be the first place that they are going to ask them to park.

Mr. Heady commented that Mr. Callan stated that Mr. Baird stepped down from doing the negotiations and it will now be the County Attorney. He said that typically when someone recuses themselves from negotiations it is because of financial interests. He asked Mr. Callan if he knew what Mr. Baird's financial interest in this is. Mr. Callan answered no that he did not. Mr. Heady realized that Mr. Callan was not able to meet with Mr. Solari, but all the four other County Commissioners have agreed to this. Mr. Callan explained that it was a 4-1 vote. Commissioner O'Bryan commented that if the agreement came back after the City and County staff worked together and there was no guarantee from the City that parking could be off-site (not on-site) that he would not vote for the agreement. However, today the County Commission voted 4-1 to move forward with working with the City to accomplish what is needed. They are looking at bringing the contract back before the County Commission at their November 2nd meeting. Mr. Heady did not understand why Mr. Callan has a call in to Mr. Solari if he has already voted. Mr. Callan wanted to give him the courtesy to discuss this since he has not had a chance to discuss it with him. He wanted to ask him if there were any other questions that he might have. He has done this with all the other County Commissioners and City Council.

Mr. Abell asked if this delay was going to hold them up and they were going to lose a season because they can't start building these fields.

Mr. Callan explained that if they keep going back and forth then they would lose a season. The one proposal that they received said that it could take eight to nine months for construction to take place from when he says start. He felt that in his opinion if they continue on for a month or two that will put them out to 2012, which would sink the ship.

Mr. Abell asked if it might behoove them to have a Special Call meeting to sign any agreements that they might come up within a week or two.

Mr. Callan would be appreciative of any courtesies extended to them. He would leave this up to the Council with the comment that the longer they go the more they continue to lose money.

Mr. Abell wanted to do everything that they could do to make it easier for MiLB.

Mr. Vitunac reported that he has been in contact with the County Attorney and possibly they will be meeting tomorrow. He said that the surveys have already been done and the legal work can be completed very quickly. They will have to wait for the parking

determination from the Planning and Zoning, but he feels that they will be able to have an agreement in place by November 2nd.

Mr. Abell's thoughts were if there was any way to get this done before then, then they need to get it done.

Mr. Daige was in agreement with Mr. Abell. He said that if they could meet sooner and staff could get all the details worked out to let Council know and they could hold a Special Call meeting with this being the only item on the agenda. He did not want to see the Vero Beach Sports Village miss out on their season.

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

- 1. The playing in the public of a video of the 8/12/08 County Commission meeting which I supplied to the City Clerk several months ago. Discussion to follow – Requested by Councilmember Brian Heady**
- 2. An overview of the documents supplied by the City Attorney of the Honest Services requirements under Federal Law and Supreme Court decisions – Requested by Councilmember Brian Heady**
- 3. Update of Federal lawsuit – Requested by Councilmember Brian Heady**
- 4. Interim City Manager – Requested by Councilmember Brian Heady**
- 5. Repeal of restrictions on Councilmembers – Requested by Councilmember Brian Heady**
- 6. Downtown Parking – Requested by Councilmember Brian Heady**
- 7. Advisory Committees – Requested by Councilmember Brian Heady**
- 8. Speed Bumps on City streets – Requested by Councilmember Brian Heady**

These items were removed from the agenda.

B. New Business

None

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Kevin Sawnick's Matters

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

3. Comments

Mayor Sawnick reported that Downtown Friday will be held this Friday night and that the Mayor's cleanup will be this Sunday at the Disney Resort.

B. Vice Mayor Sabin Abell's Matters

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

Mr. Abell reported that he attended Coffee with the Council and then on October 12th himself, staff, and a local developer met to discuss the problems that are occurring at the Building Department that have delayed the streamlining of project opportunities. He also attended an MPO meeting and the Treasure Coast Regional Planning Counsel meeting.

C. Councilmember Tom White's Matters

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

Mr. White read a letter from Mr. Thomas Walsh regarding the assistance given to him and his wife by Mr. Robert Shaw a City employee (please see attached letter).

3. Comments

Mr. White told Mr. Heady that it was not a violation of freedom of speech, it is called backup, backup, backup. It means that there are rules in the Constitution that they go by and in order to get things on the agenda backup needs to be provided. He then told Mr. Benkert that several things included in his memo have been completed. They sent letters to other electric companies and no one other than FP&L was interested. He didn't want to get into a debate with some of the citizens who spoke. But wanted to express that if anyone has any questions that they can call him or the Council. He also mentioned that there is a letter on file from their auditor where he estimates that taxes will go up if the Power Plant is sold.

D. Councilmember Brian Heady's Matters

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

Mr. Heady commented that the Constitution of the United States contains principles that are important to the function of Government and to the rights of the people. At this time he noticed that some staff was leaving the meeting. He said that they must not care what he has to say. He brought up the removal of all eight items that he placed on the agenda because there is not any backup which is a flat out lie, but then they add under City Manager's Matters something that has no backup. He said that is not equal opportunity and that is how they wind up in lawsuits. When they tell him that he can't respond and

then they allow Mr. Daige the opportunity to make comments that is not equal opportunity. Again, he said that is why they wind up having Federal lawsuits. He hoped that this will only go on for two more weeks at which point there will be a Council that understands the Constitution and that is willing to uphold the oath that they took to preserve, protect, and defend the Constitution.

- E. Councilmember Ken Daige's Matters**
 - 1. Correspondence**
 - 2. Committee Reports**
 - 3. Comments**

Mr. Daige mentioned that Mr. Heady is entitled to his opinion and he gives a number of them. He has an update on the report that he did last week with some changes that he will give to the Clerk. He then went over his prepared statement on the activities that he has recently attended (please see attached).

Mr. Daige felt that the public is being misled on some issues that include the City's finances, the water and sewer funds, that the Power Plant never operates, and that electric rates can never be lowered. He discussed each one of these items (memo attached to these minutes).

11. ADJOURNMENT

Mr. White made a motion to adjourn the meeting at 7:38 p.m. Mr. Daige seconded the motion and it passed unanimously.

/tv