

**CITY OF VERO BEACH, FLORIDA
DECEMBER 7, 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 Kent Hawkins/Cornerstone Christian Church
- C. Pledge of Allegiance

2. PRELIMINARY MATTERS

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

- 1. Plaques to be given to former Mayor and Councilmember

- C. Public Comment

- 1. Mr. Larry Wilke to speak about Florida Power and Light (FP&L)
- 2. Mr. Keith Gordon to speak about signs
- 3. Mr. Kenny B to speak about a “mission statement”

- D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – November 16, 2010
- 2. Regular City Council Minutes – November 2, 2010
- 3. Organizational Minutes of the City Council – November 8, 2010
- 4. [Jacoby & Piece of Pie Parks, Playground & Lighting Improvements – Community Development Block Grant \(CDBG\) Project – Recommendation of Final Acceptance and Payment – City of Vero Beach Project No. 2004-11](#)
- 5. [Replacement of PT/CT Combo Sets at Substation #20, Bid #110810Z-PJW PT/CT](#)

(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, amending Chapter 73, Article I, Flood Damage Prevention of the City of Vero Beach Code; providing for new definitions and revisions to clarify and update the existing text; providing standards for regulating placement of Manufactured Homes and Recreational Vehicles in Special Flood Hazard areas; providing for conflict and severability; providing for an effective date.
- B) An Ordinance of the City of Vero Beach, Florida, amending the Text of the Land Use, Traffic Circulation Element and Capital Improvements Element of the City of Vero Beach Comprehensive Plan by creating a policy to Ensource the location of an AmTrak Passenger Rail Station in the downtown; revising the level of service standard for A1A North of State Route 60 (Beachland Boulevard); correcting omissions; and clarifying language describing Roadway Level of Service Standards; providing for an effective date.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution of the City of Vero Beach, Florida, authorizing its Interim City Manager, its Director of Finance, and its Assistant Finance Director to issue Warrants, Checks, and Vouchers of the City of Vero Beach, for the payment of funds from any of the Depositories Utilized by the City.

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

- A) An Ordinance of the City of Vero Beach, Florida, amending Chapter 72, Article IV, Tree and Palm Protection of the Code of the City of Vero Beach; providing for additional exemptions from permitting requirements; amending Tree Removal Permit Procedures regarding Specimen Trees and Protected Trees and Palms; providing Procedures and Standards for Waiving Tree Removal Permitting Requirements by Planning and Zoning Board; providing for Conflict and Severability; providing for an Effective Date.

6. CITY CLERK'S MATTERS

- A) Appointments to the Veterans Memorial Island Sanctuary Advisory Committee

7. CITY MANAGER'S MATTERS

8. CITY ATTORNEY'S MATTERS

9. CITY COUNCIL MATTERS

- A. Old Business
 - 1) OUC Contract – Requested by Councilmember Heady

- 2) Pill Mill Restrictions (memo 11/17/10 Peggy Lyon) – Requested by Councilmember Heady
- 3) Reconstituting Finance Committee – Requested by Councilmember Heady

B. New Business

- 1) Special Call meeting for Airport discussion and presentation on possible lead contaminants and noise pollution – Requested by Mayor Kramer
- 2) Using utility bill mailing for the promotion of non-profit community based services – Requested by Mayor Kramer
- 3) Discussion of the meetings with FP&L held during last week individually with each Councilmember – Requested by Councilmember Carroll
- 4) Required documentation form for Councilmembers to add agenda items to Council meetings – Requested by Councilmember Carroll
- 5) Resolution to Create a Youth Advisory Board – Requested by Councilmember Carroll
- 6) FP&L Report/vote to continue? – Requested by Councilmember Heady
- 7) Support of Debbie Mayfield PSC oversight legislation – Requested by Councilmember Heady
- 8) Discussion of Crew opportunities at Riverside Park – Requested by Councilmember Heady
- 9) Restoration of old Dodgertown Golf Course – Requested by Councilmember Heady
- 10) Sports Village – Requested by Councilmember Heady
- 11) Parking possibilities in downtown – Requested by Councilmember Heady
- 12) Request for Special Call meeting for Airport issues – Requested by Councilmember Heady
- 13) Support of League of Cities legislation “The Consultants Competitive Negotiation Act” – Requested by Councilmember Heady
- 14) Discussion of reception area City Hall – Requested by Councilmember Heady
- 15) Update on restriction for vehicles allowed in residential neighborhoods – Requested by Councilmember Heady
- 16) Discussion on noise regulations near residential neighborhoods – Requested by Councilmember Heady

10. INDIVIDUAL COUNCILMEMBERS’ MATTERS

A. Mayor Jay Kramer’s Matters

1. Correspondence
2. Committee Reports
3. Comments

B. Vice Mayor Pilar Turner’s Matters

1. Correspondence
2. Committee Reports
3. Comments

- C. Councilmember Tracy Carroll's Matters
 - 1. Correspondence
 - 2. Committee Reports
 - 3. Comments

- D. Councilmember Brian Heady's Matters
 - 1. Correspondence
 - 2. Committee Reports
 - 3. Comments

- E. Councilmember Craig Fletcher's Matters
 - 1. Correspondence
 - 2. Committee Reports
 - 3. Comments

11. ADJOURNMENT

Council Meetings will be televised on Channel 13 and replayed.

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

**CITY OF VERO BEACH, FLORIDA
DECEMBER 7, 2010 9:30 A.M.
REGULAR CITY COUNCIL MEETING
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

1. CALL TO ORDER

A. Roll Call

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

B. Invocation

The invocation was given by Mrs. Peggy Lyon, Assistant City Attorney.

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

Mayor Kramer requested that item 7-A) be added to the agenda – Change in the Electric Service Fuel Cost.

Mrs. Carroll asked that there be a correction made to the November 16, 2010 minutes. She said that on page 19, paragraph 8, line 7, it should say 18 and 44 instead of 18 and 24.

Mr. Heady requested under Old Business that item 9A-4) be added to the agenda – “Citizens First.” He said that he thought Mrs. Carroll was going to put this item back on the agenda, but since she did not he would.

Mrs. Carroll requested combining items 9B-1) and 9B-12) together because they basically were the same item.

Mr. Heady objected to taking items off of the agenda.

Mrs. Carroll then suggested combining items 9B-3) and 9B-6) because they also were basically the same items. Mr. Heady objected to this. He said if the matter has been talked about then they won't need to speak about it again when the item comes up on the agenda.

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

B. Proclamations

1. Plaques to be given to former Mayor and Councilmember

Mayor Kramer presented former Mayor Kevin Sawnick and former Vice Mayor Sabe Abell with a plaque thanking them for their services to the City of Vero Beach.

Both Mr. Sawnick and Mr. Abell told Council that they are available to help in the future if they needed them to. Mr. Abell then read a prepared statement (attached to the original minutes).

C. Public Comment

1. Mr. Larry Wilke to speak about Florida Power and Light (FP&L)

Mr. Wilke was not present for today's meeting.

2. Mr. Keith Gordon to speak about signs

Mr. Gordon was not present for today's meeting.

3. Mr. Kenny B to speak about a "mission statement"

Mr. Kenny B was not present for today's meeting.

4. Charlie Wilson

Mr. Charlie Wilson congratulated the Council on their recent election. He thanked them for the work that they have done so far and what they will be doing in the future. He objected to Charlie Vitunac serving as the City Attorney. He recently had a chance to have some interaction with the City Utility Department and he complimented them on their services. He mentioned that when someone opens a new commercial business in the City of Vero Beach they have to make a deposit and their deposit is not returned to them the same way that if someone has a residential account. He suggested that this be looked at. He said if they make a deal with Florida Power and Light (FP&L) to take over their utilities then it is possible that those deposits will never be returned. He thought that it would help the business economy if these commercial deposits could be returned.

Mr. Heady brought up some of the negative comments that have been in the Press concerning some Councilmembers. He said that regardless of those comments, this Council will accomplish many things because they are working together.

5. Joseph Guffanti

Mr. Joseph Guffanti stated that he had three things to discuss today. The first thing was the OUC contract, the second thing will be baseball fields and the third thing will be good news for the Council. He went over the OUC contract and the problem that Mr. Heady has had with getting the redacted and unredacted copy of the contract. As he talked he realized that there was a three-minute time limit in place that has been lifted, but he still tries not to go over the time limit. He felt that there needed to be an investigation into the OUC contract. He said not like the one that was done by the State's Attorney's office, where the person doing the investigation had also worked for Mr. Jim Gabbard at the Police Department when he was the Police Chief. The investigation needs be a Federal investigation done out of Washington. Mr. Guffanti brought up the Dodger deal. He did not appreciate his money (taxpayer's money) being used to fund that deal nor does he want his tax dollars to go towards MiLB and their funding request. He felt that there were enough baseball fields in this County. He named where they all were located and felt that there were enough to provide the needs for this community. His last item to bring up was that hopefully this will be the last time that he has to come to one of these meetings. He has been coming to these meetings for the last 23 years and hopefully he won't have to do that anymore. He has never felt comfortable coming to these meetings and he advised this Council not to become like any of their predecessors were.

Mr. Rusty Bragg commented that his last utility bill was \$83.00, which he did not think was bad. He thought that selling their utilities to FP&L was a big mistake and they would not get the services that they always have with City utilities if that is done. He brought up the bad Press and he said that the reason that they were getting bad Press is because these meetings are going on too long and the infighting has to stop.

Mr. J. Rock Tonkel was at today's meeting representing approximately 1,300 residents who live in Grand Harbor. He said that he has talked to a lot of the residents in Grand Harbor and he has not heard any negative comments made about the services provided by FP&L.

Mr. Ken Daige complimented the City Attorney and said that he has always been helpful to him and did a good job when he worked for the County and does a good job for the City. He briefly went over the history of why they have the OUC contract and how they had to exit out of the contract that they had with FMPA. He said at the time OUC had the best rates and the bottom line is that the bills have dropped even though he agrees that they still need to be lower. He requested that under Old Business/New Business that he be allowed to come back and speak when they get to those items. He then read an email that was sent by Mr. Warren Winchester, which he will make part of the record and give a copy to the City Clerk. Mr. Daige mentioned that he asked the City Clerk to provide Council with copies of some memos that he had wrote to Mrs. Amy Brunjes, FP&L Vice President of External Affairs, when he was on Council regarding FP&L and also copies of the minutes from some of the meetings that were held with Senior Resources concerning the Go-line buses. Council told him that they did receive copies of the different memos. Mr. Daige told them if they had any questions that he would be glad to try to answer them.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – November 16, 2010 – REQUESTED BY CITY CLERK**
- 2. Regular City Council Minutes – November 2, 2010 – REQUESTED BY CITY CLERK**
- 3. Organizational Minutes of the City Council – November 8, 2010 – REQUESTED BY CITY CLERK**
- 4. Jacoby & Piece of Pie Parks, Playground & Lighting Improvements – Community Development Block Grant (CDBG) Project – Recommendation of Final Acceptance and Payment – City of Vero Beach Project No. 2004-11 – REQUESTED BY INTERIM CITY MANAGER**
- 5. Replacement of PT/CT Combo Sets at Substation #20, Bid #110810Z-PJW PT/CT – REQUESTED BY INTERIM CITY MANAGER**

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

3. PUBLIC HEARINGS

- A) An Ordinance of the City of Vero Beach, Florida, amending Chapter 73, Article I, Flood Damage Prevention of the City of Vero Beach Code; providing for new definitions and revisions to clarify and update the existing text; providing standards for regulating placement of Manufactured Homes and Recreational Vehicles in Special Flood Hazard areas; providing for conflict and severability; providing for an effective date. – REQUESTED BY INTERIM CITY MANAGER**

The City Clerk read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, explained that this Ordinance is amending the City's floodplain regulations. The proposed revisions to the regulations are intended to address deficiencies identified by the Florida Division of Emergency Management during their community assistance visit. He referred to his November 5, 2010 memo provided to Council (on file in the Clerk's office).

Mayor Kramer asked how he came up with the \$75.00 application fee.

Mr. McGarry explained that the fee helps cover administration costs, inspections, and the other things that have to be done with an application. He felt that this was a very reasonable charge.

Mayor Kramer opened and closed the public hearing at 10:23 a.m., with no one wishing to be heard.

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

- B) An Ordinance of the City of Vero Beach, Florida, amending the Text of the Land Use, Traffic Circulation Element and Capital Improvements Element of the City of Vero Beach Comprehensive Plan by creating a policy to Ensource the location of an AmTrak Passenger Rail Station in the downtown; revising the level of service standard for A1A North of State Route 60 (Beachland Boulevard); correcting omissions; and clarifying language describing Roadway Level of Service Standards; providing for an effective date. – REQUESTED BY INTERIM CITY MANAGER**

The City Clerk read the Ordinance by title only.

Mr. McGarry explained that the Ordinance adopts amendments to the Comprehensive Plan regarding level of service revisions to A1A North of SR 60 that were approved by the Council on August 17, 2010 for transmittal to the Florida Department of Community Affairs (DCA). The City received DCA's Objections, Review Comments (ORC) report on the proposed amendments and the City has 60 days to adopt the proposed amendments, adopt with changes, or determine that it will not adopt the proposed amendments. The DCA identified only one objection, which had to do with the proposed new Policy 3.9 of the Traffic Circulation Element regarding the location of multimodal transportation facilities in the downtown. Staff recommends dropping the proposed policy at this time and addressing it during the preparation of the City's Evaluation Appraisal Report. Exhibit A of the Ordinance has been revised by deleting Policy 3.9 and proposed new Policy 3.10 has been renumbered as Policy 3.9.

Mrs. Turner had some concerns that the AmTrak station would not be able to come through Vero Beach.

Mr. McGarry had not heard any comments that there were any problems except for funding. He said that the previous Council did support a Resolution for the State of Florida's AmTrak/FEC corridor project application acknowledging potential station locations and acknowledging the City's commitment to the project.

Mayor Kramer opened the public hearing at 10:28 a.m.

Mr. Ken Daige encouraged Council to support this Ordinance. He said that they will need to look for funding if AmTrak does come to Vero Beach.

Mayor Kramer closed the public hearing at 10:29 a.m., with no one else wishing to be heard.

Mayor Kramer wanted to be assured that the language that is in the Ordinance will protect them from future liabilities.

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

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

A) A Resolution of the City of Vero Beach, Florida, authorizing its Interim City Manager, its Director of Finance, and its Assistant Finance Director to issue Warrants, Checks, and Vouchers of the City of Vero Beach, for the payment of funds from any of the Depositories Utilized by the City. REQUESTED BY INTERIM CITY MANAGER

The City Clerk read the Resolution by title only.

Mr. Monte Falls, Interim City Manager, stated that this was just a housekeeping measure that will allow him to sign all warrants for the payment or transfer of money for the City of Vero Beach.

Mr. Steve Maillet, Finance Director, explained that Mr. Jim Gabbard's name will be removed and Mr. Monte Falls name will be added to allow him to sign warrants, checks and vouchers, etc.

Mr. Heady referred to page 2, where it states that checks drawn on any depository established for employee compensation shall be honored by any depository with the signature of either the Interim City Manager, the Finance Director, or the Assistant Finance Director. He asked why only one signature was requested.

Mr. Maillet said that if they had to issue a check by hand then it would require only one signature. However, he had no problem with changing this to require that two signatures are needed to sign off on it (dual signatures from his office and the City Manager if that pleases Council).

Mr. Heady asked why are they calling Mr. Falls the "Interim City Manager." He felt that "Interim" needed to be dropped.

Mrs. Carroll asked the City Attorney what is Mr. Falls' title.

Mr. Charles Vitunac, City Attorney, stated that Mr. Falls is the Interim City Manager.

It was the consensus of City Council that Mr. Fall's title would remain Interim City Manager.

Mrs. Turner made a motion to approve the Resolution with the amendment that dual signatures are required (referring to page 2 - employee compensation). Mr. Fletcher

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

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

- A) An Ordinance of the City of Vero Beach, Florida, amending Chapter 72, Article IV, Tree and Palm Protection of the Code of the City of Vero Beach; providing for additional exemptions from permitting requirements; amending Tree Removal Permit Procedures regarding Specimen Trees and Protected Trees and Palms; providing Procedures and Standards for Waiving Tree Removal Permitting Requirements by Planning and Zoning Board; providing for Conflict and Severability; providing for an Effective Date. REQUESTED BY INTERIM CITY MANAGER**

The City Clerk read the Ordinance by title only.

Mr. McGarry reported that in January of this year, the City adopted a comprehensive set of revisions to strengthen the regulations governing the removal of Trees and Palms as recommended in the City's adopted Vision Plan. However, since the enactment staff has identified specific areas where improvements to the regulations are desirable for a more effective and efficient process without any degradation of the Tree and Palm protection. Staff found the procedures governing removal of specimen trees to be rather burdensome to both the applicants and the City in terms of time and money expended. Under the current regulations, the removal of a specimen tree for any reason requires approval by the Planning and Zoning Board and must go through a public hearing process similar to a major site plan approval, including notification of property owners within 500 feet of the property. In staff's opinion this process could be revised to allow most specimen trees to be removed through the administrative process, rather than the quasi-judicial process requiring Planning and Zoning Board approval, without weakening the Tree and Palm protection regulations.

Mr. McGarry commented that another area that has created problems has to do with the criteria or conditions required to be met to receive a permit for Tree or Palm removal. Many trees that have reached the end of their lifecycles are expensive to maintain, subject to disease, and create potential life safety and property hazards. In staff's opinion the "end of the lifecycle" of a Tree or Palm should be added to the list of conditions for approval of a tree removal permit. Also, staff has identified some more exemptions from the permitting requirements of the Ordinance that should be considered. The exemption for removal of Trees and Palms located in a public right-of-way or utility easement should be expanded as the current exemption limitations creates further delay and costs for the City's Public Work's and Utilities Departments in carrying out their duties. Also, staff recommends that Palms and non-specimen trees within the playing boundaries of the golf course be exempted from the permitting requirements of Article IV.

Mr. McGarry mentioned that Section 72.43 gives authority to the Planning Director to modify the mitigation requirements for single family and duplex uses where he determines that the number of remaining Trees and Palms preserved on the lots plus any replacement Trees or Palms to be provided are of sufficient number and quality to comply with the purpose and intent of the Tree and Palm Protection Regulations. He said that similar authority should be given to the Planning and Zoning Board for all other uses.

Mrs. Carroll asked Mr. McGarry to give the definition of specimen and protected trees.

Mr. McGarry explained that in their Code it describes a list of the specimen trees. Protected trees are three inches or greater, and Palms are ten to twelve feet or greater.

Mrs. Carroll wondered why the 500 foot perimeter was originally placed in the Ordinance.

Mr. McGarry explained that it was because they use that for most major site plans. However, after it was in there everyone realized that it was overkill.

Mrs. Carroll asked if consideration was made to notify surrounding property owners only around the perimeter of the home. She expressed that if her next door neighbor was to cut down a Live Oak Tree that was half on her property that she might have an issue with that.

Mr. McGarry said if the tree was half on her property then she would have to sign off on the application form in order to allow it to be cut down. Back to the adjacent property owners, he said that really was not talked about.

Mr. Heady interjected that “on your property” is different than “hanging over your property.”

Mrs. Carroll referred to page 5, item (f), where it states “the tree or its root system is causing damage to a structure, areas or improvements used for pedestrian or vehicular traffic, or utility facilities.” She would hate to see trees cut down just because they are disturbing sidewalks, which have pedestrian traffic, and often occurs when Live Oak Tree roots impact the sidewalks. She would rather see the pedestrian traffic taken out of the Ordinance. Mr. McGarry did not have a problem with that. Mrs. Carroll did not want to see an individual in the community take out a tree just because it happens to be impacting a sidewalk in front of their house.

Mrs. Carroll made a motion that they remove the word “pedestrian” from item number (f) on page 5 of 14.

Mr. Heady asked what the liability issue is if they have a tree that is impacting the sidewalk.

Mr. Vitunac explained that the liability issue is always there, but the steps you take to avoid these things is the main thing.

Mr. Falls added that the Public Work's Department has a program, where once a year they inspect all the sidewalks in the City, mainly looking for raised sidewalks and the trees are usually the main reason for it. They do grind the edges down to make them flush. As they move forward and the tree gets bigger sometimes they have to do other things. However, they always try to maintain the trees.

Mr. Heady seconded the motion.

Mrs. Turner noted that Mr. McGarry made an exemption for the golf courses. She asked if these could also be made for the Airport.

Mr. McGarry explained that with the Airport they have an automatic exemption with FAA that is in the Code already.

The motion to the amendment passed unanimously.

Mr. Heady made a motion to approve the Ordinance on first reading and set the public hearing for January 4, 2011. Mrs. Carroll seconded the motion and it passed 5-0 with Mrs. Carroll voting yes, Mr. Heady yes, Mr. Fletcher yes, Mrs. Turner yes, and Mayor Kramer yes.

6. CITY CLERK'S MATTERS

A) Appointments to the Veterans Memorial Island Sanctuary Advisory Committee –REQUESTED BY CITY CLERK

Mrs. Tammy Vock, City Clerk, reported that there are two (2) full openings and one (1) alternate position open on the Veterans Memorial Island Sanctuary Advisory Committee.

Mrs. Turner made a motion to appoint Mr. Eric Wieler and Mr. Anthony Young as full members and Ms. Barbara Fallon as the alternate member. Mr. Fletcher seconded the motion.

Mr. Heady mentioned that Mr. Wieler is in charge of the Veterans Council and because of his busy schedule he would rather see him as the alternate member instead of a full member.

The motion failed 3-2 with Mrs. Carroll voting no, Mr. Heady voting no and Mayor Kramer voting no.

Mrs. Turner explained that she chose to have Mr. Wieler as a full member because of the time that he submitted his application (back in February). She noted that Ms. Fallon has just recently submitted her application.

Mr. Heady amended the motion to have Mr. Eric Wieler serve as the alternate member and Mr. Tony Young and Ms. Barbara Fallon serve as full members. Mrs. Carroll seconded the motion. The motion passed 3-2 with Mrs. Turner and Mr. Fletcher voting no.

7. CITY MANAGER'S MATTERS

Mr. John Lee, Acting Electric Utilities Director, referred to his memo (please see attached) that outlined the electric rate comparison, which he briefly explained.

Mr. Lee commented that the second line on most electric bills is "Electric Service – Fuel Cost," which represents the cost for the generation, transmission, and fuel necessary to provide electric service. The current pricing, as well as future price projections for natural gas, are evaluated by the Power Plant staff based on information obtained from the Florida Municipal Power Pool (FMPP). The maintenance requirements for the Power Plant and Transmission and Distribution Departments are reviewed to insure that all planned maintenance projects are on schedule. Then staff provides an update on any new projects that have been planned for the current fiscal year, as well as any unplanned project that may impact the budget. The Finance Department reviews the status of the working capital to insure that the City is maintaining between 45 and 60 days of working capital. At this time, the working capital is projected to exceed 60 days and all of the other factors are positive so it is possible to reduce the "Electric Service – Fuel Cost" portion of the electric bills.

Mr. Heady asked if deposits with FP&L are larger than what the City of Vero Beach requires.

Mr. Lee explained that their (City of Vero Beach) deposit policy for electric service used to be \$100.00 and for water service it was \$50.00. When the rate study was completed, it suggested that amount be changed and brought up to \$200.00 for electric and \$100.00 for water for residential customers. However, any customer that can get a letter of credit from a previous utility provider constitutes a waiver of the deposit. The City will also issue a letter of credit to someone who no longer needs their utilities.

Mr. Heady then asked about commercial deposits.

Mr. Lee explained that historically they returned deposits to commercial customers and at one time there were a lot of commercial customers who had no deposits at all. So literally they asked every commercial customer from every account to put up a deposit that is their average monthly bill for three months. The auditors talk to them every year and tell them that they have customers who have no deposits. They work with every new customer to set a deposit as low as possible, but not more than their average bill for three months. They have an obligation from a business standpoint to do this.

Mayor Kramer asked what FP&L does with their commercial accounts.

Mr. Lee thought that FP&L did it based on two or three months of an average bill (basically the same thing that they do). However, with residential customers they do it the same way. They also waive the deposit if someone has good credit with another utility provider.

Mr. Falls complimented Mr. Lee on the good work that he has done as Acting Electric Utilities Director. He then referred back to the chart and commented that it is a 30% reduction in the bill overall since the OUC contract has taken effect.

Council took a break at 11:02 a.m. and the meeting reconvened at 11:13 a.m.

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

1) OUC Contract – Requested by Councilmember Heady

Mr. Heady reported that a copy of the April 7, 2008 unredacted OUC contract still has not been supplied to him. He met with Mr. Lee and Mr. Falls on this item and they talked about the document and what it contains. Again, he reiterated that he wanted to see this document.

Mr. Falls stated that at their next regular meeting, Mr. Lee will be presenting them with a summary of the OUC contract from the technical side and Mr. Vitunac is going to put together a summary of the OUC contract from the legal side. In addition, he will be providing the documents that they can say to the best of their knowledge, are the documents that they are looking for.

Mr. Heady added that when he spoke to Mr. Falls and Mr. Lee, he made it clear to them that he would like this document given to him in electronic form and that he still had not received the document that was on the table for the April 7, 2008.

Mrs. Carroll noted that in the minutes of the last Council meeting the City Clerk told Council that she would provide them with the redacted and unredacted contract that she has in her contract file. She personally received three different contracts and Mr. Heady is stating that the contract he wishes to see is not one of those contracts that have been provided.

Mr. Heady said that is correct. He said that if you take the redacted copy and the unredacted copy and put them side by side it shows that they are not the same document.

Mrs. Carroll stated that her question to the City Clerk is that she told Council that she was going to provide them with everything that she had in her files and what Mr. Heady is saying is that there is a contract that the Clerk does not have in her file.

Mrs. Vock stated that she gave Council a copy of the contracts that she has in her files.

Mr. Heady reiterated that what he wants is the (April 7th) unredacted document, which is not with the documents supplied to Council by the City Clerk. He has lost track of how many times that he has asked for this document. He wants this document provided to him in electronic form, which would enable him to go back and see who made changes and in fact the same document that the City Council looked at. He said on April 15th the City Council voted on the document that was reportedly reviewed on April 7th with the exception of one change that was made by Mr. Ken Daige, which was an indemnification clause to the contract to protect City Councilmembers. The only document that can be attached to the signature page is the document that was voted on. He said that is not what is in the City file. The Mayor at the time, Mr. Tom White, was presented with the document that they voted on and he signed the signature page and was asked in February at a City Council meeting, whether or not there were any changes to the contract that he testified that were no changes other than the change that was requested by Ken Daige. He wants to see the contract that Council voted on and reviewed on April 7th. He said that is the document that should be attached to the signature page.

Mrs. Carroll asked Mr. Vitunac how could they obtain this document for Mr. Heady.

Mr. Heady told Mrs. Carroll that this document is not for him. It is the document that needs to be placed in public records as the OUC contract that was agreed to.

Mr. Vitunac reported that staff has in their control, and has had ever since April 7th, the electronic form of the contract that was sent to the City Manager's office at 9:30 a.m. on April 7th. He said this document was printed out and used by Mrs. Hersey as she talked to each of the Councilmembers. The document was then redacted so that copies could be given to the Utilities Commission and the public. He said OUC wanted the formulas and numbers blacked out, which was the same thing that FP&L had requested (redacted). The Utility Commission meeting was held on April 8th and the City Council saw the redacted version at their April 15th City Council meeting. He said between those two dates, the lawyers from OUC and the City and the technical staff kept reading the contract and making improvements to it (grammar, commas, etc.) and cleaned it up. This copy was sent to the City (sent to former Electric Utility Director, R.B. Sloan). Mr. Sloan looked at the changes and felt that they were all minor and didn't mention them. So the contract approved by the Council on April 15th had these changes in them. Mr. Heady is not correct when he says that after the contract was signed that the changes were made. The changes were made after the City Council reviewed the contract on April 7th and before they saw it on April 15th. A Power Point presentation was given at the April 15th meeting by Mrs. Sue Hersey and they had the recommendation of the Utilities Commission who were in favor of the contract and the City Council approved it with one change as outlined by Mr. Daige. Mr. Vitunac stated that unfortunately Mr. Sloan did not

mention that there were all those other changes made. When the lawyer wrote him saying there was only one change made, she meant that there was only one change from the last version. After that in a Council meeting, he went over all the 115 minor changes made to the document. None of the changes made were substantial. It was just cleaning up the document. He told Council at the time if they wanted to go back to the old version they could, but it would be more difficult to read the contract because the changes would not match. The Council did not want to do that. He told the Council at that time that if they did not formally ratify the changes, they will be ratified by operation of law because they have accepted the contract without complaining about it.

Mayor Kramer and Mr. Heady said that they have been complaining about it.

Mr. Vitunac continued by saying that there was no difference in the contracts other than one was a cleaner version. He will show at the next meeting all those numbers that were redacted are the same. He said that Mr. Lee will go over every single number and show that they are the exact same numbers that Council saw on April 7th. They can show forensically and electronically that those numbers have been in their computer system since that date. There has been no corruption or changing. OUC is a municipal electric just like the City. They have a staff of lawyers, technicians, electronic people, etc., who are well respected throughout the State. He felt that FP&L would agree with that. He said that representatives of FP&L also said that is a good contract the City has with OUC. If FP&L becomes the City's electric provider they don't have anything bad to say about the OUC contract. Mr. Falls showed the Council that the rates have gone down 33% since January, which is good. Mr. Vitunac said that he was floored when Mr. Gufanti spoke about the exorbitant rates as a result of the OUC contract. Mr. Gufanti should have said they received a 33% reduction and there is more to go. Mr. Vitunac said FP&L is still lower, but the OUC contract is not the problem. It is a step towards the solution.

Mr. Heady said that Mr. Vitunac could talk all day long about whether the contract is good, bad, or indifferent. It doesn't change the fact that the Council reviewed a contract on April 7th and he has been asking for it for one year and they are now saying that they can provide it electronically. He asked why won't they give him the electronic copy of the contract. He said that he has been asking for this for a long time. He asked that it be given to him. He said to give him the disc and print the unredacted form of the document that existed on April 7th.

Mr. Vitunac said that as soon as this meeting ends, Mr. Heady can go up to the City Manager's office and they can print him a copy of the contract from their computer.

Mr. Heady said that he did not want it printed. He wanted the electronic copy either by email or on a disc. He said to give it to him on disc.

Mr. Vitunac said Mrs. Hersey said that she had the actual document in her hand and gave it to the City Clerk and that has been given to Mr. Heady. He said that he could not testify that was what she had in her hand, but she testified to it. As soon as today's meeting ends the City Manager's office will email Mr. Heady what was there on April

7th, unredacted with all the formulas. Also, in the near future Mr. Lee would be coming back with a report on whether the numbers are or are not the same as what the City signed on April 15th.

Mrs. Carroll thanked Mr. Vitunac. She said that she has heard Mr. Heady ask for the document numerous times throughout the entire year of 2010. This is the first time that someone has said yes, they would get it to him. She felt that this would make Mr. Heady happy.

Mr. Falls said that they would send each Councilmember a copy of the electronic version.

Mayor Kramer said that the last time they discussed this Mr. Falls said that he would speak with Mrs. Hersey to get her version of the contract.

Mr. Falls said that he reviewed the minutes and he thought the direction given was not to request anything from Mrs. Hersey because of the additional cost. He reported that Mr. Vitunac did speak with Mrs. Hersey.

Mr. Heady said that if they read the minutes, what they did agree to was that Mr. Falls was going to get that information before they closed out her account. That was what he remembered.

Mr. Vitunac reported that when he spoke with Mrs. Hersey she told him that the original document was given to the City Clerk and she (Mrs. Hersey) no longer has it.

Mr. Falls said that they would wrap this up in the summery that they would be doing.

Mayor Kramer asked did anyone ask Mr. Sloan if he has a copy of what was given to him or has anyone asked OUC.

Mr. Heady said that in February of this year, when Debra Fromang was on Council, she told him that she could demonstrate that Mr. Sloan had the April 7th document unredacted. He said that they both went to Mr. Sloan's desk and Mrs. Fromang and the City Manager's staff looked through the desk and the document was not there. Mrs. Fromang was then concerned and called Mr. Sloan and asked him where the document was. Mr. Sloan's answer was that he never had an unredacted copy. The only person that had it in their possession was Mrs. Hersey. At that point he and Mrs. Fromang went to the City Attorney's office and Mr. Vitunac told them that he could print the document for them. Mr. Heady said that was fine, but what Mr. Vitunac would be giving them was not what he was asking for. What he was asking for was the unredacted copy from April 7th. At that point they received a telephone call from Mrs. Hersey who stated that she had the document in her possession in Boston. Mr. Vitunac stated that he would have Mrs. Hersey come to Vero Beach with the document. Mrs. Hersey attended a meeting and under oath she slapped the document on the table stating that she had the document right there and she did not know what his problem was. Later on that day the document that Mrs. Hersey testified was the original, which she said that she had notes in the margins

from every single Councilmember on what they said and she said that she would give the document to the City Clerk. Mr. Heady said the document Mrs. Hersey gave the City Clerk did not have any notes. It was a clean document and it is the document that the City Clerk has presented to Council as the document in the file. There are no notes, there is nothing in the margins, you can't see any changes, you don't know where it came from, and it does not match the redacted copy. If you take a document and you do a redaction and you print it on transparency and do an overlay you could see that they were the same. If they look at the redacted copy that was given to Council and compare it to the unredacted copy, it is very easy to see that they are not the same documents at all. They are from a different time, there are redactions in there that are very different from the unredacted document. He said that he wants the document that is in electronic form that is the document that was on the table that Council reviewed on April 7th because that is the document they voted on at the April 15th meeting. If they were to watch the video of the meeting, it is clear that they were voting on the document that they reviewed. It is also clear that no one knew of any changes other than the one that then Councilmember Daige requested, which was an indemnification clause. That is the contract that they voted on and that is the one that needs to be attached to the signature page.

Mayor Kramer asked Council if they also wanted to pursue the contract that Mrs. Hersey had her notes on.

Mr. Heady answered yes.

Mayor Kramer said there were two documents that should match what they are looking for.

Mr. Heady said that was correct. He said the two documents should match.

Mr. Lee said if they have five people in a room and five people have a copy and five people make notes then there are five different copies. He felt that what Mr. Heady wanted was the electronic version that was emailed to the City. He asked Mr. Heady if he wanted Mrs. Hersey's working papers from that day.

Mr. Heady answered no. He said each Councilmember did not have an unredacted copy and they never did. There was one copy on the desk and the testimony from Mrs. Hersey was that as Councilmembers were making comments she made notes in the margins as to what their concerns or what their problems were on the contract. There was one contract on the table on April 7th according to testimony. No one had a copy of it other than Mrs. Hersey. That was the testimony.

Mr. Lee asked is that true Mr. Vitunac or were there multiple copies.

Mr. Vitunac did not remember, but he did remember that Mrs. Hersey said that she did not write on the contract. She said that at the very top of it she wrote in pencil something like "Sue Hersey's copy" or something like that. He said there were no handwritten interlineations throughout the contract.

Mr. Lee thought that the most they would be able to provide would be the email that had the file attached that was sent to Mr. Sloan. They do not have anything with handwritten notes on it. He has never seen anything like that. He stated that he was not in the meeting at that time and neither was Mr. Falls. As he looked back on this he realized that none of the Councilmembers initialed any of the pages so they don't know if they looked at select pages, which he would suspect that they would have done (look at the pertinent pages and skip over some of the legalese). He was not sure if they could give Mr. Heady what he was looking for, but they would look into it.

Mayor Kramer said the direction is for staff to distribute the electronic version to Council.

2) Pill Mill Restrictions (memo 11/17/10 Peggy Lyon) – Requested by Councilmember Heady

Mr. Heady explained that the reason he had this item placed on the agenda was because the State apparently put the brakes on any legislation. At their last meeting Council agreed to let the City's moratorium sunset because they were assured by Mrs. Peggy Lyon, Assistant City Attorney, that the State and the County were on top of this and that the City would be secure that no pill mills would be able to come into the City. After that meeting there were news reports that the State is going to go forward with this in March. He wanted to be assured that the City would be protected and would not have pill mills pop up anywhere within the corporate limits.

Mrs. Lyon said the City is protected. The City's moratorium sunsetted on November 28th and the City is now under the County moratorium as their first step towards Countywide jurisdiction and protection. She said there is a meeting scheduled on December 16, 2010 at 3:00 p.m. and they are planning to discuss a draft County Ordinance. She said that she would distribute the draft Ordinance to Council prior to that meeting. She said that it would be great if Council could attend this meeting and give their input. She reported that Mr. Alan Polackwich, Indian River County Attorney, gave a presentation at the Legislative Delegation meeting begging their Representatives to put this as their top priority. She said that the State rules are still in effect, but what happened was that they required the Department of Medicine and the Department of Osteopathic Physicians to come up with their own rules fleshing out the State Statues. They met for 18 months, but because of a quirk of politics at the State level, the Osteopathic Medicine rules passed on November 8th and went into effect. The Board of Medicine rules unfortunately passed after the veto from Governor Crist that was overridden by the new legislature. Therefore, the Board of Medicine rules are not in effect. Because of this legislation, the Board of Medicine has to fill out a form for the State that says the impact of their rules would not be more than \$200,000 a year. She said that they were pretty sure that their impact would be more than \$200,000 a year. This means that this has to be approved during the March regular legislation session. She said that it is very chaotic at the State level, which leaves Vero Beach's law enforcement, zoning regulations, business tax receipts, etc., battling the illicit pain clinics. She explained that the City is working under the County Ordinance.

Mrs. Carroll asked does the City currently have any pill mills.

Mrs. Lyon answered yes.

Mrs. Carroll asked what can the City do about this.

Mrs. Lyon passed out a list of five pill mills located in Indian River County. She said that during the delegation meeting, Mr. Polackwich reported that there were eight pill mills in Indian River County. She said that there is only one in the City of Vero Beach.

Mrs. Carroll asked did the pill mills arrive here before anything was instituted.

Mrs. Lyon said that they arrived here before the State Statute went into affect on October 1, 2010.

Mr. Heady said former Councilmember Daige and himself asked for a moratorium and the past City Manager, Mr. James Gabbard, said that staff was working on it and there was no need to do anything at that time. He and Mr. Daige fought very hard to get a moratorium during that meeting and the City Attorney and the City Manager assured them that there was no need to do this. He thought that there was a vote on this and they lost 3-2. He said that this was put off until their next meeting and during that two week period the pill mill came into the City.

Mrs. Carroll questioned legally if there was anything the City could do retroactively.

Mrs. Lyon said not if that pill mill is operating under the State Statute and she felt that they were. Unfortunately at the State level there is a gap and she was not sure when they would be able to start going into the pill mills to make sure that they are operating legally.

Mrs. Carroll said so the County regulations operates just as if someone new is coming in.

Mrs. Lyon said that is correct, but the State will catch people who are not operating legally. It is just at this point, the State is in disarray.

Mr. Vitunac said that his office recommended that if Council wanted a moratorium that they adopt one legally, which is not by fiat at the moment. It was by adoption of a zoning Ordinance through the land use method. That was why it came back to Council. The City's moratorium is unassailable legally. It provided a six month moratorium that gave them time to consider the issue from a global position. He felt that the pill mill in question came to their attention because it was already here before they knew about it. It did not squeak under the wire because of a delay in adopting a moratorium. The pill mill got here because there were no regulations against it. The City Attorney's office is still of the opinion that this is a massive Statewide issue that the State should be solving. He

noted that the City cannot shut them down because they are not authorized to go into a Doctor's office and look at their records.

3) Reconstituting Finance Committee – Requested by Councilmember Heady

Mr. Heady said that he requested this item to be placed on the agenda because Mrs. Turner voiced some concerns about the Finance Commission and the Utilities Commission and he wanted to keep this alive. He felt that it was important for Council to discuss these Commissions long before their July Budget Hearings. He felt that both Commissions could address some of the tremendous financial issues that is going to affect the City during the Budget Hearings and they need answers before then. He thought that they could discuss this during their December workshop meeting.

Mrs. Carroll agreed. She said that Council received a memorandum from the City Clerk with her ideas regarding the City Boards and Commissions (on file in the City Clerk's office). She did an analysis on the number of times members were absent and who spoke during the meetings on one of the Commissions just mentioned. She noted that there were quite a few members that she found were unacceptable in terms of their participation. She said there were a lot of people in this community who would take an active role on these Boards and Commissions. She felt that it may be time for a member to retire after serving five to ten years to allow a new member to serve who has new interests and new decision making. She felt that Council really needed to rely on their Boards and Commissions, but Boards and Commissions can only be as effective as their members.

Mrs. Turner suggested that they discuss the Commissions and Boards during their December workshop. She said that she has been meeting with the Chairman of the Commissions and Boards, as well as reading through their meeting minutes in order to prepare some suggestions on how they can target these Boards to be more effective to meet Council's needs. She said that she would bring this forward in written form to Council so that they can be reviewed prior to the meeting.

Mayor Kramer said it was his understanding that there would probably be a few Councilmembers that would not be available to attend a workshop meeting on December 21st.

Mr. Fletcher said that he would not be able to attend the December meeting.

Mayor Kramer asked Mr. Fletcher if he would be okay with Council discussing the Boards and Commissions at that meeting.

Mr. Fletcher said that would be up to Council.

Mr. Heady said that is the date of the regular City Council meeting.

Mayor Kramer said they could move the date up for the workshop.

Mr. Fletcher felt that Council should wait to discuss the Commissions and Boards until after the first of the year. He said that he would like to attend the workshop, but he would be out of town on December 21st.

Mr. Heady said that he was trying to move the date of the meeting to accommodate Mr. Fletcher.

Mr. Fletcher said the members of the Boards and Commissions serve at the pleasure of the Council and they can remove and replace the members at any time. He said that he has two people that he would like to present for the Utilities Commission and two people for the Planning and Zoning Board, but he would like to do this after the first of the year.

Mrs. Turner said at this point she was not talking about appointments to the Commissions and Boards. She was talking about a clear mission statement for each of them.

Mr. Fletcher said it is fine with him if they want to do a mission statement at the workshop, but if they are going to replace members then he would ask that they wait until after the first of the year.

Mayor Kramer said that the workshop would be for them to have the opportunity to meet and kick ideas around. Not to make any decisions.

Mrs. Carroll felt that if they were going to ask members to leave their Commissions or Boards that the Council not just place people on a Commission or Board, that they have an interview process. If the interview process was scheduled for January, that would give Council the opportunity to meet the people who are interested in serving.

Mr. Fletcher said that there is an interview process.

Mrs. Carroll suggested that they start the process on December 21st. Mrs. Carroll asked was it decided that Council would have a meeting on December 21st.

Mr. Fletcher said that he was okay with Council holding their workshop on December 21st. He said that he would give his suggestions to the City Clerk to enter them into the record.

Mayor Kramer said that he would like to have the workshop on December 21st with one of their topics being Commissions and Boards.

Mr. Heady made a motion to hold a workshop on December 21, 2010 at 9:30 a.m. and to discuss their Commissions and Boards. Mrs. Turner seconded the motion and it passed 4-1 with Mr. Fletcher voting no.

4. Citizen's First

Mr. Heady said there are citizens who attend their meetings to give their input and sometimes it lasts longer than Council cares to indulge, but they work for the citizens and it is important that Council puts them first. At the last Council meeting they discussed making a recommendation to all the Commissions and Boards that they move citizen input to the front of their agendas. At that time, Mrs. Carroll spoke about a Commission meeting where citizens did not get a chance to address their issues until after there was a decision. He made a motion that the City Commissions and Boards put citizen input on their agenda and heard at the beginning of their meeting. Mayor Kramer seconded the motion and it passed unanimously.

B. New Business

1) Special Call meeting for Airport discussion and presentation on possible lead contaminants and noise pollution – Requested by Mayor Kramer

Mayor Kramer said there was a request from some individuals to hold a Special Call meeting regarding the possibility of lead contaminants and a continuation of noise pollution at the Vero Beach Municipal Airport.

Ms. Nancy Wood said that she was present for today's meeting to make sure that they secure a date for a Special Call meeting. She then read a prepared speech. She said that earlier this year City Council approved a Special Call meeting regarding the Vero Beach Municipal Airport. This meeting was scheduled for October 14, 2010. After meeting with the Airport Director and discovering that the Treasure Coast Regional Planning Council was hosting a seminar on Airport compatibility that same day, it was agreed that they would postpone the Special Call meeting until early in the year 2011. It was agreed by the Council and the Airport Director to reschedule the meeting to March 2011. She said that they want to secure this date because they want to give the Airport Director time to answer questions that they have and this would be about a six week window. She said because this involves the health and welfare of the citizens she looked to see when spring break is. She would like the meeting to be held in the evening so that people could attend. She was surprised that the students of Indian River County wanted to participate in this. She said that they have been in touch with the Florida Department of Environmental Protection Agency (EPA) and they have an appointment in Tallahassee to speak with them about the lead containments. She then showed a map of the United States on the doc cam that showed the concentration of lead. She stated that each year there is one to five tons of lead deposited over the Vero Beach area, which is 20 to 30 pounds each day. She said this is an issue that needs to be addressed. She said this was only one angle that they have. They also have some developmental impacts that the Airport has. She said there are a lot of legal issues that they have uncovered that they would like to discuss with the Council.

Mrs. Carroll said that she met with members of the public on some related issues at the Airport and they stated that as of now, they do not have a written agenda for the Special Call meeting.

Ms. Wood said that was correct. She said that they would be meeting with National Figures on this and they would be incorporating information that they receive from them.

Mrs. Carroll would rather wait to approve a meeting until she knows what is going to be discussed so she can adequately prepare. She felt uncomfortable approving a meeting without an agenda.

Ms. Wood said that she could write an agenda for Council.

Mrs. Carroll mentioned that Ms. Wood said there were a number of angles they would be looking at. She asked what is their ultimate goal.

Ms. Wood said that they all probably have their own objectives on this subject. She said that their objectives are not to close the Airport.

Mrs. Carroll said that is her problem with scheduling a meeting. She doesn't have an agenda, she doesn't know what they were going to talk about and she doesn't know what their goals are.

Ms. Wood said the agenda is that they want to make sure that they have a safe community for the citizens. She felt that everyone on her Committee has different aspects that are important to them. These are concerns of citizens and their quality of life. She said there is the issue with lead and the issue of how commercial space is leased and operated and how it affects other places that want to start businesses. She said it is like the Airport has a corner on the market. The goal is that everyone is treated fairly and that everyone is safe. She said they were not going to pull a rabbit out of the hat. They have been up front with everything they have done.

Mr. Fletcher said about 10 or 12 years ago Ms. Wood came before Council with some noise issues. The City Council initiated a Part 150 Noise Study, which showed that the decibel levels were within the EPA range. Now 10 years later this is coming up again. He said the noise abatement has already been solved and they are well within the legal limits. He said the reason they have an Airport Commission is so that people can go before them. The Airport Commission is made up of people who have a specialized background. They are a Commission that is appointed to come to Council if they have a problem that they think the City Council needs to know about. The Chairman of the Airport Commission and the Airport Director are present for today's meeting and he would like to hear from them before Council schedules a Special Call meeting.

Mrs. Turner asked Ms. Wood if they went before the Airport Commission.

Ms. Wood said that she tried to get appointed to the Airport Commission but there never seems to be an opening for her or anyone else. She said that they do not see them as a viable Commission. She said that as far as she knows everyone on the Airport Commission has financial ties to the Airport and to aviation.

Mr. Fletcher said that was not true.

Ms. Wood said that the issue they are addressing now is not noise.

Mrs. Turner asked if they discussed the lead issue with the Airport Commission.

Ms. Wood answered yes. She said that when they were at a Treasure Coast Regional Planning Council they asked Mrs. Barbara Drndak, Chairman of the Airport Commission, about the lead issue and she said there was nothing to worry about because it dissipates.

Mrs. Carroll asked Mrs. Drndak is it possible that the Airport Commission would allow these citizens to present their information at the next Airport Commission meeting.

Mrs. Drndak said that they always have public comment, but they hardly have anyone attend their meetings. She said that they could also hold a Special Call meeting. She said the lead issue is in the hands of the EPA, who are currently testing at numerous airports and their ruling would come out in about 18 months. Once they have established a ruling, they will have to work with the FAA. She said a lot of the lead that is currently in the soil was deposited there when automobiles had lead in the fuel or from leaded house paint.

Mrs. Carroll suggested that Council hold off on setting a Special Call meeting until the members from the public present their information to the Airport Commission and then they can present the information to Council.

Mr. Fletcher felt that it would be unrealistic to hold a meeting now. This is not in the Council's hands. It is a Federal issue. There is nothing that Council can do.

Mayor Kramer said that he was not aware of the EPA study when this issue was brought to him.

Mrs. Drndak said the EPA is currently conducting studies to make a determination. She said that there is an Airport Commission meeting scheduled for January 21, 2011.

Mrs. Carroll asked Ms. Wood to present her information to the Airport Commission at their January meeting.

Mrs. Turner agreed with Mrs. Carroll that they should first meet with the Airport Commission.

Ms. Wood said that she would be happy to present this to the Airport Commission. She reiterated that their issue at this point is not noise. It is a safety issue on the amount of lead in aviation fuel.

Mr. Kenneth Bennett stated that the reason they came to this meeting today was for reaffirmation of a Special Call City Council meeting. He said that he attended an Airport

Commission meeting and was ignored. He said that they are all pilots. He said that there were more issues than lead and noise at the Airport. He said all they were asking for was a date in March for a Special Call City Council meeting.

Mayor Kramer realized that the previous City Council gave them a date for a Special Call meeting. He did not want to say no to this, but there is information that Council needs, especially from the EPA. He said that he would be attending the January 21st Airport Commission meeting and he would hope that the other Councilmembers would also attend. He felt that if they had a vote for a Special Call meeting it would probably fail. He said that he really would like to know more about the lead issue.

Ms. Wood said that she could give Council any information that they request. She said that in their view the Airport Commission meeting would not be an open meeting.

Mr. Heady said that if they meet with the Airport Commission on January 21, 2010, the next Council meeting would be on February 1, 2010 and there is plenty of time to schedule a Special Call meeting.

At this time, Council discussed items 9B-3) and 9B-6) together.

9B-3) Discussion of the meetings with FP&L held during last week individually with each Councilmember – Requested by Councilmember Carroll

9B-6) FP&L Report/vote to continue? – Requested by Councilmember Heady

Mrs. Amy Brunjes, FP&L External Affairs Manager, reported that FP&L would like to continue discussions on the potential acquisition and operation of the electric system. She said that if the City is also interested, there are some simultaneous next steps that would need Council's approval.

Mrs. Carroll said that four of the Councilmembers met with various FP&L officials (Ms. Pamela Rausch, Vice President of External Affairs; Sam Forest, Vice President of Energy Market and Trading; and Mrs. Brunjes) last week. She reported that Mr. Forest manages the nuclear and wholesale power for the State of Florida and in 2007 worked on the bid for the City's wholesale power, which was rejected when the City went with the OUC contract. She said that Mr. Forest believes that the City could not sell the contract back to FP&L because of IRS rules. The goal of FP&L is to purchase the City's system and take over the collection and billing. She said that the FMPA generation entitlements would need to be assigned or sold to another municipality. One of the issues FP&L has with the Power Plant is that they do not need it and believe that it could be decommissioned or dismantled. FP&L has excess capacity within their statewide system so they are more than capable of absorbing the City's customers. FP&L's next step is to start the due diligence process. She said that FP&L did state that a contract could be available before the summer if everything falls in line. She made a motion that Council allow FP&L to begin their due diligence and analysis. Mr. Heady seconded the motion and it passed unanimously.

Mrs. Carroll said that she met with them a second time later the same day following a meeting where one member of the Council asked the Press to sit in on their meeting. She said that the FP&L officials wanted Council to know that they would have preferred to have a heads up that the Press was going to attend the meeting. She said that they thought this was a private meeting to get to know the Councilmembers.

Mr. Fletcher said that is the reason not to have private meetings. He said the heads up would be that all the meetings would be in the public.

Mrs. Carroll asked Mr. Fletcher to remember that the City asked FP&L to come here.

Mrs. Brunjes said it was not FP&L's goal to have private meetings, but because of the Sunshine Law they knew this was the only way they could speak to Councilmembers. She said that technically they did not need this approval today, but they wanted the next steps to come forth publically. She said that they wanted to bring the new Councilmembers up to speed rather than them relying on the word being passed down from a previous Council.

Mrs. Carroll said as Council's liaison to work with FP&L, she personally does not want anything to stand in the way of them moving forward with this contract. She and many of the Councilmembers have said that they are for taking a look at this and see what FP&L can offer. She thanked Mrs. Brunjes for attending today's meeting.

Mr. Heady clarified that what Council did was make Mrs. Carroll the point-person for FP&L so that things could go through Mrs. Carroll. But, her characterization that she was the one to be the negotiator with FP&L was not the intent. The intent was to have a Councilmember be a point-person. He said that Mrs. Brunjes' meeting with him was pleasant and there was no Press in attendance.

Mrs. Brunjes said that they were not expecting to have an impromptu meeting with the Press. She said that they did not have anything to hide, they were just taken back.

Mr. Heady understood Mr. Fletcher's position with respect to meeting with FP&L.

Mr. Ken Daige suggested that when they meet with FP&L or anyone else that they have the City Clerk's office tape the meetings. As they move forward with FP&L it is extremely important that they do this right. He felt that for their own protection, they should have someone recording the minutes. This way no one can deny what was said or not said.

2) Using utility bill mailing for the promotion of non-profit community based services – Requested by Mayor Kramer

Mayor Kramer said that last year he had the opportunity to work with the United Way as a volunteer on their Income Tax Assistance Program. The volunteers were trained by the IRS and they did a number of people's taxes and were able to bring back over \$800,000 into the community. He said that they were going to be doing this again this year and are advertising their services. They are free to the public. One of the ideas they came up

with was to put an insert into the utility bills. He said the cost of a full page ad would be about \$1,800 to \$1,900. However, this does have some competing affects with local businesses that do tax preparation. He asked for Council's support on this as it does bring money back into the community.

Mrs. Turner commended Mayor Kramer for his efforts. However, she did not want to use the City's utility bills for promoting non-profit organizations.

Mr. Fletcher said that he is deeply involved with the Salvation Army and he would want to be able to have that privilege himself. He was worried that every month they would be expected to showcase some group and therefore he also was worried about doing this.

Mrs. Carroll asked has this been done before.

Mr. Lee said many years ago the City had a Public Relations Officer that produced "The Current," which had information on City business. He said that there were no advertisements in The Current. He said that in the past the only thing they included in the utility bills was City related business, such as water quality reports, hurricane information, etc. He said this is an opportunity if Council wishes to explore it, but there are some problems associated with it. He explained that one problem would be that the utility bill has a specific weight and if they choose to insert something it should not increase the weight because it would then increase the postage.

Mayor Kramer said that he would bring this back up under his matters on how much they bring back into the community.

3) Discussion of the meetings with FP&L held during last week individually with each Councilmember – Requested by Councilmember Carroll

This item was discussed earlier in the meeting.

4) Required documentation form for Councilmembers to add agenda items to Council meetings – Requested by Councilmember Carroll

Mrs. Carroll said that she has a problem with the additions to the agenda. She explained that there were a number of items listed under New Business, which may have been Old Business because they have been discussed by this Council numerous times. She asked the City Attorney, what is the difference between Old Business and New Business.

Mr. Vitunac said generally if it has been discussed and not resolved the City Clerk would place it under Old Business. If it was discussed some time ago then it would be placed under New Business. If the item is not in the correct place on the agenda then Council has the choice of moving the item to the correct place. He said there is no hard and fast definition.

Mrs. Carroll said that her proposal is in order to provide accurate documentation for addendums to the agenda, is to provide a form to be used by Councilmembers. This form would include a title, summary, what the public needs or issue the item addresses, any relevance City Charter, Code, references or legal finding on the issue, any dates of past decisions by past Council relevant to the issue, a statement of the proposed resolution and any attached documentation (form on file in the City Clerk's office). She felt that this would provide her, as a Councilmember, more adequate information in order to come to the meetings prepared. She said that there were 16 items listed under New Business on today's meeting agenda in which some of them she did not know what they were going to discuss. She felt that by Council using the form she is proposing, it would provide her the capability of doing some research on the issues prior to the Council meeting. She said that the proposal was to require Councilmembers to provide at least a one page document to add items to the agenda.

Mr. Fletcher said if that was a motion, he would second it.

Mayor Kramer had a problem with the word "required." He said that they discussed this before that they could add items to the agenda, but if there is a lack of backup or if a Councilmember believes that they don't have enough information to make a reasonable decision, that they would discuss it, but not make a policy change or a motion. He liked the idea of having more information prior to their meetings, but he did not want it to be seen as something that prevents a Councilmember from placing an item on the agenda.

Mrs. Carroll said if it is not required some Councilmembers might not do it.

Mayor Kramer asked would it be okay to amend the motion as a recommendation. He felt that this was a good idea and he would probably do it.

Mrs. Carroll said that she used this form for her items on today's agenda. One of the items was the discussion of the FP&L meeting. At the date the information was required to be in for the agenda, she did not know what they were going to discuss (referring to the meeting with FP&L Officials because the meeting was scheduled after the deadline for the agenda items). So therefore, there may be situations where Councilmembers do not have enough information, but they could provide what they have.

Mr. Heady said that Mrs. Carroll just pointed out exactly the problem. There are things that come up where they don't have the information at the time of the agenda deadline. He said that if this form was a requirement then the FP&L meetings would not be allowed on the agenda. He said that it seemed like they were going down the same road that the previous Council did by spending more time trying to stop him from talking then he actually talked. He said that he had items that he wanted to add to the agenda and then referred to one of the items today stating that there were 11 pages, which they would need to make five copies and there were over 400 Ordinances and laws referred to. He said that he would spend a week just looking into reading everything. He said this is a Council meeting and if they want to discuss something, then put it on the agenda. That doesn't mean they were going to take action on it. He felt that this was more obstruction

and they don't need this. If a Councilmember wants to put something on the agenda then let them put it on the agenda.

Mr. Fletcher said that they were not trying to stop anyone from talking. They were trying to inform the public about what the subject would be so they would have reasonable time to react to it and respond to it at a Council meeting.

Mrs. Turner said that she would support the use of this form so that she would become better prepared to address the issue at the meeting.

Mayor Kramer said that his request is that they amend the motion so that it is not required, but it is a recommendation. He did not want to see this as a possible tool down the road to stop something from being placed on the agenda.

Mr. Fletcher asked if they would entertain a change of the wording in the motion to "a proposed" or "a standing policy."

Mayor Kramer said that he did not want it to be used as a barrier.

Mr. Fletcher said as a policy it would not be a barrier.

Mr. Heady said policy would make it policy. As he understood it, the Mayor's recommendation is to ask Councilmembers to follow the form if possible. It is not a requirement and it is not a policy.

Mrs. Carroll would not agree to modifying her original motion.

Mr. Fletcher said that he would still second her original motion.

Mr. Heady made a motion to amend the motion to a recommendation and not a requirement. Mayor Kramer seconded the motion.

The amended motion failed 3-2 with Mrs. Carroll, Mr. Fletcher and Mrs. Turner voting no.

The original motion to make the form a requirement passed 3-2 with Mr. Heady and Mayor Kramer voting no.

5) Resolution to Create a Youth Advisory Board – Requested by Councilmember Carroll

Mrs. Carroll requested that this item be tabled and discussed at their December 21st workshop.

6) FP&L Report/vote to continue? – Requested by Councilmember Heady

This item was discussed earlier in the meeting.

7) Support of Debbie Mayfield PSC oversight legislation – Requested by Councilmember Heady

Mr. Heady wanted to support Representative Debbie Mayfield on the Public Service Commission (PSC) oversight legislation.

Mrs. Carroll mentioned that at the Legislative Delegation meeting held last Friday, they voted on moving that forward.

Mr. Heady made a motion that they support Representative Mayfield's Legislation.

Mr. Fletcher mentioned that he supported it privately.

Mayor Kramer said that he met with Representative Mayfield and applauded her efforts in keeping local issues local. He said that he was not enthusiastic about bringing PSC into the area, however he realized that there was a lack of recognition for the individuals in the County who don't have a voice on this issue.

The motion died for lack of a second.

8) Discussion of Crew opportunities at Riverside Park – Requested by Councilmember Heady

Mr. Heady said that there was an individual who would like to bring crew availability (rowing club) to the community. He said that they would be spending their own money. He included a document in the backup material, which showed that Sarasota County has targeted five million dollars in tax money to help with a boat house. In Vero Beach there is an individual who wants to use private money to put a boat house at a City Park. He said another City in Florida is spending tax dollars and are talking that the "crew" would draw 100,000 people to their community and have an economic impact of \$43 million dollars. He did not think it would have that kind of economic opportunity or impact for Vero Beach, but he would like to give them approval by Council. He said that if Council encourages them to do this, they would bring it before the Recreation Commission and then back to Council. He is asking that Council support their efforts.

Mrs. Carroll said this organization has already gone before the Recreation Commission in tandem with the youth sailing organization. She felt that as Council, they should take a step back from this. She explained that it was her understanding that a map of long term planning of the Marina through the Riverside Park area was being looked at.

Mr. Falls said to his knowledge there is no formal approved Master Plan of the area, which would show future uses of the land. He said that Mr. Tim Grabenbauer, Marina Director, has some conceptual plans for the riverfront, but he was not sure if the plans

have been brought before the Marine Commission. He said that he would do some research and bring the information back to Council.

Mrs. Carroll said that she would like to see the Marine Commission and the Recreation Commission work with Mr. Grabenbauer to come up with some type of Master Plan for the area. She said that there are areas throughout the Country that have waterfront facilities in Parks that the City could model after. She felt that if a facility is built that they could be shared by other organizations. She asked that the Marine Commission, Recreation Commission, and Marina Director work on a Master Plan before Council “gives away” the Park.

Mr. Heady said that no one was asking anyone to give away anything. They (the rowing crew) were asking for Council’s support that if they can make this work that they would like to see the opportunity in this community. He said that no one was giving anything away or were asking for final approval on anything.

Mayor Kramer said that he would like to see them keep moving on this.

Mr. Fletcher asked have they gone before the Recreation Commission or the Marine Commission.

Mrs. Carroll said that they have gone before the Recreation Commission, but at the time they were together with the sailing crew.

Mr. Fletcher agreed with Mrs. Carroll that the Recreation Commission and Marine Commission should present this to Council rather than an individual.

Mrs. Carroll asked that Mr. Falls instruct the Marina Director to begin the initiation on what it would take to begin a Master Plan for the Marina and Park. She said there were a lot of things they could do with that area.

Mrs. Vock asked Mrs. Carroll if she wanted her to schedule a Joint Recreation and Marine Commission meeting.

Mrs. Carroll felt that Mr. Falls would need to meet with the Marina Director first.

9) Restoration of old Dodgertown Golf Course – Requested by Councilmember Heady

Mr. Heady reported that at yesterday’s Recreation Commission meeting, they voted to send a recommendation to Council that they not interfere with the negotiations with MiLB. He said that the Commission claimed that if they delay this, the ball fields would be put in jeopardy. He said the restoration of the old golf course is that Mr. M.J. Wicker sees the writing on the wall and is not going to be allowed to do it. Mr. Heady felt that it was a shame that the City was going to forego an opportunity to have investor dollars

come in to restore a historical site (golf course). Instead they are going to bulldoze that and allow MiLB to utilize the property.

Mr. Craig Callan, of MiLB, said he read that Mr. Wicker did not have the financial backing to do it. It is not being railroaded or pushed off to the side.

Mr. Wicker said that he never offered a proposal to the previous City Council. He said the only thing he did was give them a letter requesting the intent of the Council on what they wanted to do with the property and if they were interested in the opportunity to reopen the golf course and what it would require. He said this all began in February of this year when his cousin was visiting and asked what it would take to reopen the golf course. Mr. Wicker said that he met with the previous City Manager, Mr. Jim Gabbard, who mentioned to him that it was possible to rent the course for one dollar a month. Mr. Wicker reported this information to his cousin, who said that he was interested. Then they visited with some people who had some investment dollars who were interested in pursuing this. Mr. Wicker said in the letter they asked what would be the terms of the lease, what kind of improvements they would like to see done to the property, for an opportunity to inspect the irrigation system, etc. Then Mr. Gabbard and the Council started discussing the concerns of MiLB. He said that about one month ago Council approved MiLB's desire to put in baseball fields. He said that he contacted his cousin who is still very interested in restoring the golf course. He assured Council that there were a lot of people in the community who would love to see the golf course restored. He said that during yesterday's Recreation Commission meeting, the Mayor indicated that there would be some monetary requests as far as running the property. He felt that there would be four or five holes left on the property and there is the possibility of putting a driving range there (after the ball fields are complete). He said that they also have the possibility to have a pitch and putt area there. He said that he is a motivational speaker and he saw the golf course as a platform to get the schools and the children involved in golf and other activities that he felt could happen there, such as concerts, screen on the green, etc., in order to get the community involved. He said that he spoke with Mr. Callan earlier today and he hoped that he would take advantage of his talents and gifts. He said that he really would like to be involved in MiLB's attempt to further their business and to see them become more involved in the community in offering their children a means of recreating, as well as being entertained. He appreciated Council's time and asked them to call on him anytime that he could be of service in helping the community and children.

Mayor Kramer thanked Mr. Wicker for standing up and chasing his dream.

10) Sports Village – Requested by Councilmember Heady

Mr. Heady said that they have had numerous City Council meetings in which MiLB has requested use of one-third of the golf course. Their current proposal is to take the property that the City owns and trade it for property that the City controls, which did not make sense to him. He said that the City would not be gaining anything, but giving up something. He said at prior meetings he asked MiLB if there was some financial analysis

of what the benefit to the community was and he did not receive anything. He asked what is the cost going to be for the clover leaf piece of property and the only answer he received was that Mr. Callan had sticker shock. There were no dollar amounts given to him (Mr. Heady) as to what this was going to cost the taxpayers and the taxpayers are indeed paying for the development of this piece of property. He said therefore, they have approval of doing something in which there is no financial analysis, in which the taxpayers have some undisclosed amount. At a prior Council meeting he asked if any Councilmember knew what the amount was and the only answer he received was from former Councilmember Daige who stated that it was in the public records. He said that no one would give him the dollar amount. He felt that this current Council ran for election on a platform of financial analysis and accountability and he has seen zero financial analysis as to how this is going to benefit the taxpayers who are going to spend an unknown amount of money. He said that he and his wife volunteer their time and they recently volunteered to work at the Harvest Festival, which was held at MiLB. During that event Mr. Callan verbally attacked him. There was a lot of yelling from Mr. Callan to the point that it scared his wife and granddaughter. This kind of attack is unwarranted and no elected official should be subjected to or required to put up with that kind of attack. Several spectators of this went up to the Vero Beach Police Officer and as Mr. Callan was leaving the Officer approached them and stayed there until he was assured that no more confrontation was going to occur. Mr. Heady said that he was then and is still concerned about these kinds of verbal attacks and asked that this Council support that any Councilmember who is attacked to have the availability to go to the City Attorney and request a restraining order.

Mayor Kramer said that if they do not do the land swap, the cost would be about \$35,000 a year because they would have to mitigate drainage on the west side of the property.

Mr. Heady disagreed.

Mayor Kramer asked where would they have the drainage.

Mr. Heady said the drainage for a road does not tie into the agreement to swap the land. There has been a drainage concern with respect to the widening of some of the roads. But, that drainage concern is a concern without the development of the clover leaf piece of property. He said they were two separate issues. The dollar amount Mayor Kramer was speaking of was not the dollar amount he was talking about. He was talking about the dollar amount that the taxpayers would be on the hook for the development of the fields. He said that the City currently gives MiLB the hotel, conference center, stadium, fields, etc., for one dollar per year. He said that they are told that this brings tremendous employment benefit to the community and yet they see Indian River County has one of the highest unemployment rates in the community. He felt that the taxpayers have had enough and he did not see giving MiLB a blank check. When he previously asked Mr. Callan what is the cost the only response he received was that he (Mr. Callan) has sticker shock and yet the Council at that time voted to go ahead with this regardless of the cost. He said this is not the kind of financial analysis that he would like to see from this Council. He would like to see the cost and the benefit so that they know whether or not

there is a benefit to the community. These are the numbers that he is concerned about. The pond mitigation is a different issue.

Mrs. Carroll asked that they try to stay in answering the questions being asked.

Mr. Falls referred to an aerial of the property shown on the screen (on file in the City Clerk's office). He said that if the clover leaf is not constructed in the location that is shown in yellow, they would have to be constructed to the far east on top of an existing practice field and the vacant area between that field and the main relief canal. If the fields are not constructed where they are shown in yellow, the City would lose that pond site. The only other ponds sites in the immediate area are private parcels that would need to be purchased or some Airport land to the north of Aviation Boulevard, which has a leasable value of about \$35,000 a year. That is the \$35,000 figure that the Mayor referred to.

Mrs. Carroll said that she made some telephone calls to people in this community and other communities who are involved in girl's sports. One person that she spoke to had a daughter who is on a girls youth softball travel team. He estimated that the events that they go to have an average of about 25 teams from around the State with about 15 players, which would be about 375 families attending one of these tournaments. The average stay is two nights at a local hotel. If the average cost for a hotel room was \$125, that would have an impact of \$250 per family plus meals. If only two-thirds of the families stayed in a local hotel, that would be about 250 families at \$500, which would be an impact of the tournament to this community of \$125,000. If five tournaments occur each year, that would be another \$625,000 to the local economy. If ten tournaments occur each year, that would be one point two five million dollars. She felt this was a good return on their investment in their community.

Mrs. Turner said MiLB also takes care of the maintenance of the facilities. Without success of the MiLB, the City would be paying over \$150,000 each month to maintain that area. Therefore, they were talking about good use of taxpayers' money.

Mrs. Carroll said that they have a recommendation from the Recreation Commission to move forward with this. She made a motion to move forward with this based on the Recreation Commission's recommendation. Mr. Fletcher seconded the motion.

Mr. Heady asked is there any Councilmember that can tell him the cost of construction of the fields.

Mrs. Carroll felt that the cost would be borne by the private entity (MiLB), not by any City resident. She said it is County money, not City money.

Mr. Heady said that they are part of the County. He again asked is there any Councilmember who knows what the taxpayer cost for the fields would be.

Mayor Kramer said that he would like to hear from the audience.

Mr. Heady said that is fine and they could get those numbers, but his point is that he can't get any dollar amount from a Councilmember. He said that they passed earlier that a Councilmember has to have all these things lined up before they can place anything on the agenda and this is something on the agenda where the Councilmember who required this doesn't have any financial analysis or any numbers submitted to Council and who doesn't know what the dollar amount is going to be that the taxpayers are going to spend.

Mayor Kramer said that exceeds the scope of the City Council. That goes into the County and the City does not have any control over that.

Mr. Heady said it is only by the City's agreement in the land swap that these monies are going to be spent on what is now City property. If Council is going to agree to this then they should know what tax dollars are going to be spent.

Mayor Kramer asked Mr. Heady, as a taxpayer, has he made an appeal to the County Commission.

Mr. Heady said as an elected official for the City of Vero Beach, he has a financial responsibility to the City taxpayers, who are also County taxpayers. Before he makes a decision that is going to cost them money, he would like to know what dollar amount they are talking about.

Mr. Tom Calucci, (spelling may be incorrect) Executer of the Treasure Coast Sports Commission, approached Council. He said that they are one of 21 Regional Sports Commissions in the State of Florida. He said that they are charged with bringing tournaments and amateur sports to Indian River, Martin and St. Lucie Counties. He said the cost of the fields would depend on who builds them. If the government builds them it would cost two point five million dollars. If someone else builds them it would cost one point three million dollars. He said regarding tournament play, they held a girls softball tournament in Indian River County in July of this year with 67 teams. They reported 958 room nights with \$470,000 and \$539,000 of economic impact. He said that they have been in existence for 11 years and they are here to help with whatever the City needs help with. He said that this is something that will be important to this community. It is a sports destination and it will bring in tourism. It is a hot button in the State of Florida and is bringing visitors to the area. He said that this is the best form of economic development that they could ask for and MiLB is willing to endorse this.

Mr. Pat O'Connor, President and CEO of MiLB, said that MiLB was invited here to help solve the problem of the Dodgertown facility. He said that he was an intern at Dodgertown in 1981. He said that when this started, no one was more passionate about the value of the golf course than he was. He said that it was MiLB's preference that the golf course be restored in its original shape. In the event that was not going to happen, they would expand their business model by age and gender. He said to think that they are trying to steamroll or kill the Dodgertown golf club concept is inaccurate. He said that they have not gone through formal bids yet, but they have gone out and sought people to give them an idea of the cost and it is going to cost about one point two five million

dollars. That money is not coming from City coffers. That money would come from the lease agreement that they have with the County. At the time they signed the lease, the County committed to do certain improvements. When they examined their model, they understood that they needed more to entertain the kind of events that Mr. Calucci spoke about. So they approached the County and talked about exchanging things within the lease, such as instead of having four fields with lights they would have two fields with lights and allocate that money for something else.

Mayor Kramer asked Mr. O'Connor if he was stating that money was allocated to them at the time of the lease.

Mr. O'Connor said there was not a dollar amount, but there was a commitment in the lease to do certain things.

Mayor Kramer said if they didn't get the land, would they still be getting money from the County.

Mr. O'Connor answered yes. He said that the County is committed and there is no question of their responsibility to MiLB. He said that the lights cost about \$900,000 and the County is committed to that.

Mayor Kramer said then irregardless to what they do with the land, they could not stop the money coming from Indian River County.

Mr. O'Connor said that was correct.

Mr. Fletcher asked Council to keep in mind that if they don't get this, it is going to cost the City \$35,000 per year which is \$350,000 for ten years, because they have to have the retention pond somewhere else.

Mr. O'Connor understood Mr. Heady's position. He said that if they want to set the clock back they will set the clock back. If the Council does not want to do the deal then don't do it. He said there are three things that will happen, which were they would spend the money the County gives them ineffectively, but will spend it to increase their model as much as they can or they will convert field six in dry retention to a clover leaf and spend the money what they think is more effectively or they would get consumed in delays and they will bleed to death financially and leave town. He said that he was not threatening anyone, but that is the reality of where they are. They have been patient in this process for over a year. He said that he was at the point now where he is less concerned on what Council does as to when they do it.

Mr. Jerry Smith said that he is a coach in New York and he also has a small business that constructs community running trails. He said that he looked at the golf course as he always looks at golf courses with the prospective of what a marvelous place to run if you don't play golf. He said that he sees people all over this community running on concrete. He felt that there was a great opportunity to turn the golf course into a cross country

facility. He said that they have one in Utica, New York and the finish line is in the middle of a baseball clover leaf. He said rather than take away from baseball, they could incorporate a running area and retention pond into the golf course. He said that they could also have mountain biking. He said this would not replace baseball, but it would replace golf.

Mr. Dick Yemm, Chairman of the Vero Beach Recreation Commission, reported that the Commission fully endorses the use and development of the clover leaf piece of property. He felt that from the City's standpoint, the opportunity will be there to utilize these fields even beyond the 10 scheduled events.

Mr. Falls said that the City received documents from the County this week. Their intent was to have all the documentation completed before the December 21st City Council meeting.

Mayor Kramer thought that Council decided to have a workshop meeting on December 21st and not an actionable meeting.

Mr. Vitunac explained that workshops are meetings of the City Council. He said that they would have a meeting of the Council for one or two items and then they would adjourn to a workshop.

Mayor Kramer said that he would like to see if they could go to a County Commission meeting and ask them if the \$800,000 is an issue.

Mr. Vitunac said the County is obligated to spend a lot of money.

Mr. Heady asked how much is a lot of money.

Mr. O'Connor answered about \$2.2 million dollars.

Mr. Heady said then the County is on the hook to spend \$2.2 million dollars as they speak today.

Mr. O'Connor said that is correct. He said that in the lease the money is to be used for the lighting.

Mr. Heady said nowhere in the lease agreement is there a dollar amount that specifies \$2.2 million dollars.

Mr. O'Connor said that is correct.

Mayor Kramer asked do they want to hear this on December 21st or the following meeting.

Mr. Vitunac said that their regular Council meeting was scheduled for December 21st and Council can have that meeting with a short agenda and then switch the meeting to a workshop where no further motions would be taken.

Mrs. Carroll asked can a Councilmember call in on the speaker phone and vote if they are out of town.

Mr. Vitunac said that they could participate by phone, but cannot vote.

Mr. Fletcher said that he would change his plans so that he could be present for the December 21st meeting.

Mrs. Carroll said that she had made a motion to approve the land swap. She asked was that premature based on the fact that she did not know the final documentation was not available yet.

Mr. Vitunac said that what they want is permission to go ahead and prepare all the necessary documents for the land swap.

Mrs. Carroll amended her motion to give staff permission to prepare all the necessary documents for the land swap. Mr. Fletcher seconded the amended motion and it passed 4-1 with Mr. Heady voting no.

11) Parking possibilities in downtown – Requested by Councilmember Heady

Mr. Heady recalled that he took some photos that showed how they could resolve some parking problems downtown. He said that this would probably require the City Manager to approach the State to get permission.

Mayor Kramer would entertain that they do this additional street parking on some of the side streets in between the Twin Pairs.

Mr. Heady felt by doing it on the Twin Pairs it would have a somewhat calming effect on the fast traffic that moves through this area.

Mr. Falls stated that he would do some research in finding out how many parking spaces could be gained by doing this and will bring it back to Council.

12) Request for Special Call meeting for Airport issues – Requested by Councilmember Heady

This item was discussed earlier in the meeting.

13) Support of League of Cities legislation “The Consultants Competitive Negotiation Act” – Requested by Councilmember Heady

Mr. Heady was in favor of supporting the League of Cities legislation on the Consultants Competitive Negotiation Act.

Mr. Fletcher asked the Clerk to provide Council with the different Florida League of Cities Committees that they could serve on.

Mr. Heady made a motion to support the League of Cities legislation/resolution on the Consultants Competitive Negotiation Act. Mr. Fletcher seconded the motion and it passed unanimously.

14) Discussion of reception area City Hall – Requested by Councilmember Heady

Mrs. Vock and Mr. Falls would look into ways of making it easier for people coming into City Hall to find the Departments that they need to go to.

15) Update on restriction for vehicles allowed in residential neighborhoods – Requested by Councilmember Heady

Mr. Heady suggested updating the restrictions on vehicles allowed in residential neighborhoods to accommodate the weight limit for some of the SUV's and big trucks.

Mayor Kramer said it was his understanding that the newer vehicles that are heavier are more geared toward passengers rather than work related vehicles.

Mr. McGarry said that the Ordinance does need to be revised. He said that staff is using discretion on this and are normally only targeting commercial vehicles. He felt that the intent was to keep residential neighborhoods residential. He said that they would start looking at changes to the Ordinance.

16) Discussion on noise regulations near residential neighborhoods – Requested by Councilmember Heady

Mr. Heady commented that he has received several complaints from people complaining about the noise coming from Joey's Bistro and Riverside Café.

Mr. McGarry was not aware that there were any complaints about Riverside Café. However, he has been working with the owner of Joey's Bistro on the noise complaints that they continuously receive.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

- A. Mayor Jay Kramer's Matters**
 - 1. Correspondence**
 - 2. Committee Reports**

Mayor Kramer reported that he attended the Tree Lighting ceremony, boat parade and the Oceanside Christmas parade.

Mayor Kramer noted that he received an invitation from APPA on a conference that they are having in Washington in February and they pay for one Councilmember to attend. Both Mr. Fletcher and Mr. Heady showed an interest in attending the conference.

3. Comments

B. Vice Mayor Pilar Turner's Matters

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

C. Councilmember Tracy Carroll's Matters

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

D. Councilmember Brian Heady's Matters

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

Mr. Heady complimented the Police Department on a really fine job that they did in handling the traffic at the parade last Saturday night.

E. Councilmember Craig Fletcher's Matters

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

11. ADJOURNMENT

Mayor Kramer made a motion to adjourn today's meeting at 2:06 p.m. Mrs. Turner seconded the motion and it passed unanimously.

/tv

**CITY OF VERO BEACH, FLORIDA
DECEMBER 7, 2010 9:30 A.M.
REGULAR CITY COUNCIL MEETING
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

1. CALL TO ORDER

A. Roll Call

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

B. Invocation

The invocation was given by Mrs. Peggy Lyon, Assistant City Attorney.

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

Mayor Kramer requested that item 7-A) be added to the agenda – Change in the Electric Service Fuel Cost.

Mrs. Carroll asked that there be a correction made to the November 16, 2010 minutes. She said that on page 19, paragraph 8, line 7, it should say 18 and 44 instead of 18 and 24.

Mr. Heady requested under Old Business that item 9A-4) be added to the agenda – “Citizens First.” He said that he thought Mrs. Carroll was going to put this item back on the agenda, but since she did not he would.

Mrs. Carroll requested combining items 9B-1) and 9B-12) together because they basically were the same item.

Mr. Heady objected to taking items off of the agenda.

Mrs. Carroll then suggested combining items 9B-3) and 9B-6) because they also were basically the same items. Mr. Heady objected to this. He said if the matter has been talked about then they won't need to speak about it again when the item comes up on the agenda.

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

B. Proclamations

1. Plaques to be given to former Mayor and Councilmember

Mayor Kramer presented former Mayor Kevin Sawnick and former Vice Mayor Sabe Abell with a plaque thanking them for their services to the City of Vero Beach.

Both Mr. Sawnick and Mr. Abell told Council that they are available to help in the future if they needed them to. Mr. Abell then read a prepared statement (attached to the original minutes).

C. Public Comment

1. Mr. Larry Wilke to speak about Florida Power and Light (FP&L)

Mr. Wilke was not present for today's meeting.

2. Mr. Keith Gordon to speak about signs

Mr. Gordon was not present for today's meeting.

3. Mr. Kenny B to speak about a "mission statement"

Mr. Kenny B was not present for today's meeting.

4. Charlie Wilson

Mr. Charlie Wilson congratulated the Council on their recent election. He thanked them for the work that they have done so far and what they will be doing in the future. He objected to Charlie Vitunac serving as the City Attorney. He recently had a chance to have some interaction with the City Utility Department and he complimented them on their services. He mentioned that when someone opens a new commercial business in the City of Vero Beach they have to make a deposit and their deposit is not returned to them the same way that if someone has a residential account. He suggested that this be looked at. He said if they make a deal with Florida Power and Light (FP&L) to take over their utilities then it is possible that those deposits will never be returned. He thought that it would help the business economy if these commercial deposits could be returned.

Mr. Heady brought up some of the negative comments that have been in the Press concerning some Councilmembers. He said that regardless of those comments, this Council will accomplish many things because they are working together.

5. Joseph Guffanti

Mr. Joseph Guffanti stated that he had three things to discuss today. The first thing was the OUC contract, the second thing will be baseball fields and the third thing will be good news for the Council. He went over the OUC contract and the problem that Mr. Heady has had with getting the redacted and unredacted copy of the contract. As he talked he realized that there was a three-minute time limit in place that has been lifted, but he still tries not to go over the time limit. He felt that there needed to be an investigation into the OUC contract. He said not like the one that was done by the State's Attorney's office, where the person doing the investigation had also worked for Mr. Jim Gabbard at the Police Department when he was the Police Chief. The investigation needs be a Federal investigation done out of Washington. Mr. Guffanti brought up the Dodger deal. He did not appreciate his money (taxpayer's money) being used to fund that deal nor does he want his tax dollars to go towards MiLB and their funding request. He felt that there were enough baseball fields in this County. He named where they all were located and felt that there were enough to provide the needs for this community. His last item to bring up was that hopefully this will be the last time that he has to come to one of these meetings. He has been coming to these meetings for the last 23 years and hopefully he won't have to do that anymore. He has never felt comfortable coming to these meetings and he advised this Council not to become like any of their predecessors were.

Mr. Rusty Bragg commented that his last utility bill was \$83.00, which he did not think was bad. He thought that selling their utilities to FP&L was a big mistake and they would not get the services that they always have with City utilities if that is done. He brought up the bad Press and he said that the reason that they were getting bad Press is because these meetings are going on too long and the infighting has to stop.

Mr. J. Rock Tonkel was at today's meeting representing approximately 1,300 residents who live in Grand Harbor. He said that he has talked to a lot of the residents in Grand Harbor and he has not heard any negative comments made about the services provided by FP&L.

Mr. Ken Daige complimented the City Attorney and said that he has always been helpful to him and did a good job when he worked for the County and does a good job for the City. He briefly went over the history of why they have the OUC contract and how they had to exit out of the contract that they had with FMPA. He said at the time OUC had the best rates and the bottom line is that the bills have dropped even though he agrees that they still need to be lower. He requested that under Old Business/New Business that he be allowed to come back and speak when they get to those items. He then read an email that was sent by Mr. Warren Winchester, which he will make part of the record and give a copy to the City Clerk. Mr. Daige mentioned that he asked the City Clerk to provide Council with copies of some memos that he had wrote to Mrs. Amy Brunjes, FP&L Vice President of External Affairs, when he was on Council regarding FP&L and also copies of the minutes from some of the meetings that were held with Senior Resources concerning the Go-line buses. Council told him that they did receive copies of the different memos. Mr. Daige told them if they had any questions that he would be glad to try to answer them.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – November 16, 2010 – REQUESTED BY CITY CLERK**
- 2. Regular City Council Minutes – November 2, 2010 – REQUESTED BY CITY CLERK**
- 3. Organizational Minutes of the City Council – November 8, 2010 – REQUESTED BY CITY CLERK**
- 4. Jacoby & Piece of Pie Parks, Playground & Lighting Improvements – Community Development Block Grant (CDBG) Project – Recommendation of Final Acceptance and Payment – City of Vero Beach Project No. 2004-11 – REQUESTED BY INTERIM CITY MANAGER**
- 5. Replacement of PT/CT Combo Sets at Substation #20, Bid #110810Z-PJW PT/CT – REQUESTED BY INTERIM CITY MANAGER**

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

3. PUBLIC HEARINGS

- A) An Ordinance of the City of Vero Beach, Florida, amending Chapter 73, Article I, Flood Damage Prevention of the City of Vero Beach Code; providing for new definitions and revisions to clarify and update the existing text; providing standards for regulating placement of Manufactured Homes and Recreational Vehicles in Special Flood Hazard areas; providing for conflict and severability; providing for an effective date. – REQUESTED BY INTERIM CITY MANAGER**

The City Clerk read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, explained that this Ordinance is amending the City's floodplain regulations. The proposed revisions to the regulations are intended to address deficiencies identified by the Florida Division of Emergency Management during their community assistance visit. He referred to his November 5, 2010 memo provided to Council (on file in the Clerk's office).

Mayor Kramer asked how he came up with the \$75.00 application fee.

Mr. McGarry explained that the fee helps cover administration costs, inspections, and the other things that have to be done with an application. He felt that this was a very reasonable charge.

Mayor Kramer opened and closed the public hearing at 10:23 a.m., with no one wishing to be heard.

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

- B) An Ordinance of the City of Vero Beach, Florida, amending the Text of the Land Use, Traffic Circulation Element and Capital Improvements Element of the City of Vero Beach Comprehensive Plan by creating a policy to Ensource the location of an AmTrak Passenger Rail Station in the downtown; revising the level of service standard for A1A North of State Route 60 (Beachland Boulevard); correcting omissions; and clarifying language describing Roadway Level of Service Standards; providing for an effective date. – REQUESTED BY INTERIM CITY MANAGER**

The City Clerk read the Ordinance by title only.

Mr. McGarry explained that the Ordinance adopts amendments to the Comprehensive Plan regarding level of service revisions to A1A North of SR 60 that were approved by the Council on August 17, 2010 for transmittal to the Florida Department of Community Affairs (DCA). The City received DCA's Objections, Review Comments (ORC) report on the proposed amendments and the City has 60 days to adopt the proposed amendments, adopt with changes, or determine that it will not adopt the proposed amendments. The DCA identified only one objection, which had to do with the proposed new Policy 3.9 of the Traffic Circulation Element regarding the location of multimodal transportation facilities in the downtown. Staff recommends dropping the proposed policy at this time and addressing it during the preparation of the City's Evaluation Appraisal Report. Exhibit A of the Ordinance has been revised by deleting Policy 3.9 and proposed new Policy 3.10 has been renumbered as Policy 3.9.

Mrs. Turner had some concerns that the AmTrak station would not be able to come through Vero Beach.

Mr. McGarry had not heard any comments that there were any problems except for funding. He said that the previous Council did support a Resolution for the State of Florida's AmTrak/FEC corridor project application acknowledging potential station locations and acknowledging the City's commitment to the project.

Mayor Kramer opened the public hearing at 10:28 a.m.

Mr. Ken Daige encouraged Council to support this Ordinance. He said that they will need to look for funding if AmTrak does come to Vero Beach.

Mayor Kramer closed the public hearing at 10:29 a.m., with no one else wishing to be heard.

Mayor Kramer wanted to be assured that the language that is in the Ordinance will protect them from future liabilities.

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

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

A) A Resolution of the City of Vero Beach, Florida, authorizing its Interim City Manager, its Director of Finance, and its Assistant Finance Director to issue Warrants, Checks, and Vouchers of the City of Vero Beach, for the payment of funds from any of the Depositories Utilized by the City. REQUESTED BY INTERIM CITY MANAGER

The City Clerk read the Resolution by title only.

Mr. Monte Falls, Interim City Manager, stated that this was just a housekeeping measure that will allow him to sign all warrants for the payment or transfer of money for the City of Vero Beach.

Mr. Steve Maillet, Finance Director, explained that Mr. Jim Gabbard's name will be removed and Mr. Monte Falls name will be added to allow him to sign warrants, checks and vouchers, etc.

Mr. Heady referred to page 2, where it states that checks drawn on any depository established for employee compensation shall be honored by any depository with the signature of either the Interim City Manager, the Finance Director, or the Assistant Finance Director. He asked why only one signature was requested.

Mr. Maillet said that if they had to issue a check by hand then it would require only one signature. However, he had no problem with changing this to require that two signatures are needed to sign off on it (dual signatures from his office and the City Manager if that pleases Council).

Mr. Heady asked why are they calling Mr. Falls the "Interim City Manager." He felt that "Interim" needed to be dropped.

Mrs. Carroll asked the City Attorney what is Mr. Falls' title.

Mr. Charles Vitunac, City Attorney, stated that Mr. Falls is the Interim City Manager.

It was the consensus of City Council that Mr. Fall's title would remain Interim City Manager.

Mrs. Turner made a motion to approve the Resolution with the amendment that dual signatures are required (referring to page 2 - employee compensation). Mr. Fletcher

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

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

- A) An Ordinance of the City of Vero Beach, Florida, amending Chapter 72, Article IV, Tree and Palm Protection of the Code of the City of Vero Beach; providing for additional exemptions from permitting requirements; amending Tree Removal Permit Procedures regarding Specimen Trees and Protected Trees and Palms; providing Procedures and Standards for Waiving Tree Removal Permitting Requirements by Planning and Zoning Board; providing for Conflict and Severability; providing for an Effective Date. REQUESTED BY INTERIM CITY MANAGER**

The City Clerk read the Ordinance by title only.

Mr. McGarry reported that in January of this year, the City adopted a comprehensive set of revisions to strengthen the regulations governing the removal of Trees and Palms as recommended in the City's adopted Vision Plan. However, since the enactment staff has identified specific areas where improvements to the regulations are desirable for a more effective and efficient process without any degradation of the Tree and Palm protection. Staff found the procedures governing removal of specimen trees to be rather burdensome to both the applicants and the City in terms of time and money expended. Under the current regulations, the removal of a specimen tree for any reason requires approval by the Planning and Zoning Board and must go through a public hearing process similar to a major site plan approval, including notification of property owners within 500 feet of the property. In staff's opinion this process could be revised to allow most specimen trees to be removed through the administrative process, rather than the quasi-judicial process requiring Planning and Zoning Board approval, without weakening the Tree and Palm protection regulations.

Mr. McGarry commented that another area that has created problems has to do with the criteria or conditions required to be met to receive a permit for Tree or Palm removal. Many trees that have reached the end of their lifecycles are expensive to maintain, subject to disease, and create potential life safety and property hazards. In staff's opinion the "end of the lifecycle" of a Tree or Palm should be added to the list of conditions for approval of a tree removal permit. Also, staff has identified some more exemptions from the permitting requirements of the Ordinance that should be considered. The exemption for removal of Trees and Palms located in a public right-of-way or utility easement should be expanded as the current exemption limitations creates further delay and costs for the City's Public Work's and Utilities Departments in carrying out their duties. Also, staff recommends that Palms and non-specimen trees within the playing boundaries of the golf course be exempted from the permitting requirements of Article IV.

Mr. McGarry mentioned that Section 72.43 gives authority to the Planning Director to modify the mitigation requirements for single family and duplex uses where he determines that the number of remaining Trees and Palms preserved on the lots plus any replacement Trees or Palms to be provided are of sufficient number and quality to comply with the purpose and intent of the Tree and Palm Protection Regulations. He said that similar authority should be given to the Planning and Zoning Board for all other uses.

Mrs. Carroll asked Mr. McGarry to give the definition of specimen and protected trees.

Mr. McGarry explained that in their Code it describes a list of the specimen trees. Protected trees are three inches or greater, and Palms are ten to twelve feet or greater.

Mrs. Carroll wondered why the 500 foot perimeter was originally placed in the Ordinance.

Mr. McGarry explained that it was because they use that for most major site plans. However, after it was in there everyone realized that it was overkill.

Mrs. Carroll asked if consideration was made to notify surrounding property owners only around the perimeter of the home. She expressed that if her next door neighbor was to cut down a Live Oak Tree that was half on her property that she might have an issue with that.

Mr. McGarry said if the tree was half on her property then she would have to sign off on the application form in order to allow it to be cut down. Back to the adjacent property owners, he said that really was not talked about.

Mr. Heady interjected that “on your property” is different than “hanging over your property.”

Mrs. Carroll referred to page 5, item (f), where it states “the tree or its root system is causing damage to a structure, areas or improvements used for pedestrian or vehicular traffic, or utility facilities.” She would hate to see trees cut down just because they are disturbing sidewalks, which have pedestrian traffic, and often occurs when Live Oak Tree roots impact the sidewalks. She would rather see the pedestrian traffic taken out of the Ordinance. Mr. McGarry did not have a problem with that. Mrs. Carroll did not want to see an individual in the community take out a tree just because it happens to be impacting a sidewalk in front of their house.

Mrs. Carroll made a motion that they remove the word “pedestrian” from item number (f) on page 5 of 14.

Mr. Heady asked what the liability issue is if they have a tree that is impacting the sidewalk.

Mr. Vitunac explained that the liability issue is always there, but the steps you take to avoid these things is the main thing.

Mr. Falls added that the Public Work's Department has a program, where once a year they inspect all the sidewalks in the City, mainly looking for raised sidewalks and the trees are usually the main reason for it. They do grind the edges down to make them flush. As they move forward and the tree gets bigger sometimes they have to do other things. However, they always try to maintain the trees.

Mr. Heady seconded the motion.

Mrs. Turner noted that Mr. McGarry made an exemption for the golf courses. She asked if these could also be made for the Airport.

Mr. McGarry explained that with the Airport they have an automatic exemption with FAA that is in the Code already.

The motion to the amendment passed unanimously.

Mr. Heady made a motion to approve the Ordinance on first reading and set the public hearing for January 4, 2011. Mrs. Carroll seconded the motion and it passed 5-0 with Mrs. Carroll voting yes, Mr. Heady yes, Mr. Fletcher yes, Mrs. Turner yes, and Mayor Kramer yes.

6. CITY CLERK'S MATTERS

A) Appointments to the Veterans Memorial Island Sanctuary Advisory Committee –REQUESTED BY CITY CLERK

Mrs. Tammy Vock, City Clerk, reported that there are two (2) full openings and one (1) alternate position open on the Veterans Memorial Island Sanctuary Advisory Committee.

Mrs. Turner made a motion to appoint Mr. Eric Wieler and Mr. Anthony Young as full members and Ms. Barbara Fallon as the alternate member. Mr. Fletcher seconded the motion.

Mr. Heady mentioned that Mr. Wieler is in charge of the Veterans Council and because of his busy schedule he would rather see him as the alternate member instead of a full member.

The motion failed 3-2 with Mrs. Carroll voting no, Mr. Heady voting no and Mayor Kramer voting no.

Mrs. Turner explained that she chose to have Mr. Wieler as a full member because of the time that he submitted his application (back in February). She noted that Ms. Fallon has just recently submitted her application.

Mr. Heady amended the motion to have Mr. Eric Wieler serve as the alternate member and Mr. Tony Young and Ms. Barbara Fallon serve as full members. Mrs. Carroll seconded the motion. The motion passed 3-2 with Mrs. Turner and Mr. Fletcher voting no.

7. CITY MANAGER'S MATTERS

Mr. John Lee, Acting Electric Utilities Director, referred to his memo (please see attached) that outlined the electric rate comparison, which he briefly explained.

Mr. Lee commented that the second line on most electric bills is "Electric Service – Fuel Cost," which represents the cost for the generation, transmission, and fuel necessary to provide electric service. The current pricing, as well as future price projections for natural gas, are evaluated by the Power Plant staff based on information obtained from the Florida Municipal Power Pool (FMPP). The maintenance requirements for the Power Plant and Transmission and Distribution Departments are reviewed to insure that all planned maintenance projects are on schedule. Then staff provides an update on any new projects that have been planned for the current fiscal year, as well as any unplanned project that may impact the budget. The Finance Department reviews the status of the working capital to insure that the City is maintaining between 45 and 60 days of working capital. At this time, the working capital is projected to exceed 60 days and all of the other factors are positive so it is possible to reduce the "Electric Service – Fuel Cost" portion of the electric bills.

Mr. Heady asked if deposits with FP&L are larger than what the City of Vero Beach requires.

Mr. Lee explained that their (City of Vero Beach) deposit policy for electric service used to be \$100.00 and for water service it was \$50.00. When the rate study was completed, it suggested that amount be changed and brought up to \$200.00 for electric and \$100.00 for water for residential customers. However, any customer that can get a letter of credit from a previous utility provider constitutes a waiver of the deposit. The City will also issue a letter of credit to someone who no longer needs their utilities.

Mr. Heady then asked about commercial deposits.

Mr. Lee explained that historically they returned deposits to commercial customers and at one time there were a lot of commercial customers who had no deposits at all. So literally they asked every commercial customer from every account to put up a deposit that is their average monthly bill for three months. The auditors talk to them every year and tell them that they have customers who have no deposits. They work with every new customer to set a deposit as low as possible, but not more than their average bill for three months. They have an obligation from a business standpoint to do this.

Mayor Kramer asked what FP&L does with their commercial accounts.

Mr. Lee thought that FP&L did it based on two or three months of an average bill (basically the same thing that they do). However, with residential customers they do it the same way. They also waive the deposit if someone has good credit with another utility provider.

Mr. Falls complimented Mr. Lee on the good work that he has done as Acting Electric Utilities Director. He then referred back to the chart and commented that it is a 30% reduction in the bill overall since the OUC contract has taken effect.

Council took a break at 11:02 a.m. and the meeting reconvened at 11:13 a.m.

8. CITY ATTORNEY'S MATTERS

None

9. CITY COUNCIL MATTERS

A. Old Business

1) OUC Contract – Requested by Councilmember Heady

Mr. Heady reported that a copy of the April 7, 2008 unredacted OUC contract still has not been supplied to him. He met with Mr. Lee and Mr. Falls on this item and they talked about the document and what it contains. Again, he reiterated that he wanted to see this document.

Mr. Falls stated that at their next regular meeting, Mr. Lee will be presenting them with a summary of the OUC contract from the technical side and Mr. Vitunac is going to put together a summary of the OUC contract from the legal side. In addition, he will be providing the documents that they can say to the best of their knowledge, are the documents that they are looking for.

Mr. Heady added that when he spoke to Mr. Falls and Mr. Lee, he made it clear to them that he would like this document given to him in electronic form.

Mrs. Carroll noted that in the minutes of the last Council meeting the City Clerk told Council that she would provide them with the redacted and unredacted contract that she has in her contract file. She personally received three different contracts and Mr. Heady is stating that the contract he wishes to see is not one of those contracts that have been provided.

Mr. Heady said that is correct. He said that if you take the redacted copy and the unredacted copy and put them side by side it shows that they are not the same document.

Mrs. Carroll stated that her question to the City Clerk is that she told Council that she was going to provide them with everything that she had in her files and what Mr. Heady is saying is that there is a contract that the Clerk does not have in her file.

Mrs. Vock stated that she gave Council a copy of the contracts that she has in her files.

Mr. Heady reiterated that what he wants is the (April 7th) unredacted document, which is not with the documents supplied to Council by the City Clerk. He has lost track of how many times that he has asked for this document. He wants this document provided to him in electronic form, which would enable him to go back and see who made changes and in fact the same document that the City Council looked at. He said on April 15th the City Council voted on the document that was reportedly reviewed on April 7th with the exception of one change that was made by Mr. Ken Daige, which was an indemnification clause to the contract to protect City Councilmembers. The only document that can be attached to the signature page is the document that was voted on. He said that is not what is in the City file. The Mayor at the time, Mr. Tom White, was presented with the document that they voted on and he signed the signature page and was asked in February at a City Council meeting, whether or not there were any changes to the contract that he testified that were no changes other than the change that was requested by Ken Daige. He wants to see the contract that Council voted on and reviewed on April 7th. He said that is the document that should be attached to the signature page.

Mrs. Carroll asked Mr. Vitunac how could they obtain this document for Mr. Heady.

Mr. Heady told Mrs. Carroll that this document is not for him. It is the document that needs to be placed in public records as the OUC contract that was agreed to.

Mr. Vitunac reported that staff has in their control, and has had ever since April 7th, the electronic form of the contract that was sent to the City Manager's office at 9:30 a.m. on April 7th. He said this document was printed out and used by Mrs. Hersey as she talked to each of the Councilmembers. The document was then redacted so that copies could be given to the Utilities Commission and the public. He said OUC wanted the formulas and numbers blacked out, which was the same thing that FP&L had requested (redacted). The Utility Commission meeting was held on April 8th and the City Council saw the redacted version at their April 15th City Council meeting. He said between those two dates, the lawyers from OUC and the City and the technical staff kept reading the contract and making improvements to it (grammar, commas, etc.) and cleaned it up. This copy was sent to the City (sent to former Electric Utility Director, R.B. Sloan). Mr. Sloan looked at the changes and felt that they were all minor and didn't mention them. So the contract approved by the Council on April 15th had these changes in them. Mr. Heady is not correct when he says that after the contract was signed that the changes were made. The changes were made after the City Council reviewed the contract on April 7th and before they saw it on April 15th. A Power Point presentation was given at the April 15th meeting by Mrs. Sue Hersey and they had the recommendation of the Utilities Commission who were in favor of the contract and the City Council approved it with one change as outlined by Mr. Daige. Mr. Vitunac stated that unfortunately Mr. Sloan did not

mention that there were all those other changes made. When the lawyer wrote him saying there was only one change made, she meant that there was only one change from the last version. After that in a Council meeting, he went over all the 115 minor changes made to the document. None of the changes made were substantial. It was just cleaning up the document. He told Council at the time if they wanted to go back to the old version they could, but it would be more difficult to read the contract because the changes would not match. The Council did not want to do that. He told the Council at that time that if they did not formally ratify the changes, they will be ratified by operation of law because they have accepted the contract without complaining about it.

Mayor Kramer and Mr. Heady said that they have been complaining about it.

Mr. Vitunac continued by saying that there was no difference in the contracts other than one was a cleaner version. He will show at the next meeting all those numbers that were redacted are the same. He said that Mr. Lee will go over every single number and show that they are the exact same numbers that Council saw on April 7th. They can show forensically and electronically that those numbers have been in their computer system since that date. There has been no corruption or changing. OUC is a municipal electric just like the City. They have a staff of lawyers, technicians, electronic people, etc., who are well respected throughout the State. He felt that FP&L would agree with that. He said that representatives of FP&L also said that is a good contract the City has with OUC. If FP&L becomes the City's electric provider they don't have anything bad to say about the OUC contract. Mr. Falls showed the Council that the rates have gone down 33% since January, which is good. Mr. Vitunac said that he was floored when Mr. Gufanti spoke about the exorbitant rates as a result of the OUC contract. Mr. Gufanti should have said they received a 33% reduction and there is more to go. Mr. Vitunac said FP&L is still lower, but the OUC contract is not the problem. It is a step towards the solution.

Mr. Heady said that Mr. Vitunac could talk all day long about whether the contract is good, bad, or indifferent. It doesn't change the fact that the Council reviewed a contract on April 7th and he has been asking for it for one year and they are now saying that they can provide it electronically. He asked why won't they give him the electronic copy of the contract. He said that he has been asking for this for a long time. He asked that it be given to him. He said to give him the disc and print the unredacted form of the document that existed on April 7th.

Mr. Vitunac said that as soon as this meeting ends, Mr. Heady can go up to the City Manager's office and they can print him a copy of the contract from their computer.

Mr. Heady said that he did not want it printed. He wanted the electronic copy either by email or on a disc. He said to give it to him on disc.

Mr. Vitunac said Mrs. Hersey said that she had the actual document in her hand and gave it to the City Clerk and that has been given to Mr. Heady. He said that he could not testify that was what she had in her hand, but she testified to it. As soon as today's meeting ends the City Manager's office will email Mr. Heady what was there on April

7th, unredacted with all the formulas. Also, in the near future Mr. Lee would be coming back with a report on whether the numbers are or are not the same as what the City signed on April 15th.

Mrs. Carroll thanked Mr. Vitunac. She said that she has heard Mr. Heady ask for the document numerous times throughout the entire year of 2010. This is the first time that someone has said yes, they would get it to him. She felt that this would make Mr. Heady happy.

Mr. Falls said that they would send each Councilmember a copy of the electronic version.

Mayor Kramer said that the last time they discussed this Mr. Falls said that he would speak with Mrs. Hersey to get her version of the contract.

Mr. Falls said that he reviewed the minutes and he thought the direction given was not to request anything from Mrs. Hersey because of the additional cost. He reported that Mr. Vitunac did speak with Mrs. Hersey.

Mr. Heady said that if they read the minutes, what they did agree to was that Mr. Falls was going to get that information before they closed out her account. That was what he remembered.

Mr. Vitunac reported that when he spoke with Mrs. Hersey she told him that the original document was given to the City Clerk and she (Mrs. Hersey) no longer has it.

Mr. Falls said that they would wrap this up in the summery that they would be doing.

Mayor Kramer asked did anyone ask Mr. Sloan if he has a copy of what was given to him or has anyone asked OUC.

Mr. Heady said that in February of this year, when Debra Fromang was on Council, she told him that she could demonstrate that Mr. Sloan had the April 7th document unredacted. He said that they both went to Mr. Sloan's desk and Mrs. Fromang and the City Manager's staff looked through the desk and the document was not there. Mrs. Fromang was then concerned and called Mr. Sloan and asked him where the document was. Mr. Sloan's answer was that he never had an unredacted copy. The only person that had it in their possession was Mrs. Hersey. At that point he and Mrs. Fromang went to the City Attorney's office and Mr. Vitunac told them that he could print the document for them. Mr. Heady said that was fine, but what Mr. Vitunac would be giving them was not what he was asking for. What he was asking for was the unredacted copy from April 7th. At that point they received a telephone call from Mrs. Hersey who stated that she had the document in her possession in Boston. Mr. Vitunac stated that he would have Mrs. Hersey come to Vero Beach with the document. Mrs. Hersey attended a meeting and under oath she slapped the document on the table stating that she had the document right there and she did not know what his problem was. Later on that day the document that Mrs. Hersey testified was the original, which she said that she had notes in the margins

from every single Councilmember on what they said and she said that she would give the document to the City Clerk. Mr. Heady said the document Mrs. Hersey gave the City Clerk did not have any notes. It was a clean document and it is the document that the City Clerk has presented to Council as the document in the file. There are no notes, there is nothing in the margins, you can't see any changes, you don't know where it came from, and it does not match the redacted copy. If you take a document and you do a redaction and you print it on transparency and do an overlay you could see that they were the same. If they look at the redacted copy that was given to Council and compare it to the unredacted copy, it is very easy to see that they are not the same documents at all. They are from a different time, there are redactions in there that are very different from the unredacted document. He said that he wants the document that is in electronic form that is the document that was on the table that Council reviewed on April 7th because that is the document they voted on at the April 15th meeting. If they were to watch the video of the meeting, it is clear that they were voting on the document that they reviewed. It is also clear that no one knew of any changes other than the one that then Councilmember Daige requested, which was an indemnification clause. That is the contract that they voted on and that is the one that needs to be attached to the signature page.

Mayor Kramer asked Council if they also wanted to pursue the contract that Mrs. Hersey had her notes on.

Mr. Heady answered yes.

Mayor Kramer said there were two documents that should match what they are looking for.

Mr. Heady said that was correct. He said the two documents should match.

Mr. Lee said if they have five people in a room and five people have a copy and five people make notes then there are five different copies. He felt that what Mr. Heady wanted was the electronic version that was emailed to the City. He asked Mr. Heady if he wanted Mrs. Hersey's working papers from that day.

Mr. Heady answered no. He said each Councilmember did not have an unredacted copy and they never did. There was one copy on the desk and the testimony from Mrs. Hersey was that as Councilmembers were making comments she made notes in the margins as to what their concerns or what their problems were on the contract. There was one contract on the table on April 7th according to testimony. No one had a copy of it other than Mrs. Hersey. That was the testimony.

Mr. Lee asked is that true Mr. Vitunac or were there multiple copies.

Mr. Vitunac did not remember, but he did remember that Mrs. Hersey said that she did not write on the contract. She said that at the very top of it she wrote in pencil something like "Sue Hersey's copy" or something like that. He said there were no handwritten interlineations throughout the contract.

Mr. Lee thought that the most they would be able to provide would be the email that had the file attached that was sent to Mr. Sloan. They do not have anything with handwritten notes on it. He has never seen anything like that. He stated that he was not in the meeting at that time and neither was Mr. Falls. As he looked back on this he realized that none of the Councilmembers initialed any of the pages so they don't know if they looked at select pages, which he would suspect that they would have done (look at the pertinent pages and skip over some of the legalese). He was not sure if they could give Mr. Heady what he was looking for, but they would look into it.

Mayor Kramer said the direction is for staff to distribute the electronic version to Council.

2) Pill Mill Restrictions (memo 11/17/10 Peggy Lyon) – Requested by Councilmember Heady

Mr. Heady explained that the reason he had this item placed on the agenda was because the State apparently put the brakes on any legislation. At their last meeting Council agreed to let the City's moratorium sunset because they were assured by Mrs. Peggy Lyon, Assistant City Attorney, that the State and the County were on top of this and that the City would be secure that no pill mills would be able to come into the City. After that meeting there were news reports that the State is going to go forward with this in March. He wanted to be assured that the City would be protected and would not have pill mills pop up anywhere within the corporate limits.

Mrs. Lyon said the City is protected. The City's moratorium sunsetted on November 28th and the City is now under the County moratorium as their first step towards Countywide jurisdiction and protection. She said there is a meeting scheduled on December 16, 2010 at 3:00 p.m. and they are planning to discuss a draft County Ordinance. She said that she would distribute the draft Ordinance to Council prior to that meeting. She said that it would be great if Council could attend this meeting and give their input. She reported that Mr. Alan Polackwich, Indian River County Attorney, gave a presentation at the Legislative Delegation meeting begging their Representatives to put this as their top priority. She said that the State rules are still in effect, but what happened was that they required the Department of Medicine and the Department of Osteopathic Physicians to come up with their own rules fleshing out the State Statues. They met for 18 months, but because of a quirk of politics at the State level, the Osteopathic Medicine rules passed on November 8th and went into effect. The Board of Medicine rules unfortunately passed after the veto from Governor Crist that was overridden by the new legislature. Therefore, the Board of Medicine rules are not in effect. Because of this legislation, the Board of Medicine has to fill out a form for the State that says the impact of their rules would not be more than \$200,000 a year. She said that they were pretty sure that their impact would be more than \$200,000 a year. This means that this has to be approved during the March regular legislation session. She said that it is very chaotic at the State level, which leaves Vero Beach's law enforcement, zoning regulations, business tax receipts, etc., battling the illicit pain clinics. She explained that the City is working under the County Ordinance.

Mrs. Carroll asked does the City currently have any pill mills.

Mrs. Lyon answered yes.

Mrs. Carroll asked what can the City do about this.

Mrs. Lyon passed out a list of five pill mills located in Indian River County. She said that during the delegation meeting, Mr. Polackwich reported that there were eight pill mills in Indian River County. She said that there is only one in the City of Vero Beach.

Mrs. Carroll asked did the pill mills arrive here before anything was instituted.

Mrs. Lyon said that they arrived here before the State Statute went into affect on October 1, 2010.

Mr. Heady said former Councilmember Daige and himself asked for a moratorium and the past City Manager, Mr. James Gabbard, said that staff was working on it and there was no need to do anything at that time. He and Mr. Daige fought very hard to get a moratorium during that meeting and the City Attorney and the City Manager assured them that there was no need to do this. He thought that there was a vote on this and they lost 3-2. He said that this was put off until their next meeting and during that two week period the pill mill came into the City.

Mrs. Carroll questioned legally if there was anything the City could do retroactively.

Mrs. Lyon said not if that pill mill is operating under the State Statute and she felt that they were. Unfortunately at the State level there is a gap and she was not sure when they would be able to start going into the pill mills to make sure that they are operating legally.

Mrs. Carroll said so the County regulations operates just as if someone new is coming in.

Mrs. Lyon said that is correct, but the State will catch people who are not operating legally. It is just at this point, the State is in disarray.

Mr. Vitunac said that his office recommended that if Council wanted a moratorium that they adopt one legally, which is not by fiat at the moment. It was by adoption of a zoning Ordinance through the land use method. That was why it came back to Council. The City's moratorium is unassailable legally. It provided a six month moratorium that gave them time to consider the issue from a global position. He felt that the pill mill in question came to their attention because it was already here before they knew about it. It did not squeak under the wire because of a delay in adopting a moratorium. The pill mill got here because there were no regulations against it. The City Attorney's office is still of the opinion that this is a massive Statewide issue that the State should be solving. He

noted that the City cannot shut them down because they are not authorized to go into a Doctor's office and look at their records.

3) Reconstituting Finance Committee – Requested by Councilmember Heady

Mr. Heady said that he requested this item to be placed on the agenda because Mrs. Turner voiced some concerns about the Finance Commission and the Utilities Commission and he wanted to keep this alive. He felt that it was important for Council to discuss these Commissions long before their July Budget Hearings. He felt that both Commissions could address some of the tremendous financial issues that is going to affect the City during the Budget Hearings and they need answers before then. He thought that they could discuss this during their December workshop meeting.

Mrs. Carroll agreed. She said that Council received a memorandum from the City Clerk with her ideas regarding the City Boards and Commissions (on file in the City Clerk's office). She did an analysis on the number of times members were absent and who spoke during the meetings on one of the Commissions just mentioned. She noted that there were quite a few members that she found were unacceptable in terms of their participation. She said there were a lot of people in this community who would take an active role on these Boards and Commissions. She felt that it may be time for a member to retire after serving five to ten years to allow a new member to serve who has new interests and new decision making. She felt that Council really needed to rely on their Boards and Commissions, but Boards and Commissions can only be as effective as their members.

Mrs. Turner suggested that they discuss the Commissions and Boards during their December workshop. She said that she has been meeting with the Chairman of the Commissions and Boards, as well as reading through their meeting minutes in order to prepare some suggestions on how they can target these Boards to be more effective to meet Council's needs. She said that she would bring this forward in written form to Council so that they can be reviewed prior to the meeting.

Mayor Kramer said it was his understanding that there would probably be a few Councilmembers that would not be available to attend a workshop meeting on December 21st.

Mr. Fletcher said that he would not be able to attend the December meeting.

Mayor Kramer asked Mr. Fletcher if he would be okay with Council discussing the Boards and Commissions at that meeting.

Mr. Fletcher said that would be up to Council.

Mr. Heady said that is the date of the regular City Council meeting.

Mayor Kramer said they could move the date up for the workshop.

Mr. Fletcher felt that Council should wait to discuss the Commissions and Boards until after the first of the year. He said that he would like to attend the workshop, but he would be out of town on December 21st.

Mr. Heady said that he was trying to move the date of the meeting to accommodate Mr. Fletcher.

Mr. Fletcher said the members of the Boards and Commissions serve at the pleasure of the Council and they can remove and replace the members at any time. He said that he has two people that he would like to present for the Utilities Commission and two people for the Planning and Zoning Board, but he would like to do this after the first of the year.

Mrs. Turner said at this point she was not talking about appointments to the Commissions and Boards. She was talking about a clear mission statement for each of them.

Mr. Fletcher said it is fine with him if they want to do a mission statement at the workshop, but if they are going to replace members then he would ask that they wait until after the first of the year.

Mayor Kramer said that the workshop would be for them to have the opportunity to meet and kick ideas around. Not to make any decisions.

Mrs. Carroll felt that if they were going to ask members to leave their Commissions or Boards that the Council not just place people on a Commission or Board, that they have an interview process. If the interview process was scheduled for January, that would give Council the opportunity to meet the people who are interested in serving.

Mr. Fletcher said that there is an interview process.

Mrs. Carroll suggested that they start the process on December 21st. Mrs. Carroll asked was it decided that Council would have a meeting on December 21st.

Mr. Fletcher said that he was okay with Council holding their workshop on December 21st. He said that he would give his suggestions to the City Clerk to enter them into the record.

Mayor Kramer said that he would like to have the workshop on December 21st with one of their topics being Commissions and Boards.

Mr. Heady made a motion to hold a workshop on December 21, 2010 at 9:30 a.m. and to discuss their Commissions and Boards. Mrs. Turner seconded the motion and it passed 4-1 with Mr. Fletcher voting no.

4. Citizen's First

Mr. Heady said there are citizens who attend their meetings to give their input and sometimes it lasts longer than Council cares to indulge, but they work for the citizens and it is important that Council puts them first. At the last Council meeting they discussed making a recommendation to all the Commissions and Boards that they move citizen input to the front of their agendas. At that time, Mrs. Carroll spoke about a Commission meeting where citizens did not get a chance to address their issues until after there was a decision. He made a motion that the City Commissions and Boards put citizen input on their agenda and heard at the beginning of their meeting. Mayor Kramer seconded the motion and it passed unanimously.

B. New Business

1) Special Call meeting for Airport discussion and presentation on possible lead contaminants and noise pollution – Requested by Mayor Kramer

Mayor Kramer said there was a request from some individuals to hold a Special Call meeting regarding the possibility of lead contaminants and a continuation of noise pollution at the Vero Beach Municipal Airport.

Ms. Nancy Wood said that she was present for today's meeting to make sure that they secure a date for a Special Call meeting. She then read a prepared speech. She said that earlier this year City Council approved a Special Call meeting regarding the Vero Beach Municipal Airport. This meeting was scheduled for October 14, 2010. After meeting with the Airport Director and discovering that the Treasure Coast Regional Planning Council was hosting a seminar on Airport compatibility that same day, it was agreed that they would postpone the Special Call meeting until early in the year 2011. It was agreed by the Council and the Airport Director to reschedule the meeting to March 2011. She said that they want to secure this date because they want to give the Airport Director time to answer questions that they have and this would be about a six week window. She said because this involves the health and welfare of the citizens she looked to see when spring break is. She would like the meeting to be held in the evening so that people could attend. She was surprised that the students of Indian River County wanted to participate in this. She said that they have been in touch with the Florida Department of Environmental Protection Agency (EPA) and they have an appointment in Tallahassee to speak with them about the lead containments. She then showed a map of the United States on the doc cam that showed the concentration of lead. She stated that each year there is one to five tons of lead deposited over the Vero Beach area, which is 20 to 30 pounds each day. She said this is an issue that needs to be addressed. She said this was only one angle that they have. They also have some developmental impacts that the Airport has. She said there are a lot of legal issues that they have uncovered that they would like to discuss with the Council.

Mrs. Carroll said that she met with members of the public on some related issues at the Airport and they stated that as of now, they do not have a written agenda for the Special Call meeting.

Ms. Wood said that was correct. She said that they would be meeting with National Figures on this and they would be incorporating information that they receive from them.

Mrs. Carroll would rather wait to approve a meeting until she knows what is going to be discussed so she can adequately prepare. She felt uncomfortable approving a meeting without an agenda.

Ms. Wood said that she could write an agenda for Council.

Mrs. Carroll mentioned that Ms. Wood said there were a number of angles they would be looking at. She asked what is their ultimate goal.

Ms. Wood said that they all probably have their own objectives on this subject. She said that their objectives are not to close the Airport.

Mrs. Carroll said that is her problem with scheduling a meeting. She doesn't have an agenda, she doesn't know what they were going to talk about and she doesn't know what their goals are.

Ms. Wood said the agenda is that they want to make sure that they have a safe community for the citizens. She felt that everyone on her Committee has different aspects that are important to them. These are concerns of citizens and their quality of life. She said there is the issue with lead and the issue of how commercial space is leased and operated and how it affects other places that want to start businesses. She said it is like the Airport has a corner on the market. The goal is that everyone is treated fairly and that everyone is safe. She said they were not going to pull a rabbit out of the hat. They have been up front with everything they have done.

Mr. Fletcher said about 10 or 12 years ago Ms. Wood came before Council with some noise issues. The City Council initiated a Part 150 Noise Study, which showed that the decibel levels were within the EPA range. Now 10 years later this is coming up again. He said the noise abatement has already been solved and they are well within the legal limits. He said the reason they have an Airport Commission is so that people can go before them. The Airport Commission is made up of people who have a specialized background. They are a Commission that is appointed to come to Council if they have a problem that they think the City Council needs to know about. The Chairman of the Airport Commission and the Airport Director are present for today's meeting and he would like to hear from them before Council schedules a Special Call meeting.

Mrs. Turner asked Ms. Wood if they went before the Airport Commission.

Ms. Wood said that she tried to get appointed to the Airport Commission but there never seems to be an opening for her or anyone else. She said that they do not see them as a viable Commission. She said that as far as she knows everyone on the Airport Commission has financial ties to the Airport and to aviation.

Mr. Fletcher said that was not true.

Ms. Wood said that the issue they are addressing now is not noise.

Mrs. Turner asked if they discussed the lead issue with the Airport Commission.

Ms. Wood answered yes. She said that when they were at a Treasure Coast Regional Planning Council they asked Mrs. Barbara Drndak, Chairman of the Airport Commission, about the lead issue and she said there was nothing to worry about because it dissipates.

Mrs. Carroll asked Mrs. Drndak is it possible that the Airport Commission would allow these citizens to present their information at the next Airport Commission meeting.

Mrs. Drndak said that they always have public comment, but they hardly have anyone attend their meetings. She said that they could also hold a Special Call meeting. She said the lead issue is in the hands of the EPA, who are currently testing at numerous airports and their ruling would come out in about 18 months. Once they have established a ruling, they will have to work with the FAA. She said a lot of the lead that is currently in the soil was deposited there when automobiles had lead in the fuel or from leaded house paint.

Mrs. Carroll suggested that Council hold off on setting a Special Call meeting until the members from the public present their information to the Airport Commission and then they can present the information to Council.

Mr. Fletcher felt that it would be unrealistic to hold a meeting now. This is not in the Council's hands. It is a Federal issue. There is nothing that Council can do.

Mayor Kramer said that he was not aware of the EPA study when this issue was brought to him.

Mrs. Drndak said the EPA is currently conducting studies to make a determination. She said that there is an Airport Commission meeting scheduled for January 21, 2011.

Mrs. Carroll asked Ms. Wood to present her information to the Airport Commission at their January meeting.

Mrs. Turner agreed with Mrs. Carroll that they should first meet with the Airport Commission.

Ms. Wood said that she would be happy to present this to the Airport Commission. She reiterated that their issue at this point is not noise. It is a safety issue on the amount of lead in aviation fuel.

Mr. Kenneth Bennett stated that the reason they came to this meeting today was for reaffirmation of a Special Call City Council meeting. He said that he attended an Airport

Commission meeting and was ignored. He said that they are all pilots. He said that there were more issues than lead and noise at the Airport. He said all they were asking for was a date in March for a Special Call City Council meeting.

Mayor Kramer realized that the previous City Council gave them a date for a Special Call meeting. He did not want to say no to this, but there is information that Council needs, especially from the EPA. He said that he would be attending the January 21st Airport Commission meeting and he would hope that the other Councilmembers would also attend. He felt that if they had a vote for a Special Call meeting it would probably fail. He said that he really would like to know more about the lead issue.

Ms. Wood said that she could give Council any information that they request. She said that in their view the Airport Commission meeting would not be an open meeting.

Mr. Heady said that if they meet with the Airport Commission on January 21, 2010, the next Council meeting would be on February 1, 2010 and there is plenty of time to schedule a Special Call meeting.

At this time, Council discussed items 9B-3) and 9B-6) together.

9B-3) Discussion of the meetings with FP&L held during last week individually with each Councilmember – Requested by Councilmember Carroll

9B-6) FP&L Report/vote to continue? – Requested by Councilmember Heady

Mrs. Amy Brunjes, FP&L External Affairs Manager, reported that FP&L would like to continue discussions on the potential acquisition and operation of the electric system. She said that if the City is also interested, there are some simultaneous next steps that would need Council's approval.

Mrs. Carroll said that four of the Councilmembers met with various FP&L officials (Ms. Pamela Rausch, Vice President of External Affairs; Sam Forest, Vice President of Energy Market and Trading; and Mrs. Brunjes) last week. She reported that Mr. Forest manages the nuclear and wholesale power for the State of Florida and in 2007 worked on the bid for the City's wholesale power, which was rejected when the City went with the OUC contract. She said that Mr. Forest believes that the City could not sell the contract back to FP&L because of IRS rules. The goal of FP&L is to purchase the City's system and take over the collection and billing. She said that the FMPA generation entitlements would need to be assigned or sold to another municipality. One of the issues FP&L has with the Power Plant is that they do not need it and believe that it could be decommissioned or dismantled. FP&L has excess capacity within their statewide system so they are more than capable of absorbing the City's customers. FP&L's next step is to start the due diligence process. She said that FP&L did state that a contract could be available before the summer if everything falls in line. She made a motion that Council allow FP&L to begin their due diligence and analysis. Mr. Heady seconded the motion and it passed unanimously.

Mrs. Carroll said that she met with them a second time later the same day following a meeting where one member of the Council asked the Press to sit in on their meeting. She said that the FP&L officials wanted Council to know that they would have preferred to have a heads up that the Press was going to attend the meeting. She said that they thought this was a private meeting to get to know the Councilmembers.

Mr. Fletcher said that is the reason not to have private meetings. He said the heads up would be that all the meetings would be in the public.

Mrs. Carroll asked Mr. Fletcher to remember that the City asked FP&L to come here.

Mrs. Brunjes said it was not FP&L's goal to have private meetings, but because of the Sunshine Law they knew this was the only way they could speak to Councilmembers. She said that technically they did not need this approval today, but they wanted the next steps to come forth publically. She said that they wanted to bring the new Councilmembers up to speed rather than them relying on the word being passed down from a previous Council.

Mrs. Carroll said as Council's liaison to work with FP&L, she personally does not want anything to stand in the way of them moving forward with this contract. She and many of the Councilmembers have said that they are for taking a look at this and see what FP&L can offer. She thanked Mrs. Brunjes for attending today's meeting.

Mr. Heady clarified that what Council did was make Mrs. Carroll the point-person for FP&L so that things could go through Mrs. Carroll. But, her characterization that she was the one to be the negotiator with FP&L was not the intent. The intent was to have a Councilmember be a point-person. He said that Mrs. Brunjes' meeting with him was pleasant and there was no Press in attendance.

Mrs. Brunjes said that they were not expecting to have an impromptu meeting with the Press. She said that they did not have anything to hide, they were just taken back.

Mr. Heady understood Mr. Fletcher's position with respect to meeting with FP&L.

Mr. Ken Daige suggested that when they meet with FP&L or anyone else that they have the City Clerk's office tape the meetings. As they move forward with FP&L it is extremely important that they do this right. He felt that for their own protection, they should have someone recording the minutes. This way no one can deny what was said or not said.

2) Using utility bill mailing for the promotion of non-profit community based services – Requested by Mayor Kramer

Mayor Kramer said that last year he had the opportunity to work with the United Way as a volunteer on their Income Tax Assistance Program. The volunteers were trained by the IRS and they did a number of people's taxes and were able to bring back over \$800,000 into the community. He said that they were going to be doing this again this year and are advertising their services. They are free to the public. One of the ideas they came up

with was to put an insert into the utility bills. He said the cost of a full page ad would be about \$1,800 to \$1,900. However, this does have some competing affects with local businesses that do tax preparation. He asked for Council's support on this as it does bring money back into the community.

Mrs. Turner commended Mayor Kramer for his efforts. However, she did not want to use the City's utility bills for promoting non-profit organizations.

Mr. Fletcher said that he is deeply involved with the Salvation Army and he would want to be able to have that privilege himself. He was worried that every month they would be expected to showcase some group and therefore he also was worried about doing this.

Mrs. Carroll asked has this been done before.

Mr. Lee said many years ago the City had a Public Relations Officer that produced "The Current," which had information on City business. He said that there were no advertisements in The Current. He said that in the past the only thing they included in the utility bills was City related business, such as water quality reports, hurricane information, etc. He said this is an opportunity if Council wishes to explore it, but there are some problems associated with it. He explained that one problem would be that the utility bill has a specific weight and if they choose to insert something it should not increase the weight because it would then increase the postage.

Mayor Kramer said that he would bring this back up under his matters on how much they bring back into the community.

3) Discussion of the meetings with FP&L held during last week individually with each Councilmember – Requested by Councilmember Carroll

This item was discussed earlier in the meeting.

4) Required documentation form for Councilmembers to add agenda items to Council meetings – Requested by Councilmember Carroll

Mrs. Carroll said that she has a problem with the additions to the agenda. She explained that there were a number of items listed under New Business, which may have been Old Business because they have been discussed by this Council numerous times. She asked the City Attorney, what is the difference between Old Business and New Business.

Mr. Vitunac said generally if it has been discussed and not resolved the City Clerk would place it under Old Business. If it was discussed some time ago then it would be placed under New Business. If the item is not in the correct place on the agenda then Council has the choice of moving the item to the correct place. He said there is no hard and fast definition.

Mrs. Carroll said that her proposal is in order to provide accurate documentation for addendums to the agenda, is to provide a form to be used by Councilmembers. This form would include a title, summary, what the public needs or issue the item addresses, any relevance City Charter, Code, references or legal finding on the issue, any dates of past decisions by past Council relevant to the issue, a statement of the proposed resolution and any attached documentation (form on file in the City Clerk's office). She felt that this would provide her, as a Councilmember, more adequate information in order to come to the meetings prepared. She said that there were 16 items listed under New Business on today's meeting agenda in which some of them she did not know what they were going to discuss. She felt that by Council using the form she is proposing, it would provide her the capability of doing some research on the issues prior to the Council meeting. She said that the proposal was to require Councilmembers to provide at least a one page document to add items to the agenda.

Mr. Fletcher said if that was a motion, he would second it.

Mayor Kramer had a problem with the word "required." He said that they discussed this before that they could add items to the agenda, but if there is a lack of backup or if a Councilmember believes that they don't have enough information to make a reasonable decision, that they would discuss it, but not make a policy change or a motion. He liked the idea of having more information prior to their meetings, but he did not want it to be seen as something that prevents a Councilmember from placing an item on the agenda.

Mrs. Carroll said if it is not required some Councilmembers might not do it.

Mayor Kramer asked would it be okay to amend the motion as a recommendation. He felt that this was a good idea and he would probably do it.

Mrs. Carroll said that she used this form for her items on today's agenda. One of the items was the discussion of the FP&L meeting. At the date the information was required to be in for the agenda, she did not know what they were going to discuss (referring to the meeting with FP&L Officials because the meeting was scheduled after the deadline for the agenda items). So therefore, there may be situations where Councilmembers do not have enough information, but they could provide what they have.

Mr. Heady said that Mrs. Carroll just pointed out exactly the problem. There are things that come up where they don't have the information at the time of the agenda deadline. He said that if this form was a requirement then the FP&L meetings would not be allowed on the agenda. He said that it seemed like they were going down the same road that the previous Council did by spending more time trying to stop him from talking then he actually talked. He said that he had items that he wanted to add to the agenda and then referred to one of the items today stating that there were 11 pages, which they would need to make five copies and there were over 400 Ordinances and laws referred to. He said that he would spend a week just looking into reading everything. He said this is a Council meeting and if they want to discuss something, then put it on the agenda. That doesn't mean they were going to take action on it. He felt that this was more obstruction

and they don't need this. If a Councilmember wants to put something on the agenda then let them put it on the agenda.

Mr. Fletcher said that they were not trying to stop anyone from talking. They were trying to inform the public about what the subject would be so they would have reasonable time to react to it and respond to it at a Council meeting.

Mrs. Turner said that she would support the use of this form so that she would become better prepared to address the issue at the meeting.

Mayor Kramer said that his request is that they amend the motion so that it is not required, but it is a recommendation. He did not want to see this as a possible tool down the road to stop something from being placed on the agenda.

Mr. Fletcher asked if they would entertain a change of the wording in the motion to "a proposed" or "a standing policy."

Mayor Kramer said that he did not want it to be used as a barrier.

Mr. Fletcher said as a policy it would not be a barrier.

Mr. Heady said policy would make it policy. As he understood it, the Mayor's recommendation is to ask Councilmembers to follow the form if possible. It is not a requirement and it is not a policy.

Mrs. Carroll would not agree to modifying her original motion.

Mr. Fletcher said that he would still second her original motion.

Mr. Heady made a motion to amend the motion to a recommendation and not a requirement. Mayor Kramer seconded the motion.

The amended motion failed 3-2 with Mrs. Carroll, Mr. Fletcher and Mrs. Turner voting no.

The original motion to make the form a requirement passed 3-2 with Mr. Heady and Mayor Kramer voting no.

5) Resolution to Create a Youth Advisory Board – Requested by Councilmember Carroll

Mrs. Carroll requested that this item be tabled and discussed at their December 21st workshop.

6) FP&L Report/vote to continue? – Requested by Councilmember Heady

This item was discussed earlier in the meeting.

7) Support of Debbie Mayfield PSC oversight legislation – Requested by Councilmember Heady

Mr. Heady wanted to support Representative Debbie Mayfield on the Public Service Commission (PSC) oversight legislation.

Mrs. Carroll mentioned that at the Legislative Delegation meeting held last Friday, they voted on moving that forward.

Mr. Heady made a motion that they support Representative Mayfield's Legislation.

Mr. Fletcher mentioned that he supported it privately.

Mayor Kramer said that he met with Representative Mayfield and applauded her efforts in keeping local issues local. He said that he was not enthusiastic about bringing PSC into the area, however he realized that there was a lack of recognition for the individuals in the County who don't have a voice on this issue.

The motion died for lack of a second.

8) Discussion of Crew opportunities at Riverside Park – Requested by Councilmember Heady

Mr. Heady said that there was an individual who would like to bring crew availability (rowing club) to the community. He said that they would be spending their own money. He included a document in the backup material, which showed that Sarasota County has targeted five million dollars in tax money to help with a boat house. In Vero Beach there is an individual who wants to use private money to put a boat house at a City Park. He said another City in Florida is spending tax dollars and are talking that the "crew" would draw 100,000 people to their community and have an economic impact of \$43 million dollars. He did not think it would have that kind of economic opportunity or impact for Vero Beach, but he would like to give them approval by Council. He said that if Council encourages them to do this, they would bring it before the Recreation Commission and then back to Council. He is asking that Council support their efforts.

Mrs. Carroll said this organization has already gone before the Recreation Commission in tandem with the youth sailing organization. She felt that as Council, they should take a step back from this. She explained that it was her understanding that a map of long term planning of the Marina through the Riverside Park area was being looked at.

Mr. Falls said to his knowledge there is no formal approved Master Plan of the area, which would show future uses of the land. He said that Mr. Tim Grabenbauer, Marina Director, has some conceptual plans for the riverfront, but he was not sure if the plans

have been brought before the Marine Commission. He said that he would do some research and bring the information back to Council.

Mrs. Carroll said that she would like to see the Marine Commission and the Recreation Commission work with Mr. Grabenbauer to come up with some type of Master Plan for the area. She said that there are areas throughout the County that have waterfront facilities in Parks that the City could model after. She felt that if a facility is built that they could be shared by other organizations. She asked that the Marine Commission, Recreation Commission, and Marina Director work on a Master Plan before Council “gives away” the Park.

Mr. Heady said that no one was asking anyone to give away anything. They (the rowing crew) were asking for Council’s support that if they can make this work that they would like to see the opportunity in this community. He said that no one was giving anything away or were asking for final approval on anything.

Mayor Kramer said that he would like to see them keep moving on this.

Mr. Fletcher asked have they gone before the Recreation Commission or the Marine Commission.

Mrs. Carroll said that they have gone before the Recreation Commission, but at the time they were together with the sailing crew.

Mr. Fletcher agreed with Mrs. Carroll that the Recreation Commission and Marine Commission should present this to Council rather than an individual.

Mrs. Carroll asked that Mr. Falls instruct the Marina Director to begin the initiation on what it would take to begin a Master Plan for the Marina and Park. She said there were a lot of things they could do with that area.

Mrs. Vock asked Mrs. Carroll if she wanted her to schedule a Joint Recreation and Marine Commission meeting.

Mrs. Carroll felt that Mr. Falls would need to meet with the Marina Director first.

9) Restoration of old Dodgertown Golf Course – Requested by Councilmember Heady

Mr. Heady reported that at yesterday’s Recreation Commission meeting, they voted to send a recommendation to Council that they not interfere with the negotiations with MiLB. He said that the Commission claimed that if they delay this, the ball fields would be put in jeopardy. He said the restoration of the old golf course is that Mr. M.J. Wicker sees the writing on the wall and is not going to be allowed to do it. Mr. Heady felt that it was a shame that the City was going to forego an opportunity to have investor dollars

come in to restore a historical site (golf course). Instead they are going to bulldoze that and allow MiLB to utilize the property.

Mr. Craig Callan, of MiLB, said he read that Mr. Wicker did not have the financial backing to do it. It is not being railroaded or pushed off to the side.

Mr. Wicker said that he never offered a proposal to the previous City Council. He said the only thing he did was give them a letter requesting the intent of the Council on what they wanted to do with the property and if they were interested in the opportunity to reopen the golf course and what it would require. He said this all began in February of this year when his cousin was visiting and asked what it would take to reopen the golf course. Mr. Wicker said that he met with the previous City Manager, Mr. Jim Gabbard, who mentioned to him that it was possible to rent the course for one dollar a month. Mr. Wicker reported this information to his cousin, who said that he was interested. Then they visited with some people who had some investment dollars who were interested in pursuing this. Mr. Wicker said in the letter they asked what would be the terms of the lease, what kind of improvements they would like to see done to the property, for an opportunity to inspect the irrigation system, etc. Then Mr. Gabbard and the Council started discussing the concerns of MiLB. He said that about one month ago Council approved MiLB's desire to put in baseball fields. He said that he contacted his cousin who is still very interested in restoring the golf course. He assured Council that there were a lot of people in the community who would love to see the golf course restored. He said that during yesterday's Recreation Commission meeting, the Mayor indicated that there would be some monetary requests as far as running the property. He felt that there would be four or five holes left on the property and there is the possibility of putting a driving range there (after the ball fields are complete). He said that they also have the possibility to have a pitch and putt area there. He said that he is a motivational speaker and he saw the golf course as a platform to get the schools and the children involved in golf and other activities that he felt could happen there, such as concerts, screen on the green, etc., in order to get the community involved. He said that he spoke with Mr. Callan earlier today and he hoped that he would take advantage of his talents and gifts. He said that he really would like to be involved in MiLB's attempt to further their business and to see them become more involved in the community in offering their children a means of recreating, as well as being entertained. He appreciated Council's time and asked them to call on him anytime that he could be of service in helping the community and children.

Mayor Kramer thanked Mr. Wicker for standing up and chasing his dream.

10) Sports Village – Requested by Councilmember Heady

Mr. Heady said that they have had numerous City Council meetings in which MiLB has requested use of one-third of the golf course. Their current proposal is to take the property that the City owns and trade it for property that the City controls, which did not make sense to him. He said that the City would not be gaining anything, but giving up something. He said at prior meetings he asked MiLB if there was some financial analysis

of what the benefit to the community was and he did not receive anything. He asked what is the cost going to be for the clover leaf piece of property and the only answer he received was that Mr. Callan had sticker shock. There were no dollar amounts given to him (Mr. Heady) as to what this was going to cost the taxpayers and the taxpayers are indeed paying for the development of this piece of property. He said therefore, they have approval of doing something in which there is no financial analysis, in which the taxpayers have some undisclosed amount. At a prior Council meeting he asked if any Councilmember knew what the amount was and the only answer he received was from former Councilmember Daige who stated that it was in the public records. He said that no one would give him the dollar amount. He felt that this current Council ran for election on a platform of financial analysis and accountability and he has seen zero financial analysis as to how this is going to benefit the taxpayers who are going to spend an unknown amount of money. He said that he and his wife volunteer their time and they recently volunteered to work at the Harvest Festival, which was held at MiLB. During that event Mr. Callan verbally attacked him. There was a lot of yelling from Mr. Callan to the point that it scared his wife and granddaughter. This kind of attack is unwarranted and no elected official should be subjected to or required to put up with that kind of attack. Several spectators of this went up to the Vero Beach Police Officer and as Mr. Callan was leaving the Officer approached them and stayed there until he was assured that no more confrontation was going to occur. Mr. Heady said that he was then and is still concerned about these kinds of verbal attacks and asked that this Council support that any Councilmember who is attacked to have the availability to go to the City Attorney and request a restraining order.

Mayor Kramer said that if they do not do the land swap, the cost would be about \$35,000 a year because they would have to mitigate drainage on the west side of the property.

Mr. Heady disagreed.

Mayor Kramer asked where would they have the drainage.

Mr. Heady said the drainage for a road does not tie into the agreement to swap the land. There has been a drainage concern with respect to the widening of some of the roads. But, that drainage concern is a concern without the development of the clover leaf piece of property. He said they were two separate issues. The dollar amount Mayor Kramer was speaking of was not the dollar amount he was talking about. He was talking about the dollar amount that the taxpayers would be on the hook for the development of the fields. He said that the City currently gives MiLB the hotel, conference center, stadium, fields, etc., for one dollar per year. He said that they are told that this brings tremendous employment benefit to the community and yet they see Indian River County has one of the highest unemployment rates in the community. He felt that the taxpayers have had enough and he did not see giving MiLB a blank check. When he previously asked Mr. Callan what is the cost the only response he received was that he (Mr. Callan) has sticker shock and yet the Council at that time voted to go ahead with this regardless of the cost. He said this is not the kind of financial analysis that he would like to see from this Council. He would like to see the cost and the benefit so that they know whether or not

there is a benefit to the community. These are the numbers that he is concerned about. The pond mitigation is a different issue.

Mrs. Carroll asked that they try to stay in answering the questions being asked.

Mr. Falls referred to an aerial of the property shown on the screen (on file in the City Clerk's office). He said that if the clover leaf is not constructed in the location that is shown in yellow, they would have to be constructed to the far east on top of an existing practice field and the vacant area between that field and the main relief canal. If the fields are not constructed where they are shown in yellow, the City would lose that pond site. The only other ponds sites in the immediate area are private parcels that would need to be purchased or some Airport land to the north of Aviation Boulevard, which has a leasable value of about \$35,000 a year. That is the \$35,000 figure that the Mayor referred to.

Mrs. Carroll said that she made some telephone calls to people in this community and other communities who are involved in girl's sports. One person that she spoke to had a daughter who is on a girls youth softball travel team. He estimated that the events that they go to have an average of about 25 teams from around the State with about 15 players, which would be about 375 families attending one of these tournaments. The average stay is two nights at a local hotel. If the average cost for a hotel room was \$125, that would have an impact of \$250 per family plus meals. If only two-thirds of the families stayed in a local hotel, that would be about 250 families at \$500, which would be an impact of the tournament to this community of \$125,000. If five tournaments occur each year, that would be another \$625,000 to the local economy. If ten tournaments occur each year, that would be one point two five million dollars. She felt this was a good return on their investment in their community.

Mrs. Turner said MiLB also takes care of the maintenance of the facilities. Without success of the MiLB, the City would be paying over \$150,000 each month to maintain that area. Therefore, they were talking about good use of taxpayers' money.

Mrs. Carroll said that they have a recommendation from the Recreation Commission to move forward with this. She made a motion to move forward with this based on the Recreation Commission's recommendation. Mr. Fletcher seconded the motion.

Mr. Heady asked is there any Councilmember that can tell him the cost of construction of the fields.

Mrs. Carroll felt that the cost would be borne by the private entity (MiLB), not by any City resident. She said it is County money, not City money.

Mr. Heady said that they are part of the County. He again asked is there any Councilmember who knows what the taxpayer cost for the fields would be.

Mayor Kramer said that he would like to hear from the audience.

Mr. Heady said that is fine and they could get those numbers, but his point is that he can't get any dollar amount from a Councilmember. He said that they passed earlier that a Councilmember has to have all these things lined up before they can place anything on the agenda and this is something on the agenda where the Councilmember who required this doesn't have any financial analysis or any numbers submitted to Council and who doesn't know what the dollar amount is going to be that the taxpayers are going to spend.

Mayor Kramer said that exceeds the scope of the City Council. That goes into the County and the City does not have any control over that.

Mr. Heady said it is only by the City's agreement in the land swap that these monies are going to be spent on what is now City property. If Council is going to agree to this then they should know what tax dollars are going to be spent.

Mayor Kramer asked Mr. Heady, as a taxpayer, has he made an appeal to the County Commission.

Mr. Heady said as an elected official for the City of Vero Beach, he has a financial responsibility to the City taxpayers, who are also County taxpayers. Before he makes a decision that is going to cost them money, he would like to know what dollar amount they are talking about.

Mr. Tom Calucci, (spelling may be incorrect) Executer of the Treasure Coast Sports Commission, approached Council. He said that they are one of 21 Regional Sports Commissions in the State of Florida. He said that they are charged with bringing tournaments and amateur sports to Indian River, Martin and St. Lucie Counties. He said the cost of the fields would depend on who builds them. If the government builds them it would cost two point five million dollars. If someone else builds them it would cost one point three million dollars. He said regarding tournament play, they held a girls softball tournament in Indian River County in July of this year with 67 teams. They reported 958 room nights with \$470,000 and \$539,000 of economic impact. He said that they have been in existence for 11 years and they are here to help with whatever the City needs help with. He said that this is something that will be important to this community. It is a sports destination and it will bring in tourism. It is a hot button in the State of Florida and is bringing visitors to the area. He said that this is the best form of economic development that they could ask for and MiLB is willing to endorse this.

Mr. Pat O'Connor, President and CEO of MiLB, said that MiLB was invited here to help solve the problem of the Dodgertown facility. He said that he was an intern at Dodgertown in 1981. He said that when this started, no one was more passionate about the value of the golf course than he was. He said that it was MiLB's preference that the golf course be restored in its original shape. In the event that was not going to happen, they would expand their business model by age and gender. He said to think that they are trying to steamroll or kill the Dodgertown golf club concept is inaccurate. He said that they have not gone through formal bids yet, but they have gone out and sought people to give them an idea of the cost and it is going to cost about one point two five million

dollars. That money is not coming from City coffers. That money would come from the lease agreement that they have with the County. At the time they signed the lease, the County committed to do certain improvements. When they examined their model, they understood that they needed more to entertain the kind of events that Mr. Calucci spoke about. So they approached the County and talked about exchanging things within the lease, such as instead of having four fields with lights they would have two fields with lights and allocate that money for something else.

Mayor Kramer asked Mr. O'Connor if he was stating that money was allocated to them at the time of the lease.

Mr. O'Connor said there was not a dollar amount, but there was a commitment in the lease to do certain things.

Mayor Kramer said if they didn't get the land, would they still be getting money from the County.

Mr. O'Connor answered yes. He said that the County is committed and there is no question of their responsibility to MiLB. He said that the lights cost about \$900,000 and the County is committed to that.

Mayor Kramer said then irregardless to what they do with the land, they could not stop the money coming from Indian River County.

Mr. O'Connor said that was correct.

Mr. Fletcher asked Council to keep in mind that if they don't get this, it is going to cost the City \$35,000 per year which is \$350,000 for ten years, because they have to have the retention pond somewhere else.

Mr. O'Connor understood Mr. Heady's position. He said that if they want to set the clock back they will set the clock back. If the Council does not want to do the deal then don't do it. He said there are three things that will happen, which were they would spend the money the County gives them ineffectively, but will spend it to increase their model as much as they can or they will convert field six in dry retention to a clover leaf and spend the money what they think is more effectively or they would get consumed in delays and they will bleed to death financially and leave town. He said that he was not threatening anyone, but that is the reality of where they are. They have been patient in this process for over a year. He said that he was at the point now where he is less concerned on what Council does as to when they do it.

Mr. Jerry Smith said that he is a coach in New York and he also has a small business that constructs community running trails. He said that he looked at the golf course as he always looks at golf courses with the prospective of what a marvelous place to run if you don't play golf. He said that he sees people all over this community running on concrete. He felt that there was a great opportunity to turn the golf course into a cross country

facility. He said that they have one in Utica, New York and the finish line is in the middle of a baseball clover leaf. He said rather than take away from baseball, they could incorporate a running area and retention pond into the golf course. He said that they could also have mountain biking. He said this would not replace baseball, but it would replace golf.

Mr. Dick Yemm, Chairman of the Vero Beach Recreation Commission, reported that the Commission fully endorses the use and development of the clover leaf piece of property. He felt that from the City's standpoint, the opportunity will be there to utilize these fields even beyond the 10 scheduled events.

Mr. Falls said that the City received documents from the County this week. Their intent was to have all the documentation completed before the December 21st City Council meeting.

Mayor Kramer thought that Council decided to have a workshop meeting on December 21st and not an actionable meeting.

Mr. Vitunac explained that workshops are meetings of the City Council. He said that they would have a meeting of the Council for one or two items and then they would adjourn to a workshop.

Mayor Kramer said that he would like to see if they could go to a County Commission meeting and ask them if the \$800,000 is an issue.

Mr. Vitunac said the County is obligated to spend a lot of money.

Mr. Heady asked how much is a lot of money.

Mr. O'Connor answered about \$2.2 million dollars.

Mr. Heady said then the County is on the hook to spend \$2.2 million dollars as they speak today.

Mr. O'Connor said that is correct. He said that in the lease the money is to be used for the lighting.

Mr. Heady said nowhere in the lease agreement is there a dollar amount that specifies \$2.2 million dollars.

Mr. O'Connor said that is correct.

Mayor Kramer asked do they want to hear this on December 21st or the following meeting.

Mr. Vitunac said that their regular Council meeting was scheduled for December 21st and Council can have that meeting with a short agenda and then switch the meeting to a workshop where no further motions would be taken.

Mrs. Carroll asked can a Councilmember call in on the speaker phone and vote if they are out of town.

Mr. Vitunac said that they could participate by phone, but cannot vote.

Mr. Fletcher said that he would change his plans so that he could be present for the December 21st meeting.

Mrs. Carroll said that she had made a motion to approve the land swap. She asked was that premature based on the fact that she did not know the final documentation was not available yet.

Mr. Vitunac said that what they want is permission to go ahead and prepare all the necessary documents for the land swap.

Mrs. Carroll amended her motion to give staff permission to prepare all the necessary documents for the land swap. Mr. Fletcher seconded the amended motion and it passed 4-1 with Mr. Heady voting no.

11) Parking possibilities in downtown – Requested by Councilmember Heady

Mr. Heady recalled that he took some photos that showed how they could resolve some parking problems downtown. He said that this would probably require the City Manager to approach the State to get permission.

Mayor Kramer would entertain that they do this additional street parking on some of the side streets in between the Twin Pairs.

Mr. Heady felt by doing it on the Twin Pairs it would have a somewhat calming effect on the fast traffic that moves through this area.

Mr. Falls stated that he would do some research in finding out how many parking spaces could be gained by doing this and will bring it back to Council.

12) Request for Special Call meeting for Airport issues – Requested by Councilmember Heady

This item was discussed earlier in the meeting.

13) Support of League of Cities legislation “The Consultants Competitive Negotiation Act” – Requested by Councilmember Heady

Mr. Heady was in favor of supporting the League of Cities legislation on the Consultants Competitive Negotiation Act.

Mr. Fletcher asked the Clerk to provide Council with the different Florida League of Cities Committees that they could serve on.

Mr. Heady made a motion to support the League of Cities legislation/resolution on the Consultants Competitive Negotiation Act. Mr. Fletcher seconded the motion and it passed unanimously.

14) Discussion of reception area City Hall – Requested by Councilmember Heady

Mrs. Vock and Mr. Falls would look into ways of making it easier for people coming into City Hall to find the Departments that they need to go to.

15) Update on restriction for vehicles allowed in residential neighborhoods – Requested by Councilmember Heady

Mr. Heady suggested updating the restrictions on vehicles allowed in residential neighborhoods to accommodate the weight limit for some of the SUV's and big trucks.

Mayor Kramer said it was his understanding that the newer vehicles that are heavier are more geared toward passengers rather than work related vehicles.

Mr. McGarry said that the Ordinance does need to be revised. He said that staff is using discretion on this and are normally only targeting commercial vehicles. He felt that the intent was to keep residential neighborhoods residential. He said that they would start looking at changes to the Ordinance.

16) Discussion on noise regulations near residential neighborhoods – Requested by Councilmember Heady

Mr. Heady commented that he has received several complaints from people complaining about the noise coming from Joey's Bistro and Riverside Café.

Mr. McGarry was not aware that there were any complaints about Riverside Café. However, he has been working with the owner of Joey's Bistro on the noise complaints that they continuously receive.

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

- A. Mayor Jay Kramer's Matters**
 - 1. Correspondence**
 - 2. Committee Reports**

Mayor Kramer reported that he attended the Tree Lighting ceremony, boat parade and the Oceanside Christmas parade.

Mayor Kramer noted that he received an invitation from APPA on a conference that they are having in Washington in February and they pay for one Councilmember to attend. Both Mr. Fletcher and Mr. Heady showed an interest in attending the conference.

3. Comments

B. Vice Mayor Pilar Turner's Matters

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

C. Councilmember Tracy Carroll's Matters

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

D. Councilmember Brian Heady's Matters

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

Mr. Heady complimented the Police Department on a really fine job that they did in handling the traffic at the parade last Saturday night.

E. Councilmember Craig Fletcher's Matters

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

11. ADJOURNMENT

Mayor Kramer made a motion to adjourn today's meeting at 2:06 p.m. Mrs. Turner seconded the motion and it passed unanimously.

/tv



City Council Agenda Item

Meeting of December 7, 2010

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

FROM: Monte K. Falls, Interim City Manager *MK Falls 11/30*

DATE: November 30, 2010

SUBJECT: Jacoby & Piece of Pie Parks, Playground & Lighting Improvements – Community Development Block Grant (CDGB) Project – Recommendation of Final Acceptance and Payment – City of Vero Beach Project No. 2004-11

DEPARTMENT: Public Works

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

- Request Council review and approval based on the attached supporting documentation.
 - Request Council review and possible action.
 - No action required. (Information only)
-



DEPARTMENTAL CORRESPONDENCE

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

VIA: Rob Slezak, Director
DEPT: Recreation

A handwritten signature in black ink, appearing to read "Rob Slezak".

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

Handwritten initials "WBM" and the date "11/29/10" in black ink.

DATE: November 29, 2010

**RE: Jacoby & Piece of Pie Parks, Playground & Lighting Improvements
Community Development Block Grant (CDBG) Project
Recommendation of Final Acceptance and Payment
City of Vero Beach Project No. 2004-11**

Recommendation:

- Place this item on the City Council Agenda for December 7, 2010;
- Accept the project and approve Pay Estimate No. 3 and Final for \$10,016.03.

Funding:

Funding for this project will be from account number 304.9900.541.609024, however the entire cost of this project (\$100,160.28) is eligible for reimbursement by the grant.

Background:

The City Council, at their meeting of July 20, 2010, awarded the contract for the referenced project to Lanier Plans, Inc. dba Korkat, Inc. in the amount of \$95,349.78. That contract amount included \$45,969.78 for playground equipment, and Change Order No. 1 for lighting in the amount of \$49,380.00.

In September 2010, Change Order No 2 was executed in the amount of \$4,810.50 for electric lighting controls and ramps for ADA accessibility which were not included in either the original contract or the Change Order No. 1 work. This change order increased the total contract amount to \$100,160.28.

Construction on the project was begun on August 23, 2010 and substantially completed on October 18, 2010. To the best of our knowledge and belief this project was constructed in accordance with the contract requirements.

We have reviewed the as-built quantities and confirm that \$100,160.28 represents the total amount of work completed and which will be funded from the grant. Therefore, we recommend final payment of \$10,016.03.

Upon Council's acceptance of this project, the contractor's one-year warranty period will begin.

We have attached one copy of the final pay request and the contractor's affidavit for final payment. By copy of this correspondence (with attachments) to Steve Maillet, Finance Director, we are notifying him of this action.

Attachments

cc: Steve Maillet, Finance Director, w/attachments
John O'Brien, Purchasing Manager
Kerry Thiessen, KORKAT, Inc.
Fred Fox, Fred Fox Enterprises, Inc.

Attachments

WBM/ntn

AFFIDAVIT

STATE OF GEORGIA

COUNTY OF CARROLL

Before me personally appeared the undersigned who, by me being first duly sworn, deposes and says:

The undersigned is a sub-Contractor under the prime Contractor under a Contract entered into by and between the City of Vero Beach, Florida, and

Lanier Plans, Inc. dba Korkat

for the performance of the following described Work:

The undersigned further deposes and says that said labor, materials, and/or services were of a total value of \$100,160.28 of which there remains due owing and unpaid the sum of \$10,016.03 to the undersigned.

Corporate Seal

Lanier Plans, Inc. dba Korkat
~~Sub~~-Contractor

WITNESS:

[Signature]
[Signature]

By: [Signature]
Title: Owner

Sworn to and subscribed before me this 23 day of November, 2010.

Notary Seal

[Signature]
Notary Public State of Florida GEORGIA
at Large

PART 2. SCHEDULE OF CONTRACT CHANGE ORDERS List every approved change order issued to date of this request even if no work has been done under one or more such orders.			ADDITIONS TO ORIGINAL CONTRACT PRICE		Page 2 of 2 PROJECT NO. 2004-11
CONTRACT CHANGE ORDER		DESCRIPTION OF CHANGE ORDER	TOTAL COST ITEMS ADDED BY CHANGE ORDER	COST OF CHANGE ORDER ITEMS COMPLETED TO DATE	DEDUCTIONS FROM CONTRACT PRICE AS SHOWN ON CHANGE ORDERS
No. (1)	Date (2)				
1	07/01/2010	Add CDBG Contract Requirements & Lighting for Both Parks	\$49,380.00	\$49,380.00	
2	09/21/2010	Add Playground Lighting Controls & ADA Accessibility Equipment at Both Parks	\$4,970.50	\$4,810.50	\$160.00
TOTALS			\$54,350.50	\$54,190.50	\$160.00

PART 3. ANALYSIS OF CONTRACT AMOUNT TO DATE:

(a). Original contract amount (column 5 from page 1 of this form).....	\$45,969.78
(b). Plus: Additions scheduled in column 4 above.....	\$54,350.50
(c). Less: Deductions scheduled in column 6 above.....	-\$160.00
(d). Adjusted contract amount to date.....	\$100,160.28

PART 4. ANALYSIS OF WORK PERFORMED:

(a). Cost of original contract work performed to date (column 7 from page 1 of this form).....	\$45,969.78	
(b). Extra work performed to date (column 5 above).....	\$54,190.50	
(c). Total cost of work performed to date.....	\$100,160.28	
(d). Less: Amount retained in accordance with contract terms (show both percent and dollar amount).....	\$0.00	0.00%
(e). Net amount earned on contract work to date.....	\$100,160.28	
(f). Add: Materials stored at close of this period (attach detailed schedule and paid invoices).....	\$0.00	
(g). Subtotal of (e) and (f).....	\$100,160.28	
(h). Less: amount of previous payments.....	\$90,144.25	
(i). BALANCE DUE THIS PAYMENT.....	\$10,016.03	

PART 5. CERTIFICATION OF CONTRACTOR:

According to the best of my knowledge and belief, I hereby certify that all items and amounts shown on the face of this PERIODIC ESTIMATE FOR PAYMENT are correct; that all work has been performed and/or material supplied in full accordance with the requirements of the referenced contract, and /or duly authorized deviations, substitutions, alterations, and/or additions, that the foregoing is a true and correct statement of the contract amount up to and including the last day of the period covered by this Periodic Estimate; that no part of the "BALANCE DUE THIS PAYMENT" has been received, and that the undersigned and their subcontractors have complied with all the labor provisions of said contract

By: Shane Lanier Date: 11-23-2010
 CONTRACTOR Date
 Name: Shane Lanier Title: Owner

PART 6. PRE-PAYMENT CERTIFICATION BY PROJECT MANAGER:

I have checked this estimate, and it is my opinion that the statement of work performed and / or material supplied is accurate and the contractor is observing the requirements of the contract.

Signed: William B. Messersmith Date: 11/29/10
 William B. Messersmith, PE, Assistant City Engineer Date

PART 7. CERTIFICATION OF DIRECTOR

I certify that I have checked and verified the above and foregoing PERIODIC ESTIMATE FOR PARTIAL PAYMENT; that to my best of my knowledge and belief it is a true and correct statement of the work performed and/or material supplied by the contractor, that all work and/or material included in the PERIODIC ESTIMATE has been inspected by my duly authorized representatives or assistants and based on those inspections the work and/or material has been performed and/or supplied in full accordance with the requirements of the referenced contract, and that partial payment claimed and requested by the contractor is correctly computed on the basis of those inspections.

Signed: Monte K. Falls Date: 11/30/10
 Monte K. Falls, Director of Public Works Date
 Signed: Rob Slezak Date: 11/29/10
 Rob Slezak, Recreation Director Date



20-5)

City Council Agenda Item

Meeting of December 7, 2010

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

FROM: Monte K. Falls, Interim City Manager *MK Falls 12/1*

DATE: December 1, 2010

SUBJECT: Replacement of PT/CT Combo Sets at Substation #20
Bid #110810Z-PJW PT/CT

DEPARTMENT: Electric T&D

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

- Request Council review and approval based on the attached supporting documentation.
 - Request Council review and possible action.
 - No action required. (Information only)
-



DEPARTMENTAL CORRESPONDENCE

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

THROUGH: John Lee, Acting Electric Utility Director 376- 12/1/2010
DEPT: Electric Utility

FROM: Randall McCamish, Director *RM*
DEPT: Electric T & D

DATE: November 30, 2010

SUBJECT: Replacement of PT/CT Combo sets at Substation # 20, Bid # 110810Z-PJW
PT/CT

Recommendation:

I am requesting that the above item be placed on the December 7, 2010 Council agenda for approval.

- Accept the bid from ABB for \$62,700.00.

Funding:

- Funding for this item will come from Station Equipment Maintenance, account # 401.5400.531.352026.

Background:

On November 8, 2010 we experienced a catastrophic failure of the 138kV PT/CT Combo set at Substation # 20 (County Line Substation). This is part of the equipment that makes it possible to measure the power flow between Vero Beach, Florida Power and Light, and Ft. Pierce Utility Authority, and is necessary for accurate billing.

Purchasing sent out bids to 5 entities and 4 responded, with bids being opened on November 16, 2010. Purchasing tabulated the bids and Electric T & D checked the specification. We are recommending the second low bid be approved which is from ABB. The low bid did not meet the technical specifications.

Substation # 20, also known as County Line Substation is owned by the City of Vero Beach and Fort Pierce Utility Authority (FPUA) jointly. Once the replacement of this equipment has been completed half of the cost will be passed on to FPUA per our agreement with them.

Attachments

INTERDEPARTMENTAL MEMO

Date: 11/19/10
To: Randall McCamish, Director, Electric T&D
From: Phyllis Walton, Assistant Manager of Purchasing/Warehouse
Re: Bid #110810Z-PJW PT/CT Combo Replacements for Sub #20

Of the 5 bidders who were notified, 4 responded. Enclosed is the bid and the bid tabulation.

Due to the emergency situation, an email quote was sent to vendors who have provided this equipment in the past.

Recommendations for the next Council meeting should be submitted to the City Manager by Noon, Tuesday, one week prior to the scheduled meeting.

Should you have any questions regarding the bids, please do not hesitate to contact me.

Enclosures

Stevens, Donna

From: Pfarr, Randy
Sent: Monday, November 29, 2010 4:14 PM
To: McCamish, Randall
Cc: Stevens, Donna
Subject: Substation #20 PT / CT

Catastrophic failure of the 138kV PT/CT Metering Equipment at Sub 20 needs to be replaced.

Purchasing send out bids to 5 entities and 4 responded. We are recommending the second low bid which is from ABB . The low bid did not meet the secondary thermal rating required.

Thank you



Randy Pfarr
Supervisor of T&D Operations

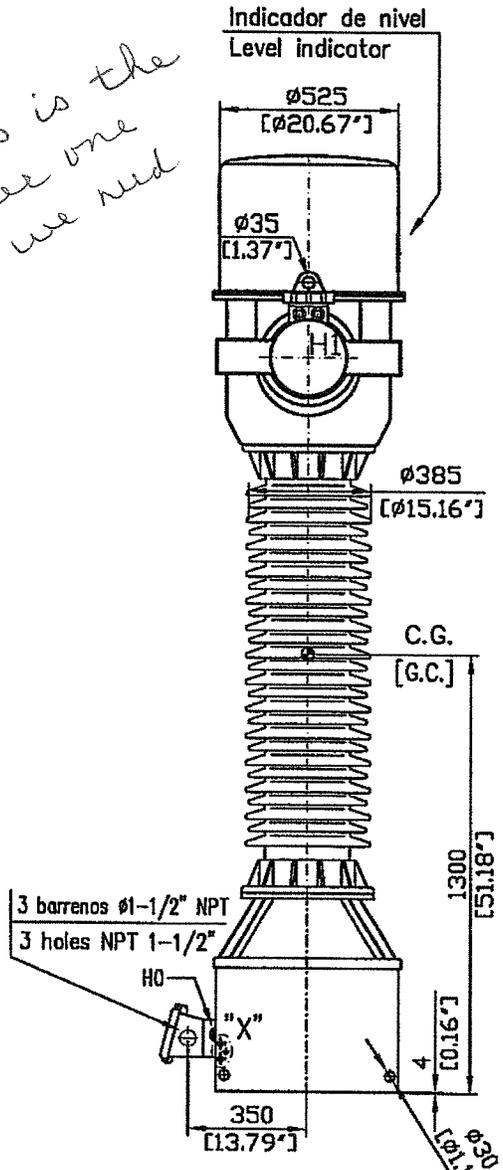
City of Vero Beach
3455 Airport west Dr
PO Box 1389
Vero Beach, Florida 32960
772-978-5411 Office
772-770-2230 Fax
772-453-3877 Cell

rpfarr@covb.org

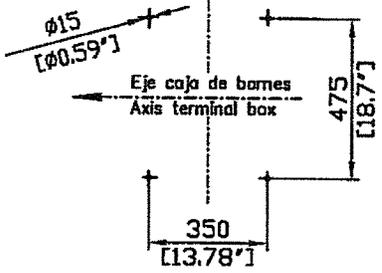
CITY OF VERO BEACH
ELECTRICAL T&D
PT/CT COMBO REPLACEMENTS
BID #110810Z EMERGENCY QUOTE
OPENED 11/16/10

ITEM	QTY	GRESKO	ABB	Tri-State Utility	ABB Alternate Bid	Irby	Electric Supply
PT/CT COMBO PER SPECS FOR Substation #20	3	\$19,224.00	\$20,900.00	\$20,645.00	\$22,450.00	\$23,071.00	No Bid
Adapter Plate	3	327.00	605.00	1,460.00	605.00		
Total		\$58,653.00	\$62,700.00	\$65,775.00	\$67,350.00	\$69,213.00	
Manufacturer		TRENCH LTD	KUHLMAN	ALSTOM/AREVA	KUHLMAN	ITEC	
Lead Time		22-24 Weeks ARO	23 Weeks ARO	39-41 Weeks ARO	7 Weeks ARO	30-34 Weeks ARO	
					<i>Purchasing Division</i>		

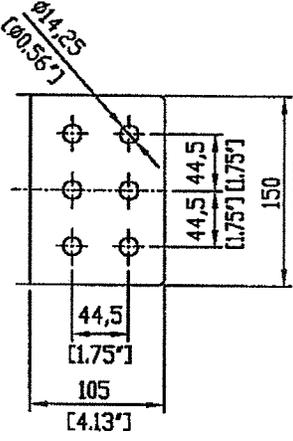
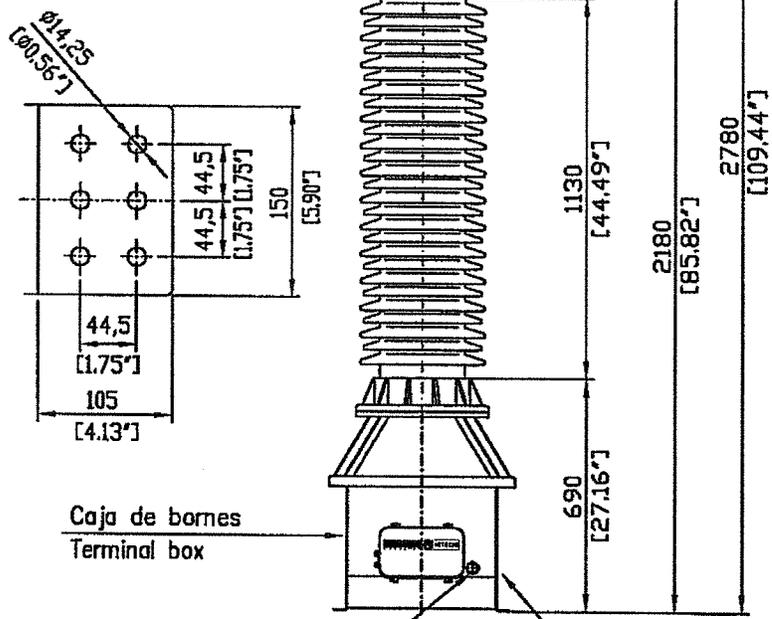
This is the proper one that we need



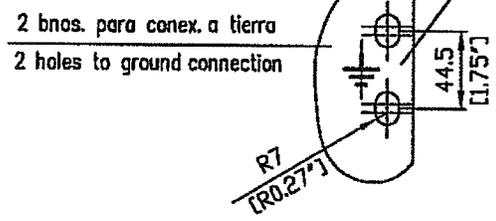
DIMENSIONES DE ANCLAJE
MOUNTIN DIAGRAM



VISTA POR B
VIEW FOR B



DETALLE "X"
DETAIL "X"



ARTECHE

Dimensiones en m.m. aproximadas
Dimensions in inches only approximates

PESO WEIGHT	ACEITE-OIL	200 Kgs.	440 Lbs.
	TOTAL	700 Kgs.	1540 Lbs.

(F) COMBINADO DE MEDIDA
METERING OUTFIT

KA-145

Fecha 3.03.10
Date

Comprobada
Approved by

Dibuja N°
Drawing

9445140 A



3101 Beaumont Centre Circle, Suite 225
Lexington, KY, 40513
hvit@us.abb.com



COMMERCIAL AND TECHNICAL TENDER

<u>Customer</u> Wesco Distribution Inc	<u>ABB Tender ID</u> 10Q1100180
<u>Project</u> Emergency RFQ for CT/PT Combo for Substation #20	<u>Tender Date</u> 12 Nov 2010
<u>Representative</u> Superior Power Products some street Norcross, GA <u>Attention</u> Joe Scott joe.scott@sppreps.com	<u>Valid Until</u> 14 Dec 2010 <u>Prepared by</u> Stephen Ashcraft stephen.p.ashcraft@us.abb.com 859-219-6041

In response to your request we are pleased to offer the following:

Pricing

Item	Qty	Product Type	Net Price Each (USD)	Item Total
10	3	L751200T800D1 ►KXM-650, Outdoor, NominalSystemVoltage=138kV, BIL=650kV, BushingCreep/Strike=153.9"/46", Weight=1540 lbs., VT_Ratio=700/1200:1:1, VT_Primary=80500V, VT_Secondary=115/67.08V & 115/67.08V, VT_Accuracy=0.15 0,W,X,M,Y,Z, VT_ThermalRating=4000VA, VT_Qty=1, CT_Ratio=800/1600:5 DR, CT_Accuracy=0.15 B1.8 from 5% to 150% of ratio, CT_RatingFactor=2.0/1.0, CT_1-SecondThermalRating=80kA rms, CT_Qty=1, SpecialRequirements=0.15 B1.8 from 5% of ratio up to rating factor NOTE: This is same design as previously purchased. Lead time cannot be improved on this design, but please see alternate item #30. Manufacturing lead time (weeks,ARO): 21 Add 2 weeks for delivery ABB Internal Order Entry Codes Product Code: [9AAF400958] - Current/Voltage Transformers / Oil-insulated / KA(KXM) / KA-145/KXM-650 Source Location: [9AAE304535] - US - Crystal Springs - 2127 - HIGH VOLTAGE COMPONENTS	20,900	62,700



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 Lexington, KY, 40513
 hvit@us.abb.com



COMMERCIAL AND TECHNICAL TENDER

20	3	941880821 Adapter Plate for Model KXM-650 Manufacturing lead time (weeks,ARO): 5 Add 2 weeks for delivery <u>ABB Internal Order Entry Codes</u> Product Code: [9AAF400958] - Current/Voltage Transformers / Oil-insulated / KA(KXM) / KA-145/KXM-650 Source Location: [9AAE304535] - US - Crystal Springs - 2127 - HIGH VOLTAGE COMPONENTS	605	1815
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Alternate Line Items

Item	Qty	Product Type	Net Price Each (USD)
30	3	L751200T162MX ► KXM-650, Outdoor, NominalSystemVoltage=138kV, BIL=650kV, BushingCreep/Strike=153.9"/46", Weight=1540 lbs., VT_Ratio=700/1200:1:1, VT_Primary=80500V, VT_Secondary=115/67.08V & 115/67.08V, VT_Accuracy=0.15 0,W,X,M,Y,Z, VT_ThermalRating=5000VA, VT_Qty=1, CT_Ratio=200/300/400 x 400/600/800 x 800/1200/1600:5 Series-Parallel with Taps, CT_Accuracy=0.15 B1.8 from 0.5% to rating factor at each tap, CT_RatingFactor=4.5/3.0/2.25, CT_1-SecondThermalRating=50kA rms, CT_Qty=1 NOTE: This is an alternate design with short lead time. This is a series-parallel design with taps and will match the accuracy and range requirements of the previously supplied units. However, the 1-second thermal rating on this design is 50kA rms. Manufacturing lead time (weeks,ARO): 5 Add 2 weeks for delivery <u>ABB Internal Order Entry Codes</u> Product Code: [9AAF400958] - Current/Voltage Transformers / Oil-insulated / KA(KXM) / KA-145/KXM-650 Source Location: [9AAE304535] - US - Crystal Springs - 2127 - HIGH VOLTAGE COMPONENTS	22,450



3101 Beaumont Centre Circle, Suite 225
Lexington, KY, 40513
hvit@us.abb.com



COMMERCIAL AND TECHNICAL TENDER

General Terms and Conditions

Product Information

To insure a trouble free installation, transformers offered herein must be installed with electrical clearances per the National Electric Safety Code (NESC).

Payment Terms

Net 30 Days

Freight Terms

Free on board Factory. Freight allowed via enclosed truck within the contiguous U.S. unless otherwise specified on this tender.

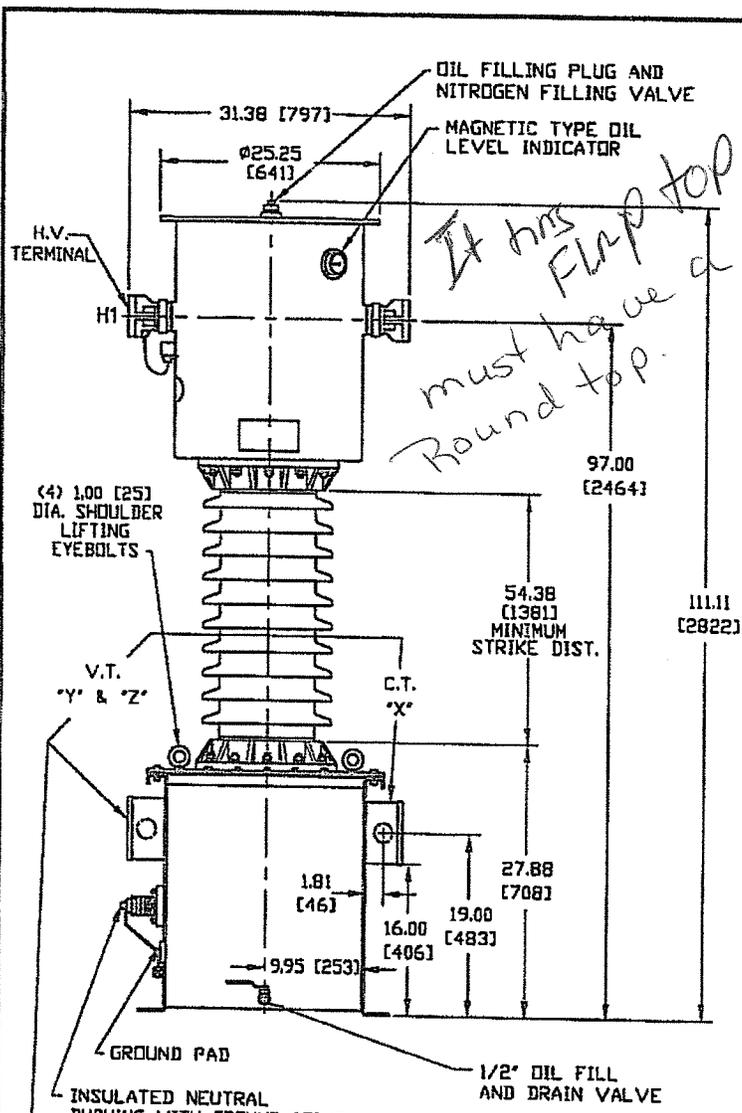
Price Validity

Shown as net each and firm for the quantities and the shipment stated.

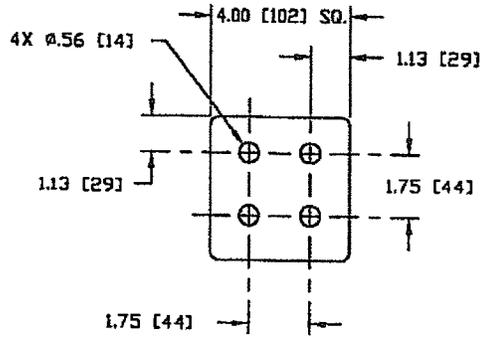
Warranty

18 months from delivery or 12 months from commissioning, whichever comes first

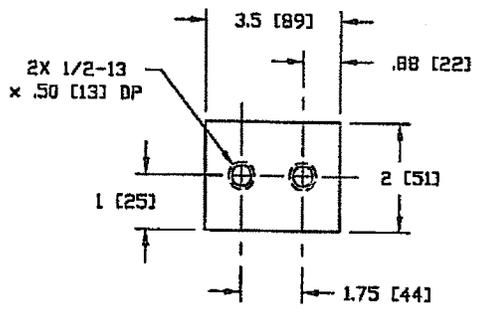
Gresco



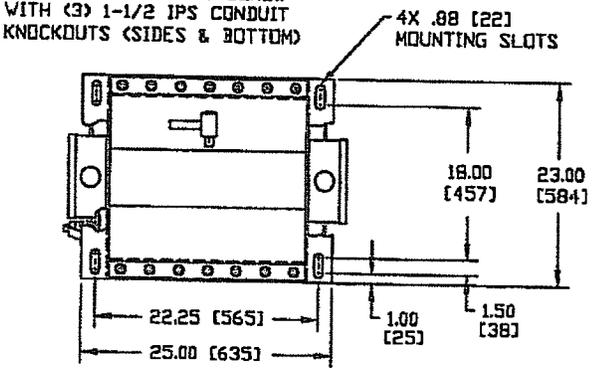
*It has Flap top
must have a
Round top.*



H.V. TERMINAL DETAIL
MATERIAL: .625 [16] THICK ALUMINUM
TIN PLATED



GROUND PAD DETAIL
MATERIAL: STAINLESS STEEL
0.5 [13] THICK



NOTES:

1. ALL DIMENSIONS ARE IN INCHES AND [MILLIMETERS]
2. BIL: 650 kV
3. PORCELAIN COLOR: GREY
4. BASE HOUSING STEEL PAINTED GREY ASA-70
5. OIL: 70 GAL. 265 LITERS (APPROX.)
6. WEIGHT: 1370 LBS. 621 Kg (APPROX.)
7. CREEPAGE DISTANCE: 131.31 [3335] MINIMUM
8. NAMEPLATES ARE STAINLESS STEEL

FOR QUOTATION PURPOSES ONLY

TOLERANCES UNLESS OTHERWISE SPECIFIED	REVISION		TRENCH LIMITED COPYRIGHT, ALL RIGHTS RESERVED METERING TRANSFORMER TYPE N5-650-138				 TRENCH	
	No.	DESCRIPTION						DESG.
0-12"[305]±1/32"[0.8] 12"[305]-24"[610]±1/16"[1.6] 24"[610]-36"[914]±3/32"[2.4] 36"[914]-48"[1219]±1/8"[3.2] 48"[1219] AND UP ±3/16"[4.8] WEIGHT±10% ANGULAR±2°				K. A.		JAN. 05/2000	NTS	
							DWG.	N5-650-138

TECHNICAL COMMENTS

1. Steel supporting structures, adapter plates, mounting hardware for the offered equipment, line- and grounding connectors as well as junction boxes are not included in our supply.
2. Our standard manuals as well as the following drawings are included in our supply:
 - outline drawing with details of primary terminal, grounding terminal and mounting holes
 - wiring diagram
 - rating plates
 - secondary terminal box.
3. Erection and installation, training of personnel as well as site test procedure are not included in our supply.
4. Routine test according to the specified standards respectively customer's specifications are included in above prices, but not any type test. Type test reports of similar apparatus are available. Tests which are not agreed upon at the time of quoting and which may be ordered later will be charged separately.
5. Special tools for erection and putting into service are not necessary.
6. Special spare parts are normally not necessary because the quoted apparatus are practically maintenance free.
If the customer requires spare parts we recommend complete apparatus for the same unit price if these are ordered within one month from the date of the main order and delivered with the units of the main contract.
7. Painting of transformers:
All iron parts are hot-dip galvanized or of stainless steel. Other metal parts are of corrosion resistant cast aluminum and additional painting is not necessary.
PTs type UT5: All metal parts are of marine grade powder coated aluminum (dome) or powder coated steel (tank).
All terminal box / enclosures meet the degree of protection IP54.
8. A primary bypass protective device for the current transformers is not necessary because of top-core design.

MU - Oil Combined current-voltage Transformer**138 kV**

Trench proposal #.....	21110525	Item #.....	1
Quantity.....	3	Product type.....	N5H-650-138-162
Standard.....	ANSI C57.13		
Maximum altitude.....	3300 ft	Ambient temperature.....	-40 C to +50 C
Rated voltage (between phases).....	138 kV		
Maximum voltage (between phases).....	145 kV		
Frequency.....	60 Hz		
Power frequency withstand dry / wet.....	275 / 275	kV	
Lightning impulse withstand voltage (BIL)	650 kV		
Rated primary current.....	1600 A		
Rated continuous thermal current factor...	1.5 In		
Thermal short time current.....	60 kA rms / 1	sec	
Dynamic short time current.....	150 kA peak		
Voltage factor.....	1.1 continuous - 1.73 / 60 s		
PT Ratio 80,500 : 115-67.08 : 115-67.08 V			(700 / 1200 : 1)
- Winding # 1.....	0.15 WXYZ		
- Winding # 2.....	0.15 WXYZ		
Max thermal burden.....	4000 VA		
CT Ratio.....	800/1600:5		
Ratio change mean.....			
- Core # 1.....	0.15 B0.1-1.8	Extended Range 5% to 150%	
Porcelain insulator	Grey		
Creepage / Flashover distance.....	131.31 inch	/ 54.38 inch	
Dimensions as per drawing.....	N5-650		
Net / Gross weight per unit.....	1370 / 1420	lb	
Shipping dimensions.....	36 x 36 x 120	in	
Primary terminal.....	Aluminum NEMA 4 holes		
Primary connector.....	Not supplied		
Grounding terminal.....	Stainless steel NEMA 2 holes		
Grounding connector.....	Not supplied		
Secondary terminals.....	CT: Terminal blocks	PT: Terminal blocks	stud type
	stud type	stud type	
- Lifting lugs			
- Oil level indicator			
- Secondary terminal box – cable lead ingress sealed by a removable plate			
- Stainless Steel Name plate and Connection diagram plate			
- Oil drain valve			

Doesn't meet our needs. It needs to be 80 or above

REQUEST FOR QUOTATION

CITY OF VERO BEACH

Purchasing Division

Telephone (772)978-5470 Fax (772)770-6860

Quote No.: 110810Z

Due Date: 11/19/10 NLT Noon

Return To: Phyllis Walton

Item	Quantity	Description	U/I	Unit Price	Total	Leadtime
1	3	CT/PT Combo per specs attached for Substation #20	EA	19,274 ⁰⁰	57,833 ⁰⁰	22-24 wks
2	3	Adapter Plates Mounting Patterns must match exactly	EA	327 ⁰⁰	#989 ⁰⁰	15-16 wks lead time. Can be expedited w/ receipt of order.
				Grand Total	\$ 58,613 ⁰⁰	

RFQ Instructions

1. Quotations shall remain in effect for sixty (60) days after due date.
2. Prices quoted shall be F.O.B. DESTINATION - FREIGHT PREPAID AND ALLOWED.
3. Bidder may quote per item (stand alone) prices or "All or None".
4. If items are not quoted, enter "NQ", sign and return.
5. If not quoting entire RFQ, enter "NQ" sign and return.
6. All "OR EQUAL" brands must identify the manufacturer's name and part number along with all necessary technical specifications to clearly determine the items acceptability.
7. Where required, provide a copy of all Material Safety Data Sheets (MSDS).
8. Payments terms shall be Net 30 Days.

Bidder Name: GRESCO Utility Supply Telephone: 377-743-6622

Address: 16421 CR 219 Fax: 352-9748-9333

City, State, Zip: WILKESBORO, FL 34785 Date: 11/19/10

Signed: Phyllis Walton Payment Terms: Net 30

3-A

DEPARTMENTAL CORRESPONDENCE

TO: Monte K. Falls, PE
Interim City Manager

FROM: Timothy J. McGarry, AICP 

DATE: November 5, 2010

SUBJECT: **First Reading on Draft Ordinance to Amend Chapter 73, Article I,
Flood Damage Prevention of the City Code (#Z10-000008-TXT)**

Overview

The Planning and Development Department requests that the attached draft ordinance amending the City's floodplain regulations be placed on the City Council's agenda for first reading. The proposed revisions to the regulations are intended to address deficiencies identified by the Florida Division of Emergency Management (FDEM) in its Community Assistance Visit (CAV) conducted on April 15, 2010, and strengthen the City's administration and enforcement responsibilities as required under its participation in the National Flood Insurance Program.

Background

Every five to seven years, the Federal Emergency Management Agency or the appropriate state emergency management agency conducts a visit of local communities participating in the National Flood Insurance Program (NFIP) to maintain periodic contact with these communities and to assess their needs for technical assistance and coordination.

The CAV report found the City's current floodplain management regulations deficient in two areas. The regulations are missing key definitions and failed to address manufactured housing and recreational vehicles. Additionally, Elevation Certificates were only being required prior to the issuance of a Certificate of Occupancy, which conflicts with the City's floodplain regulations [It should be noted that these deficiencies were identified in previous community visits conducted by the State in 1999 and 2001.]

In discussions with the FDEM representative, the City staff indicated the problems in administering the floodplain regulations created by the division of permitting responsibilities between the Indian River County Building Department and the City Planning and Development Department. This division of responsibilities requires more involvement of the Planning staff in the building permit and inspection process, as building inspectors are not responsible for ensuring full compliance with the City's floodplain standards. Therefore, as part of the effort to update the regulations to be compliant with the requirements of the NFIP, the staff proposed to revise the permitting procedures for approval of development within special flood hazard areas.

A copy of the proposed draft ordinance prepared by the staff was submitted to the Florida Division of Emergency Management for review and comment. The agency approved the draft ordinance with no comments.

Summary of Substantive Changes

The following is a summary of substantive changes, including where appropriate, commentary on the reason or rationale for the proposed changes:

1. Section 73.02, Definitions, pages 3-7. Numerous definitions have been added and language of existing definitions revised to be consistent with the definitions contained in the “State of Florida Flood Damage Prevention Ordinance.” Additionally, other revisions were made to make the language more clear or to eliminate redundant language.
2. Section 73.09, Floodplain Compliance Procedures, pages 8-10. This section has been rewritten to clearly spell out the requirements for applicants to provide an Elevation Certificate during construction and post-construction. It further adds a final step in the process that requires the City Manager to issue a Certificate of Floodplain Compliance prior to the issuance of the Certificate of Occupancy. This additional provision helps to ensure that the Building Department doesn’t issue a Certificate of Occupancy for a structure or machinery/equipment that doesn’t meet the proper flood elevation.

Additionally, a permit fee of \$75 has been included to defray the costs for processing, review, and inspection of the property. This fee would be in addition to the development permit application fee.

3. Section 73.13(d), Manufactured Homes and Recreational Vehicles, pages 15-16. This entirely new section establishes specific rules governing the placement of manufactured homes and recreational vehicles in special flood hazard areas.
4. Section 73.14, Coastal High Hazard Areas, pages 16-17. The revised language in (9) and the new (10) specifically limits the uses and types of finishing materials in below base flood enclosures in “V” zones.

Planning and Zoning Board Action

On October 21, 2010, the Planning and Zoning Board conducted a public hearing on the first version of the draft ordinance and recommended approval of the Ordinance as revised at the meeting for consideration by the City Council. A copy of the Board’s minutes is attached.

One issue was not fully resolved at the meeting regarding the use of foundation/form board surveys. A concern was raised about the requirement that the elevation be taken “within 21 days” of the placement of the lowest floor or the bottom of lowest structural member rather than prior to construction. The foundation/form board survey is done prior to construction and, therefore, the thinking is that it would be prudent to take the elevation prior to any concrete being poured.

The staff stated that this specific language regarding certification of the building elevation upon “completion” of the lowest floor is contained in the State’s model flood damage prevention ordinance and has been in the City’s and County’s regulations for many years. However, the staff will review the issue and make appropriate changes prior to submitting the draft to the City Council for consideration.

Subsequent to the public hearing, the staff discussed the issue with the Indian River County Building Official and a FDEM Floodplain Management Specialist. The foundation/form board survey is required by the Florida Building Code and Indian River County for all building construction.

Although the foundation/form board survey is a very reliable measure of verifying required elevations, it is done prior to construction. If the certification with the required minimum lowest floor level were to be solely dependent upon the pre-construction foundation/floor board survey, any errors in construction, which do happen time to time, would only be picked up after completion of the building. To correct this problem at that time would be costly for the applicant.

Therefore, the staff has retained the requirement in the draft ordinance for certification of the lowest floor and lowest horizontal structural member within 21 days of placement. The applicant is still required to provide to the Building Department a foundation/floor board survey certified by a licensed land surveyor prior to construction.

Recommendation

The staff recommends the attached draft ordinance be placed on the City Council agenda for First Reading.

TJM/tf
Attachments

PLANNING AND ZONING BOARD MINUTES
Thursday, October 21, 2010 – 1:30 p.m.
City Hall, Council Chambers, Vero Beach, Florida

PRESENT: Chairman, Dennis Ryan; Vice Chairman, Charles Vogt; Members: Mark Mucher, Ed Llerena, Scott McCracken and Alternate Member Craig Fletcher **Also Present:** Planning and Development Director, Tim McGarry; Assistant City Attorney, Wayne Coment and Deputy City Clerk, Sherri Philo

Excused Absences: Robert Sammons, Kevin Doty, Cliff Norris and Richard Kennedy

Unexcused Absences: Peter Jones

I. PRELIMINARY MATTERS

A. Agenda Additions and/or Deletions

There were no changes to the agenda.

II. APPROVAL OF MINUTES

A. Regular Meeting – October 7, 2010

Mr. Vogt made a motion to approve the minutes of the October 7, 2010 Planning and Zoning Board meeting. Mr. Fletcher seconded the motion.

Mr. Mucher referred to page five of the October 7, 2010 Planning and Zoning Board minutes. He reported that “From an operational and legal standpoint, this is a good idea” should state “From an operational and legal standpoint, this is not a good idea.”

The motion with the correction passed unanimously.

III. PUBLIC HEARING

[LEGISLATIVE]

A. Public Hearing to Consider Proposed Amendments to Chapter 73, Article I, Flood Damage Prevention of the City Code (#Z10-000008-TXT).

Mr. Tim McGarry, Planning and Development Director, went over the proposed Ordinance to amend Chapter 73, Article I, of the City Code with the Board members (on file in the City Clerk’s office). He reported that the Flood Elevation Certificates that are required when you are in a special flood hazard were being done at the Certificate of Occupancy point rather than being done when the lowest floor has been placed. He said that in discussions with the Florida Division of Emergency Management (FDEM) representative, staff indicated the problems in administering the floodplain regulations because the Building Department Inspectors were not following the City’s floodplain regulations. Therefore, some of the operating procedures in the City have been changed, which he felt would take care of the problem.

Chairman Ryan asked would the City have an inspector check the floodplain along with the County.

Mr. McGarry said the City would have periodic inspections. Normally, if there is a Flood Certificate, they are sealed by either a Land Surveyor or Engineer and the City would have to take their word for it unless there is some evidence to say otherwise.

Mr. Mucher asked Mr. McGarry if he was stating that the County Inspectors could approve the foundation after it is framed in without knowing anything about the flood elevation.

Mr. McGarry said that they would follow what the site plan shows.

Mr. McGarry reported that flood regulations were not under the Building Code, but the Zoning Code. Therefore, it is the City's responsibility to enforce the Zoning Code. Most of the time this has been fine, but there have been some recent hiccups and he felt that this Ordinance would help to take care of any problems in the future. He then continued with the proposed amendments. He reported that Section 73.09 (b) requires that in the construction stage, within 21 days of the placement of the lowest floor, or flood-proofing, by whatever construction means, or bottom of the lowest horizontal structural member, the permit holder shall submit to the Planning Director a completed elevation certificate.

Mr. Wayne Coment, Assistant City Attorney, asked why couldn't they have them provide that certificate before the floor is poured. He said that the County Building Department requires a form-board survey before they would allow them to pour the floor. He said that the elevation could be checked at the same time the setbacks are verified before any concrete is poured.

Mr. McGarry said it could be done that way, but this is the safest way.

Mr. Coment said that is not the safest way for the builder.

Mr. McGarry continued with the proposed amendments. He referred to Section 73.10, Duties and Powers of the City Manager. He felt that since the process goes through the Planning Director's office, it only made sense that the Planning Director would be responsible rather than the City Manager.

Mr. Fletcher had trouble with the Planning Director taking this responsibility. He stated that he would like a note or something from the City Manager stating that he has authorized this change. He asked does the City Charter designate the City Manager to have these powers and duties.

Mr. McGarry said it is not in the Charter, but it is in the Code. He said that he spoke with the previous City Manager and with the Interim City Manager and they did not have any problems with this. However, he did not have a problem with leaving it under the City Manager's powers.

Mr. Fletcher said this is a lot of authority to transfer and he would like something in writing designating this authority to the Planning Director.

Mr. McGarry said that he would leave the duties and powers under the City Manager, but he felt there should be an official letter on file.

Mr. Mucher referred to page eight, Section 73.09. He stated that non-residential is mentioned, but not residential.

Mr. McGarry explained that the only non-residential would be flood-proofing.

Mr. McGarry continued with the proposed amendments. He noted that there is a new Section in the Ordinance for manufactured homes (page 15). He reported that there was an error under Section (d)(2), which stated subparagraph (e)(1) and it should be (d)(1).

Mr. Mucher said the Board discussed stilt housing and found out that when Fairlane Harbor built their homes it did not apply.

Mr. McGarry said that they have to elevate them. He said the only case where they would not have to elevate them would be in an existing park that has not had any substantial damage due to flooding.

Mr. Mucher asked where is the limit as to how high they can elevate.

Mr. McGarry said that they would have to be above base flood if they are in the A Zone. He reported that the other amendments to the Ordinance clarify what is allowed and not allowed under base flood elevations.

Mr. Fletcher referred to page nine of the Ordinance, where it states, "Within 21 days of the placement of the lowest floor, or flood-proofing by whatever construction means, or bottom of the lowest horizontal structural member, the permit holder shall submit to the Planning Director a completed Elevation Certificate, FEMA Form 81-31, as amended, that certifies the elevation of the lowest floor or flood-proofed floor, whichever is applicable, as-built, using elevation datum in NGVD or NAVD." He asked would the basement be the lowest floor.

Mr. McGarry answered yes.

Mr. Mucher asked wouldn't the lowest floor be supported by a piling.

Mr. Coment thought that they were talking about the lowest habitable floor.

Mr. McGarry said that was not correct. He explained that it would be the lowest enclosed area.

Mr. Coment asked is that what the FEMA rules state.

Mr. McGarry answered yes.

Mr. Mucher asked where it states "whichever is applicable," does that mean whichever is lower or whichever is higher.

Mr. Fletcher said that he also had trouble with that because it did not define it. He said that there are some homes with basements that were built in the 1940's and 1950's that are in the flood area.

Mr. McGarry said unless they do some substantial improvements, they would not be affected by this.

Mr. McCracken said a house on piles would be in the flood zone if it was on the river and the grade structure underneath the finish floor would be below the flood zone.

Mr. McGarry explained that the bottom of the lowest horizontal structure member in the V Zone has to be 18 inches above. That is not a requirement if you are in an A Zone.

Mr. Fletcher referred to Section 73.13 (c)(1), where it states "Designs for complying with this requirement must be certified by a licensed professional engineer or architect." He asked Mr. Coment for a document to go under seal and go to court, wouldn't it have to be signed by a Structural Engineer.

Mr. Coment did not know if that was the case.

Mr. Fletcher said that a Structural Engineer is the person who certifies its structural integrity.

Mr. McGarry explained that this was just for the flood vents.

Mr. McCracken asked Mr. McGarry if he took the wording verbatim from FEMA under the "construction stage."

Mr. McGarry answered yes.

Mr. McCracken felt that the 21 days would be confusing for the builders. He suggested that they replace "within 21 days" to "prior to placement of the lowest floor."

Mr. Coment suggested that they add a paragraph prior to that statement that addresses the form board survey in that what shall be included in the form board survey shall be a certification of the elevation.

Mr. McGarry said that he would amend the Ordinance by putting something in it regarding form boards.

Mr. Coment said if they don't have a requirement for elevation until after the slab is poured, it is hard to make the builder remove that slab.

The Chairman closed the Public Hearing at 2:00 p.m., with no one wishing to be heard.

Mr. Fletcher made a motion to approve the Ordinance as revised. Mr. Vogt seconded the motion and it passed 6-0 with Mr. Fletcher voting yes, Mr. Mucher yes, Mr. McCracken yes, Mr. Llerena yes, Mr. Vogt yes and Chairman Ryan yes.

IV. PLANNING DEPARTMENT MATTERS

Mr. McGarry said that he did not have anything to report to the Board in November. He recommended cancelling the first meeting in November and if nothing comes up that they cancel their second meeting in November.

The Board members agreed.

V. CHAIRMAN'S MATTERS

Mr. Ryan reported that Mr. Sammons, Mr. Doty, Mr. Norris and Mr. Kennedy had an excused absence from today's meeting and Mr. Jones had an unexcused absence for today's meeting.

VI. ADJOURNMENT

Today's meeting adjourned at 2:06 p.m.

/sp

ORDINANCE NO. 2010- _____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING CHAPTER 73, ARTICLE I, FLOOD DAMAGE PREVENTION OF THE CITY OF VERO BEACH CODE; PROVIDING FOR NEW DEFINITIONS AND REVISIONS TO CLARIFY AND UPDATE THE EXISTING TEXT; PROVIDING STANDARDS FOR REGULATING PLACEMENT OF MANUFACTURED HOMES AND RECREATIONAL VEHICLES IN SPECIAL FLOOD HAZARD AREAS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, as a requirement for participation in the National Flood Insurance Program, a local governing body must adopt and enforce regulations governing development within flood prone areas;

WHEREAS, the City Council adopted Ordinance 15-1984 enacting a flood damage prevention ordinance compliant with the criteria for participation in the National Flood Insurance Program, which has been subsequently amended on two separate occasions; and

WHEREAS, earlier this year, the Florida Division of Emergency Management (FDEM) conducted a Community Assistance Visit (CAV) to review the City's participation in the National Flood Insurance Program; and

WHEREAS, the FDEM found that the City's current floodplain management regulations were deficient in that they lack numerous definitions and any provisions regarding regulatory floodways and manufactured homes and recreational vehicles; and

WHEREAS, in response to the FDEM's recommendation, the Planning and Development Department staff has prepared this Ordinance amending Chapter 73, Article 1, Flood Damage Prevention of the Code, using the State of Florida's "Model Flood Damage Prevention Ordinance" as a reference; and

WHEREAS, the City Council finds that the adoption of this Ordinance amending Chapter 73, Article I, is in the public interest and would bring the City's floodplain management regulations into full compliance with the regulatory standards of the National Flood Insurance Program;

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

Section 1. Amendment of Chapter 73, Article I, Flood Damage Prevention.

Chapter 73, Article I, Flood Damage Prevention, is hereby amended as follows:

ARTICLE I. FLOOD DAMAGE PREVENTION

Sec. 73.01. Statement of policy.

The City of Vero Beach contains within its boundaries areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment to tax base, all of which adversely affect the public health, safety, and general welfare. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by property uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

Specifically it is the intent of this article with respect to flood hazard areas to:

- (a) Restrict or prohibit property uses which result in damaging increases in erosion hazards or which result in damaging increases in flood heights or velocities;
- (b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- (d) Control filling, grading, dredging, and other development which may increase erosion or flood damage; and,
- (e) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Sec. 73.02. Definitions.

For purposes of this article, the following terms shall have the definitions indicated:

Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means any part of a building where all sides of the floor are located below ground level.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Coastal high hazard area means the area subject to high velocity waters caused by, but not limited to, hurricane wave wash or tsunamis. This area is designated on a Flood Insurance Rate Map ("FIRM") as Zone V1-V30, ~~or~~ VE, or V.

Development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Elevated building means a non-basement building built to have the lowest floor elevated above the ground level by foundation walls, posts, piers, columns, pilings, or shear walls.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before July 3, 1984.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Finished living space means any space usable for living purposes, which includes inhabiting, residing, sleeping, cooking, eating, or any combination thereof.

Finishing materials means anything beyond basic wall construction pursuant to FEMA Technical Bulletin, which is normally associated with habitable space. Finishing materials

include, but are not limited to ceiling mold, trim, baseboards, decorative finish work, wainscoting, and textured woods.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency (FEMA), where the boundaries of the areas of special flood hazard have been defined as only Approximate Zone A.

Flood Insurance Rate Map (FIRM) means the official map prepared by the Federal Emergency Management Agency and any revision thereto, which delineates both the areas of special flood hazard within, and the risk premium zones applicable to, the city.

Flood insurance study is the official hydrology and hydraulics report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary-floodway map and the water surface elevation of the base flood.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic structure means any structure that is:

- a) Listed individually in the national Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminary determined by the Secretary of Interior as contributing to the historical significance of a registered historic or a district preliminary determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on the Florida inventory of historic places, which has been approved by the Secretary of the Interior; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By the approved Florida program as determined by the Secretary of the Interior, or

2. Directly by the Secretary of the Interior.

Limited storage means the storage of items not generally subject to damage by water or exposure to the elements such as outdoor furniture, lawn mowers, rakes, wheelbarrows, and similar outdoor equipment. Limited storage does not apply to household items, indoor furniture, tools, or other equipment vulnerable to damage by floodwaters.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable solely for parking vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this article section 71.13.

Manufactured home means a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this title, the term is synonymous with National Geodetic Vertical Datum (NGVD) or North American Vertical Datum.

North American Vertical Datum (NAVD) of 1988, means a vertical control used as a reference for establishing varying elevations within the floodplain.

National Geodetic Vertical Datum (NGVD), ~~as corrected in~~ of 1929 is means a vertical control used as a reference for establishing varying elevations within the floodplain.

NAVD means the North American Vertical Datum, which is a vertical control used as a reference for establishing elevations.

New construction means any structure for which the "start of construction" commenced after the effective date of this ordinance.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management code, ordinance or standard.

Recreational vehicle means a vehicle that is:

- a) Built on a single chassis;
- b) 400 square feet or less when measured at the largest horizontal projection;
- c) Designed to be self-propelled or permanently towable by a light duty truck; and
- d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special flood hazard area (SFHA) means the area having a one percent or greater chance of being flooded in any given year.

Start of construction includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the state of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure when the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any repair, construction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure prior to improvement or repair. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe

~~living conditions or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places. This term does not include any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and for which a variance has been granted pursuant to this article. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. It does not include repairs for damage from any origin which are determined to be less than "substantial damage" as defined in this ordinance.~~

~~For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.~~

~~The term does not, however, include:~~

- ~~(1) Any project for improvement of a building required to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the code enforcement official, which have cause for issuance of a citation or condemnation, and which are solely the minimum necessary to assure safe living conditions; or~~
- ~~(2) Any alteration of a "historic structure"; provided, that the alteration will not preclude the structure's continued designation as a "historic structure" and for which a variance has been granted pursuant to this ordinance.~~

Violation means the failure of a structure or other development to be fully compliant with the provisions of this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this article is presumed to be in violation until such time that documentation is provided.

Sec. 73.03. Applicability.

This article shall apply to all areas of special flood hazard within the jurisdiction of the City of Vero Beach identified by the FEMA in its Flood Insurance Rate Map ("FIRM"), dated December 15, 1982 (revised). The FIRM and any revision thereto are adopted by reference and declared to be part of this article.

Sec. 73.04. Development approval required.

Development approval pursuant to chapter 64, article I, development review of this Code, shall be required in conformance with the provisions of this article prior to the commencement of any development activities.

Sec. 73.05. Compliance.

No structure, including manufactured homes, shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this article and other applicable regulations.

Sec. 73.06. Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 73.07. Interpretation.

In the interpretation and application of this article, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 73.08. Warning and disclaimer of liability.

The degree of flood protection required by this article is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the City of Vero Beach or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

Sec. 73.09. ~~Applications for development approval~~ Floodplain compliance procedures.

(a) Application stage. ~~Prior to any development activities, an~~ Application for development approval shall be submitted to the planning and development department pursuant to section 64.03 of this Code, ~~prior to any development activities, including a nonrefundable fee of \$75 in addition to the development application fee to defray the costs of ensuring compliance with this article.~~ and The application may include, but need not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation datum in NGVD or NAVD of the proposed lowest floor (including basement) of all structures, ~~including substantial improvement, shall be verified prior to the start of construction by a form board survey, elevation certificate (for elevated buildings), or lowest floor survey (prior to additional framing for non-slab-on-grade buildings);~~
- (2) Elevation datum in NGVD or NAVD to which any nonresidential structure will be floodproofed;
- (3) Elevation datum in NGVD or NAVD of the bottom of the lowest horizontal structural member of the lowest floor;

- (34) A certificate from a ~~registered~~ licensed professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria in this article; and
- (4-5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. ~~(5) Within 21 days of the placement of the lowest floor, or floodproofing by whatever construction means, or bottom of the lowest horizontal structural member, the permit holder shall submit to the Indian River County building department with a copy to the planning and development department a completed Elevation Certificate, FEMA Form 81-31, as amended, that certifies the as-built elevation of the lowest floor or flood-proofed elevation, or elevation of the bottom of the lowest horizontal structural member of the lowest floor, whichever is applicable, using elevation datum in NGVD or NAVD. Said certification shall be prepared by or under the direct supervision of a licensed land surveyor or licensed professional engineer and certified by the same. A flood elevation or floodproofing certification after the lowest floor is complete. In instances where the structure is subject to the regulations applicable to coastal high hazard areas, a certification shall be issued after placement of the horizontal structure members of the lowest floor. Within 21 calendar days of establishment of the lowest floor elevation, floodproofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the City of Vero Beach certification of the elevation of the lowest floor, floodproofed elevation, or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, using elevation datum in NGVD or NAVD. This certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and so sealed. When floodproofing is used for a particular building, the certification shall be prepared by or under the direct supervision of a licensed professional engineer or architect and so sealed. Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The city manager shall review the flood elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to further progressive work on the project. Failure to submit the survey or failure to make required corrections shall be cause to issue a stop work order for the project.~~

(c) Project completion stage. Upon completion of the building construction and prior to the issuance of a certificate of occupancy, the permit holder shall submit to the planning and development department a completed Elevation Certificate, FEMA Form 81-31, as amended, that certifies the as-built building elevation datum in NGVD or NAVD. Said certification shall be prepared by or under the direct supervision of a licensed land surveyor or licensed engineer and certified by the same. If floodproofing is used, a Floodproofing Certificate pursuant to section 73.13 (b) shall be also provided. The city manager shall review the elevation survey data in the submitted Elevation Certificate and Floodproofing Certificate. If the completed project is found compliant with the provisions of this article, the city manager shall issue a certificate of floodplain compliance. If found noncompliant with this article, the city manager shall issue a written finding of non-compliance to the permit holder that identifies the specific deficient items

that require correction. A certificate of occupancy for the building shall not be issued without a certificate of floodplain compliance.

Sec. 73.10. Duties and powers of city manager.

The city manager shall have the duty and power to:

- (1) Review all development orders and building permits to ensure that the requirements of this article have been satisfied;
- (2) Notify adjacent communities and the department of community affairs prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the FEMA;
- (3) Ensure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished;
- (4) Verify and record the actual elevation (NGVD or NAVD) of the lowest floor (including basement) of all new or substantially improved structures;
- (5) Verify and record the actual elevation (NGVD or NAVD) to which the new or substantially improved structures have been floodproofed;
- (6) ~~In coastal high hazard areas,~~ Obtain certification from a registered licensed professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand high velocity floodwaters and hurricane wave wash in coastal high hazard areas;
- (7) ~~In coastal high hazard areas, to~~ Review plans for the adequate breakaway walls in coastal high hazard areas;
- (8) ~~When floodproofing is utilized for a particular structure, to~~ Obtain certification from a registered licensed professional engineer or architect that all requirements of this chapter have been met when floodproofing is utilized for a particular structure;
- (9) ~~To~~ Make any necessary interpretation as to the exact location of the boundaries of the area of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions); the person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided below; and
- (10) ~~When base flood elevation data has not been provided, to~~ Obtain, review, and reasonably use any base flood elevation data available from a federal, state, or other source when base flood elevation data has not been provided, in order to administer the provisions of this article.

Sec. 73.11 Variance procedures.

The following procedures shall apply to variances:

- (1) The board of adjustment shall hear and decide requests for variances from the requirements of this article.
- (2) Applications and procedures for variance requests shall be in accordance with section 66.01 of this Code.
- (3) Variances may be issued for the reconstruction, rehabilitation, or restoration of historic structures meeting the definition in this article, upon receipt of written determination from the state historic preservation office or state-certified local historic preservation commission that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure. ~~listed on the National Register of Historic Places of the state inventory of historic places only upon receipt of written documentation from the state historic preservation board or historic preservation commission that the proposed reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a historic structure.~~ Any variance must be the minimum necessary to preserve the historic character and designation of the structure.
- (4) In passing upon applications, the board of adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and the following additional factors:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger of life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with existing and anticipated development;

- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical systems, water systems, and streets and bridges.
- (5) Upon consideration of the factors listed above and the purposes of this article, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.
- (6) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge will result.
- (7) Conditions for variances shall be as follows:
- a. Variances shall be issued only upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall be issued only upon showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship to the applicant, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, creation of a nuisance, fraud on, or victimization of the public, or a conflict with existing local laws or ordinances.
 - c. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
 - d. The city manager shall maintain the records of all appeal actions and report any variances to the FEMA upon request.

Sec. 73.12. General standards in areas of special flood hazards.

The following general standards shall apply in areas of special flood hazards:

- (a1) All new construction and all substantial improvements to existing structures shall be anchored to prevent flotation, collapse, or lateral movement of the structure or improvements.
- (2) All new manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- (b-3) All new construction and all substantial improvements shall be constructed with materials resistant to flood damage.
- (e-4) All new construction and all substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (d-5) All new or replacement water supply systems shall be designed to eliminate infiltration of floodwaters into the system.
- (e-6) New or replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (f-7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (g-8) Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this article shall meet the requirements of "new construction" as contained in this article.
- (h-9) All electrical, heating, ventilation, plumbing fixtures, and air conditioning equipment and other services facilities shall be elevated above base flood elevation to prevent water from entering or accumulating within the components.
- (10) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards of new construction.

Sec. 73.13. Specific standards for Zones AE, A1-30, and AH where the required base flood elevation data has been provided.

(a) *Residential construction.* New construction or substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, together with all mechanical and electrical equipment, and including any basement and/or ductwork installed below the lowest floor, elevated to or above base flood elevation, 18 inches above the crown of the nearest adjoining improved street or streets or no less than five feet above mean sea level,

whichever is the higher elevation. No area below the lowest floor shall be used in any way for human habitation or finished living space. ~~Nonsubstantial improvements or improvements to existing structures not located within a special flood hazard area shall have the lowest floor constructed to an elevation no lower than the lowest floor of the structure being improved. If this lowest floor elevation is below that otherwise established herein, then steps shall be taken to minimize damage from flooding and the owner is hereby advised.~~

(b) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or other nonresidential building (including manufactured home) shall have the lowest floor, together with all mechanical and electrical equipment, and including any basement and/or ductwork installed below the lowest floor, elevated to or above base flood elevation, 18 inches above the crown of the nearest adjoining improved street, or five feet above mean sea level, whichever is the higher elevation. Buildings located in all A-zones may be floodproofed to an elevation of one foot above the required lowest floor elevation noted above in lieu of being elevated. Floodproofing requires that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and structural components have the capability of resisting hydrodynamic loads and effect of buoyancy associated with the base flood. A licensed professional engineer or architect shall certify the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 73.10, using the FEMA Floodproofing Certificate, FEMA Form 81-65, as amended. ~~Nonsubstantial improvements or improvements to existing structures not located within a special flood hazard area shall have the lowest floor constructed to an elevation no lower than the lowest floor of the structure being improved. If this lowest floor elevation is below that otherwise established herein, then steps shall be taken to minimize damage from flooding and the owner is hereby advised.~~

(c) ~~*Elevated buildings—Enclosures below the lowest floor.*~~ Notwithstanding any other language in this article to the contrary, new construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below flood elevation shall be designed to allow for entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. ~~Fully enclosed areas below base flood elevation are limited to parking, building access, and limited storage incidental to use of the building. Designs for complying with this requirement must be certified by a professional engineer or architect or meet the following minimum criteria:~~

- ~~(1) Provide a minimum of two openings having a total net area of not less than one square inch for every space foot of enclosed area subject to flooding;~~
 - ~~(2) The bottom of all openings shall be no higher than one foot above grade; and~~
 - ~~(3) Openings may be equipped with screens, louvers, valves or other coverings, or devices provided they permit the automatic flow of floodwaters in both directions.~~
- (1) Designs for complying with this requirement must be certified by a licensed professional engineer or architect or meet the following minimum criteria:

- (1)a. Provide a minimum of two openings having a total net area of not less than one square inch for every space foot of enclosed area subject to flooding;
 - (2)b. The bottom of all openings shall be no higher than one foot above grade; and
 - (3)c. Openings may be equipped with screens, louvers, valves or other coverings, or devices provided they permit the automatic flow of floodwaters in both directions.
- (2) Fully enclosed areas below base flood elevation are limited to parking, building access, and limited storage incidental to use of the building. Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.

(d) *Manufactured homes and recreational vehicles.*

- (1) All manufactured homes that are placed, or substantially improved within Zones A1-30, AH, and AE, on sites (i) outside of an existing manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood, that lowest floor be elevated on the permanent foundation to no lower than the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (2) All manufactured homes to be placed, or substantially improved in an existing manufactured home park or subdivision that are not subject to the provisions of subparagraph (d)(1) of this section, must be elevated so that either:
 - a. The lowest floor of the manufactured home is elevated to no lower than one foot above the base flood elevation, or
 - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength that are no less than 36 inches in height above the grade and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (3) All recreational vehicles must either:
 - a. Be on the site for fewer than 180 consecutive days,
 - b. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site

only by quick disconnect type utilities and security devices and has no permanently attached additions), or

- c. Meet all the requirements for new construction, including anchoring and elevation standards in accordance with Article 1, Section 73.13 (e) (1) and (2).

(e) *No street surface abutting the proposed construction.* Where a finished street surface does not exist abutting proposed construction, the building official shall obtain from the city engineer a projected grade for the finished surface of the street in question in order that a correct construction grade can be established and the elevation of such construction abutting upon such street shall conform to the grade so established.

Sec. 73.14. Coastal high hazard areas (~~V~~-Zones V1-30, VE, or V with base flood elevation).

Located within the areas of special flood hazard are areas designated as coastal high hazard areas. These areas have special flood hazards associated with wave wash; therefore, the following provisions shall apply:

- (1) All buildings or structures shall be located a minimum of ~~25~~ 50 feet landward of the reach of the mean high tide.
- (2) All new construction and substantial improvements must be elevated on pilings and columns subject to the following conditions:
 - a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings and columns) and electrical equipment, heating equipment, ventilation equipment, plumbing equipment, air conditioning equipment and other service facilities, including ductwork, are elevated no lower than 18 inches above the base flood elevation. For all structures located seaward of the Coastal Construction Line, the bottom of the lowest horizontal structural member of the lowest floor shall be elevated to base flood elevation established by the Florida Department of Environmental Protection or the base flood elevation plus 18 inches, whichever is higher.
 - b. The pile or column foundation and structure attached thereto must be anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
 - c. A ~~registered~~ licensed professional engineer or architect shall develop or review the structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of a. and b. above.

- (3) All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot if required by state regulations may be permitted only if a ~~registered~~ licensed professional engineer or architect certifies that the designs proposed meet the following conditions:
 - a. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood, and;
 - b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval). Such enclosed space shall be useable solely for parking of vehicles, building access, or storage.
- (4) There shall be no fill used as structural support.
- (5) Nonstructural fill shall not be placed in a V zone except with a hydrological analysis prepared and certified by a registered licensed professional engineer.
- (6) Beach dune type fill may be placed beneath the structure provided that the fill would not enhance erosion on neighboring property and is designed to be compatible with surrounding topography and does not result in lateral forces for which the foundation has not been designed.
- (7) There shall be no alteration of sand dunes or mangrove stands.
- (8) Placement of ~~mobile homes~~ manufactured homes or recreational vehicles is prohibited, except in an existing mobile home park or existing home subdivision.
- (9) No enclosure below ~~base flood elevation~~ the lowest floor shall be constructed with finishing materials, or equipped for such uses as a kitchen, dining room, family room, recreation room, office, bedroom, bathroom, wine cellar and workshop. The area enclosed below the base flood elevation shall be used only for parking of vehicles, building access, and limited storage.
- (10) Fully enclosed areas below the lowest floor are limited to parking, building access, and limited storage incidental to use of the building. Access to the enclosed area shall

be minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.

Sec. 73.15. Standards for areas of shallow flooding (AO Zones).

Located within the areas of special flood hazard are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

- (1) All new construction and substantial improvements to existing residential structures shall have the lowest floor, including basement, elevated to the depth number specified on the FIRM, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade.
- (2) All new construction and substantial improvements to existing nonresidential structures shall:
 - a. Have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or
 - b. Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (3) Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.
- (4) Fully enclosed areas below the lowest floor that are subject to flooding shall meet the non-elevation design requirements of section 73.13 (c).

Sec. 73.16. Standards for subdivision and other development proposals.

The following are standards for subdivision and other development proposals, including manufactured home parks or subdivisions, in addition to other standards and requirements of this Code:

- (1) All ~~subdivision~~ proposals shall be consistent with the need to minimize flood damage.

- (2) All ~~subdivision~~ proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All ~~subdivision~~ proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (4) ~~Base flood elevation data shall be provided for subdivision proposals.~~

Sec. 73.17. Standards for small streams.

Structures located within the areas of special flood hazard where small streams exist, but where no base flood data has been provided, or where no floodways have been provided, shall be subject to the following provisions:

- (1) No encroachments, including fill material or structures, shall be located within a distance of the stream bank equal to five times the width of the stream at the top of bank or 20 feet on each side from top of bank, whichever is greater, unless certification by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) New construction or substantial improvements of structures shall be elevated or floodproofed in accordance with elevations established in this article.

Sec. 73.18. Federal standards incorporated.

Notwithstanding any requirement of this article to the contrary, the floodplain management standards of the National Flood Insurance Program (NFIP) regulations are incorporated by reference in this article.

Sec. 73.19. Appeals.

(a) *Appeals of city manager's decisions.* The applicant or any person aggrieved by the city manager's decision may appeal the decision within ten days of the decision to the city council pursuant to the procedures and standards for appeals of major site plans in section 64.08 of this Code.

(b) *Appeals of variances.* Appeals of variance decisions by the board of adjustment shall be in accordance with section 66.05 of this Code.

Section 2. Conflict and Severability.

In the event any provision of this ordinance conflicts with any other provision of this Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this ordinance, the more strict provision shall apply and supersede. If any provision of this article 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 article,

which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 3. Effective Date.

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

This Ordinance was read for the first time on the ____ day of _____, 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, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

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

- Yes No

ATTEST:

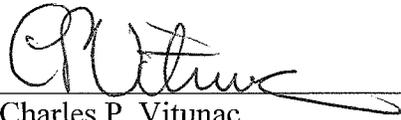
CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

Mayor

Approved as to form and legal sufficiency:

Approved as conforming to
municipal policy:

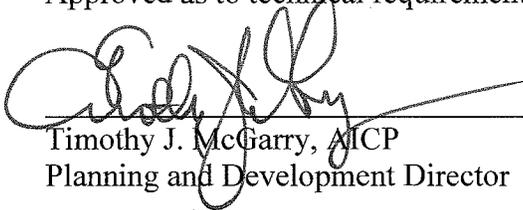


Charles P. Vitunac
City Attorney



Monte K. Falls, PE
Interim City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director

ORDINANCE NO. 2010 - ____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING THE TEXT OF THE LAND USE, TRAFFIC CIRCULATION ELEMENT AND CAPITAL IMPROVEMENTS ELEMENT OF THE CITY OF VERO BEACH COMPREHENSIVE PLAN BY CREATING A POLICY TO ENSOURCE THE LOCATION OF AN AMTRAK PASSENGER RAIL STATION IN THE DOWNTOWN; REVISING THE LEVEL OF SERVICE STANDARD FOR A1A NORTH OF STATE ROUTE 60 (BEACHLAND BOULEVARD); CORRECTING OMISSIONS; AND CLARIFYING LANGUAGE DESCRIBING ROADWAY LEVEL OF SERVICE STANDARDS; PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, Sections 163.3184, 163.3187 and 163.3189 Florida Statutes and Chapter 9J-5 Florida Administrative Code provides authority to adopt this Ordinance amending the Comprehensive Plan; and

WHEREAS, the Planning and Zoning Board, acting as the Local Planning Agency, held a public hearing on the comprehensive plan amendments request on June 17, 2010, after due public notice; and

WHEREAS, the Planning and Zoning Board made a recommendation that the City Council adopt the comprehensive plan amendments listed in Exhibits A and B of the initial draft adoption ordinance and transmit same to the Florida Department of Community Affairs; and

WHEREAS, the Vero Beach City Council held a Transmittal Public Hearing on August 17, 2010, after advertising pursuant to F.S. 163.3184(15)(b)(1); and

WHEREAS, the City Council approved the transmittal of the comprehensive plan amendment to the Florida Department of Community Affairs for review; and

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

WHEREAS, the Florida Department of Community Affairs received the Comprehensive Plan Amendment on September 1, 2010, pursuant to F.S. 163.3184(4); and

WHEREAS, the Florida Department of Community Affairs reported a finding of one objection with the proposed new Policy 3.9 of the Traffic Circulation Element regarding amendments to the Land Development Regulations for the location of multi-modal facilities, following review of the proposed Comprehensive Plan amendment and documented the same in correspondence dated October 29, 2010; and

WHEREAS, the Planning and Development Department staff has prepared this ordinance deleting the proposed amendment regarding the creation of the above new policy so that the policy considerations regarding multi-modal facilities may be more comprehensively addressed during the preparation of the upcoming Evaluation Appraisal Report-based amendments to the Comprehensive Plan;

WHEREAS, the Vero Beach City Council held a Comprehensive Plan Amendment Adoption Public Hearing on _____, after advertising pursuant to F.S. 163.3184(15)(b);

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

Section 1. Comprehensive Plan Amendment Adoption and Transmittal

The amendments to the Vero Beach Comprehensive Plan identified in Section 2 are hereby adopted, and three (3) copies are to be transmitted to the State of Florida Department of Community Affairs and one (1) copy each is to be transmitted to the Treasure Coast Regional Planning Council and Indian River County.

Section 2. Amendments to the Comprehensive Plan

The amendments to the Vero Beach Comprehensive Plan include the following:
1) a revision to Policy 1.9, Land Use Element, and new Policy 3.9, Traffic Circulation Element, supporting the location of multimodal transportation facilities and the Amtrak Passenger Rail Station in downtown Vero Beach, attached as Exhibit A; and 2) a revision to Policy 1.1, Traffic Circulation Element, and Table 9.1, Level of Service Standards (LOS) for Facilities, Capital Improvements Element, revising the Level of Service for A1A north of State Road 60 (Beachland Boulevard), correcting an omission in an earlier text amendment regarding Level of Service for 27th Avenue, and clarifying text describing the Level of Service standards for roadways.

Section 3. Authorization to Transmit Plan Amendments

The City Planning and Development Director is directed to transmit a certified copy hereof to the authorities designated under Section 163.3184(3) Florida Statutes, and proceed herewith in accordance with the provisions of Chapter 163, Part II, Florida Statutes.

Section 4. Repeal of Conflicting Provisions

All previous ordinances, resolutions, or motions of the Vero Beach City Council, which conflict with the provisions of this ordinance, are hereby repealed to the extent of such conflict.

Section 5. Effective Date

The effective date of this ordinance and, therefore, these plan amendments shall be the date a final order is issued by the Florida Department of Community Affairs or Administration Commission finding the amendments in compliance with Section 163.3184(1)(b), Florida Statutes, whichever occurs earlier.

This Ordinance was read for the first time on the ____ day of _____, 2010, and was advertised in the Press Journal on the ____ day of _____, 2010, as being scheduled for a 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:

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

Mayor

Yes No

Vice Mayor

Yes No

Councilmember

Yes No

Councilmember

Yes No

Councilmember

Yes No

ATTEST:

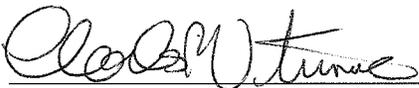
**CITY OF VERO BEACH,
FLORIDA**

Tammy K. Vock
City Clerk

Mayor

Approved as to form and legal sufficiency:

Approved as conforming to
municipal policy:

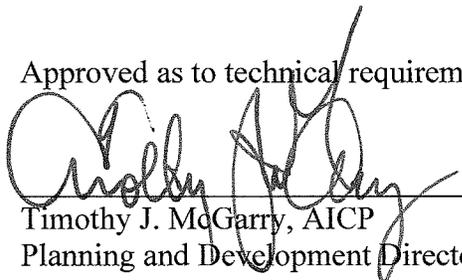


Charles P. Vitunac
City Attorney



Monte K. Falls, PE
Interim City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director

**EXHIBIT A
AMENDMENTS TO THE
CITY OF VERO BEACH
COMPREHENSIVE PLAN**

1. Policy 1.9 of the Land Use Element under Objective 1 (Land Uses) is hereby amended as follows:
 - 1.9 The Mixed Use (MX) land use designation shall be applied to those areas that are suitable for urban scale development and intensities. Those areas shall be limited to lands near arterial or collector streets with adequate public facilities, access to multi-modal transportation alternatives, existing mixed use central locations, including the central core of the city and the downtown area. This land use category shall allow a mixture of residential and commercial uses, which may be located in the same building. Additional allowed uses include park and recreation uses, public facilities, institutional uses, schools, cultural and civic uses, utilities, professional office uses, and tourist-oriented facilities.

2. The Traffic Circulation Element is hereby amended by creating a new Policy 3.9 under Objective 3 (Multi-modal Transportation System) that reads as follows:
 - 3.9 The City shall support efforts to locate an Amtrak passenger rail station in downtown Vero Beach in conjunction with resumed passenger rail service in the Florida East Coast Corridor to increase mobility and enhance opportunities for transit oriented development.

**EXHIBIT B
AMENDMENTS TO THE
CITY OF VERO BEACH
COMPREHENSIVE PLAN**

1. Policy 1.1 of the Traffic Circulation Element is hereby revised as follows:

“1.1 The operating level of service standards for roadways shall be ~~as herein established~~: Level of Service “D” (Peak Hour/Peak Season/Peak Direction) or better on all arterial and collector roadways and Level of Service “E” (Peak Hour/Peak Season/Peak Direction) or better for all other local roadways, except for the following:

- 27th Avenue from South City Limits to State Route 60 – “E” plus 20%.
- A1A from State Route 60 to North City Limits – “D” plus 30%.

2. Under the “Roads” category in Table 9.1, Level of Service Standards (LOS) for Facilities, City of Vero Beach, of the Capital Improvements Element is hereby revised as follows:

“Roads

~~Principal~~ Arterials and Collectors*

Level of Service D (Peak Hour/Peak Season/Peak Direction)

All Other Roadways

Level of Service E (Peak Hour/Peak Season/Peak Direction)

*Except the following roads:

- | | |
|---|--|
| <ul style="list-style-type: none"> • <u>27th Avenue from South City Limits to State Route 60</u> • <u>A1A from State Route 60 to North City Limits</u> | <p>Level of Service E (<u>Peak Hour/Peak Season/Peak Direction</u>) plus 20%</p> <p>Level of Service D (<u>Peak Hour/Peak Season/Peak Direction</u>) plus 30%”</p> |
|---|--|



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

October 29, 2010

The Honorable Kevin Sawnick
Mayor, City of Vero Beach
Post Office Box 1389
Vero Beach, Florida 32961-1389



Dear Mayor Sawnick:

The Department of Community Affairs has completed its review of the proposed City of Vero Beach Comprehensive Plan Amendment (DCA Number 10-2), which was received on August 30, 2010. Copies of the proposed amendment have been distributed to the appropriate state, regional, and local agencies for their review, and their comments are enclosed.

The Department has reviewed the Comprehensive Plan Amendment for consistency with Rule 9J-5, Florida Administrative Code, and Chapter 163, Part II, Florida Statutes. The Department has prepared the attached Objections, Recommendations, and Comments Report, which outlines our findings concerning the comprehensive plan amendment. There is one objection regarding the lack of meaningful and predictable standards for the multi-modal facility policy. There are two comments regarding the need for the City to plan for roadway deficiencies and to address the requirements of Section 163.3180(5)(b)1, Florida Statutes, regarding Transportation Concurrency Exception Areas in cities designated as Dense Urban Land Areas.

My staff and I are available to assist the City in addressing the issues identified in our report. If you have any questions, please contact Laura Regalado, Planning Analyst, at (850) 921-3762.

Sincerely,

Mike McDaniel, Chief
Office of Comprehensive Planning

MM/lmr

Enclosures: Objections, Recommendations and Comments Report
Review Agency Comments

cc: Mr. Monte K. Falls, Interim City Manager, City of Vero Beach
Mr. Timothy J. McGarry, AICP, Planning and Development Director, City of Vero Beach
Mr. Michael J. Busha, AICP, Executive Director, Treasure Coast Regional Planning Council

2555 SHUMARD OAK BOULEVARD ♦ TALLAHASSEE, FL 32399-2100
850-488-8466 (p) ♦ 850-921-0781 (f) ♦ Website: www.dca.state.fl.us

♦ COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) ♦ FLORIDA COMMUNITIES TRUST 850-922-2207 (p) 850-921-1747 (f) ♦
♦ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) ♦

DEPARTMENT OF COMMUNITY AFFAIRS
OBJECTIONS, RECOMMENDATIONS AND COMMENTS
FOR THE
CITY OF VERO BEACH
PROPOSED AMENDMENT 10-2

October 29, 2010
Division of Community Planning

This report is prepared pursuant to Rule 9J-11.010, F.A.C.

INTRODUCTION

The following objections, recommendations and comments are based upon the Department's review of the City of Vero Beach 10-2 proposed amendment to its Comprehensive Plan pursuant to s. 163.3184, Florida Statutes (F.S.).

The objections relate to specific requirements of relevant portions of Chapter 9J-5, Florida Administrative Code (F.A.C.), and Chapter 163, Part II, F.S. Each objection includes a recommendation of one approach that might be taken to address the cited objection. Other approaches may be more suitable in specific situations. Some of these objections may have initially been raised by one or more of the other external review agencies. If there is a difference between the Department's objection and the external agency advisory objection or comment, the Department's objection would take precedence.

Each of these objections must be addressed by the City and corrected when the amendment is resubmitted for our compliance review. Objections that are not addressed may result in a determination that the amendment is not in compliance. The Department may have raised an objection regarding missing data and analysis items, which the local government considers not applicable to its amendment. If that is the case, a statement justifying its non-applicability pursuant to Rule 9J-5.002(2), F.A.C., must be submitted. The Department will make a determination on the non-applicability of the requirement, and if the justification is sufficient, the objection will be considered addressed.

The comments that follow the objections and recommendations section are advisory in nature. Comments will not form the basis of a determination of non-compliance. They are included to call attention to items raised by our reviewers. The comments can be substantive, concerning planning principles, methodology or logic, as well as editorial in nature dealing with grammar, organization, mapping, and reader comprehension.

Appended at the end of the Department's ORC Report are the comment letters from the other state review agencies and other agencies, organizations and individuals. These comments are advisory to the Department and may not form the basis of Departmental objections unless they appear under the "Objections" heading in this report.

TRANSMITTAL PROCEDURES

Upon receipt of this letter, the City of Vero Beach has 60 days in which to adopt, adopt with changes, or determine that the City will not adopt the proposed amendment. The process for adoption of local government comprehensive plan amendments is outlined in s. 163.3184, F. S., and Rule 9J-11.011, F.A.C. The City must ensure that all ordinances adopting comprehensive plan amendments are consistent with the provisions of Chapter 163.3189(2)(a), F.S.

Within ten working days of the date of adoption, the City must submit the following to the Department:

Three copies of the adopted comprehensive plan amendments;

A listing of additional changes not previously reviewed;

A listing of findings by the local governing body, if any, which were not included in the ordinance; and

A statement indicating the relationship of the additional changes to the Department's Objections, Recommendations and Comments Report.

The above amendment and documentation are required for the Department to conduct a compliance review, make a compliance determination and issue the appropriate notice of intent.

In order to expedite the regional planning council's review of the amendments, and pursuant to Rule 9J-11.011(5), F.A.C., please provide a copy of the adopted amendment directly to the Executive Director of the Treasure Coast Regional Planning Council.

Please be advised that Section 163.3184(8)(c), F.S., requires the Department to provide a courtesy information statement regarding the Department's Notice of Intent to citizens who furnish their names and addresses at the local government's plan amendment transmittal (proposed) or adoption hearings. In order to provide this courtesy information statement, local governments are required by law to furnish the names and addresses of the citizens requesting this information to the Department. **Please provide these required names and addresses to the Department when you transmit your adopted amendment package for compliance review. In the event there are no citizens requesting this information, please inform us of this as well.** For efficiency, we encourage that the information sheet be provided in electronic format.

OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT

CITY OF VERO BEACH

PROPOSED COMPREHENSIVE PLAN AMENDMENT 10-2

I. Consistency with Chapter 163, F.S., and Rule 9J-5, F.A.C.

The City of Vero Beach proposed comprehensive plan amendment consists of text amendments to the Future Land Use, Traffic Circulation, and Capital Improvements Elements of the Comprehensive Plan. The Department has identified the following objection and comments to the proposed comprehensive plan amendment:

Objection 1: Policy 3.9 of the Traffic Circulation Element defers to the Land Development Regulations rather than establish meaningful and predictable standards for the use and development of land and to provide meaningful guidelines for the content of more detailed land development regulations.

Authority: Sections 163.3177 (1), (6)(a) and (j), F.S.; and Rules 9J-5.003(90); 9J-5.005(6); and 9J-5.019(4)(b)1. and 4., and (4)(c)1, 3, 5, 6, 9, and 11, F.A.C.

Recommendation: Revise Policy 3.9 or include a new policy to establish meaningful and predictable standards to authorize the location of bus, rail, and other inter- and multi-modal facilities within areas of the City zoned Downtown District (DTW). The policy needs to establish meaningful guidelines to provide the basis for locating such facilities in the Downtown District in the comprehensive plan rather than deferring these guidelines to the Land Development Regulations.

II. Comments

Comment 1: The Treasure Coast Transportation Council (TCTC) was created in 2006 to carry out regional initiatives by the three metropolitan/transportation planning organizations designated for the Port St. Lucie Urbanized area and the Vero Beach – Sebastian urbanized area. The TCTC identified regionally significant transportation facilities in addition to Strategic Intermodal System facilities. 27th Avenue/SR 607 and SR A1A have been identified as regionally significant. The City should identify and actively plan for short- and long-term improvements to address level of service deficiencies on these regional roadways within the City. The City should include transportation improvements relating to these roadways in its Capital Improvements Plan. The City should enhance policies in its Intergovernmental Coordination Element to coordinate these improvements with St. Lucie County.

Comment 2: Section 163.3180(5)(b)1., F.S. designates Transportation Concurrency Exception Areas (TCEA) in local governments qualifying as a Dense Urban Land Area (DULA). The City of Vero Beach is designated a DULA under Florida Statute 163.3180(5)(b)1.a. Therefore, the TCEA designation applies to the City. The City has not addressed the City's designation as a DULA and TCEA. The City must adopt into its local comprehensive plan, by July 1, 2011, policies to

implement land use and transportation strategies to support and fund mobility within the exception area, including alternative modes of transportation. The land use and transportation strategies should be based on an assessment of existing conditions and what will be needed to achieve the multi-modal alternatives and land use patterns the City wants in the TCEA. A plan to achieve the land use patterns and multi-modal outcomes should be addressed. Land use strategies should focus on creating energy efficient land use patterns, mixed use development, transit supportive densities and intensities, discouragement of urban sprawl, and pedestrian and transit friendly urban design. Transportation strategies can include network connectivity, intermodal connectivity, and connectivity between related land uses. Other transportation strategies that should be considered include transit, pedestrian and bicycle routes, Transportation Demand Management, and parking. Funding strategies should be supported by data and analysis demonstrating that the amount of projected funding is likely to be achieved. Capital improvements that will be constructed by the funding strategies should be included in the Five-Year Capital Improvements Schedule if needed in the next five years, and any improvements needed beyond the first five years should be generally discussed in the Capital Improvements Element.

III. Consistency with Chapter 187, F.S.

The proposed amendment is inconsistent with the following provisions of Chapter 187, F.S., the State Comprehensive Plan:

Section 187.201(19) Transportation Facilities, Policies (b)8, 9, 10, and 15: Promote multi-modes of transportation and provide Florida's citizens and visitors with timely and efficient access to services, jobs, markets, and attractions. (Objection).

Section 187.201(25) Plan Implementation, Policy (b) 7: Ensure that local plans implement and accurately reflect state goals and policies and address problems, issues, and conditions that are of a particular concern in a region. (Objection 1).

By addressing the concerns noted in Section I., these inconsistencies with Chapter 187, Florida Statutes, can be addressed.



St. Johns River Water Management District

Kirby B. Green III, Director • David W. Fisk, Assistant Executive Director

4049 Reid Street • P.O. Box 1429 • Palatka, FL 32178-1429 • (386) 329-4500
On the Internet at floridaswater.com.

September 1, 2010

Mr. D. Ray Eubanks
Plan Review and Processing Administrator
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

RE: City of Vero Beach Proposed Comprehensive Plan Amendment
DCA Amendment #10-2

Dear Mr. Eubanks:

St. Johns River Water Management District (District) staff have reviewed the above-referenced proposed comprehensive plan amendment. The amendment consists of text changes to the Land Use, Traffic Circulation, and Capital Improvements elements. District staff review focuses on water supply availability and related water resource issues in an effort to link land use planning and water supply planning. In the review of water supply availability, District staff consider infrastructure, permitted allocation under District-issued consumptive use permit (CUP), and source. District staff have no comment because no substantial water supply availability or related water resource issues were identified.

We appreciate the opportunity to provide comments. If you have any questions, please contact me at (386) 312-2369 or sfitzgib@sjrwmd.com.

Sincerely,

Steve Fitzgibbons, AICP
Policy Analyst
Office of Communications and Governmental Affairs

cc: Timothy McGarry, Vero Beach
Michael Busha, Treasure Coast Regional Planning Council
Jim Quinn, Florida Department of Environmental Protection
Kraig McLane, St. Johns River Water Management District
Geoff Sample, St. Johns River Water Management District

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Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

3400 West Commercial Boulevard
Fort Lauderdale, FL 33309-3421

STEPHANIE C. KOPELOUSOS
SECRETARY

October 1, 2010

Ray Eubanks, Community Program Administrator
Plan Review and DRI Processing Team
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

Dear Mr. Eubanks:

SUBJECT: Proposed Comprehensive Plan Amendments ORC Review
Local Government: Vero Beach
DCA Amendment #: 10-2

The Department has reviewed the proposed text amendments to the Future Land Use, Traffic Circulation, and Capital Improvements elements of the comprehensive plan for the City of Vero Beach. The focus of our review was on major transportation issues, particularly impacts to Strategic Intermodal System (SIS) and other regionally significant transportation facilities.

The objection in the attached report relates to the City meeting statutory and rule requirements for the Transportation Element. The concern relates to lowering the level of service standards for two regionally significant transportation facilities without identifying any short- and long-term improvements to address the level of service deficiencies.

Thank you for the opportunity to participate in the review process. If you have any comments or questions about this letter, please contact Andrew Riddle at (954) 777-4605.

Sincerely,

Gerry O'Reilly, P.E.
Director of Transportation Development
District Four

GO:ar

cc: Bob Dennis, DCA
Terry Hess, TCRPC
Timothy McGarry, Vero Beach
Robert Keating, Indian River County
Kathleen Neill, FDOT Central Office
Maria Cahill, FDOT Central Office
Nancy Ziegler, FDOT District Four
Lois Bush, FDOT District Four

**DISTRICT 4, DEPARTMENT OF TRANSPORTATION
OBJECTIONS, RECOMMENDATIONS & COMMENTS**

RESPONSIBLE DIVISION/BUREAU:	<u>Planning and Development</u>
NAME OF LOCAL GOVERNMENT:	<u>Vero Beach</u>
DATE PLAN RECEIVED FROM LOCAL GOVERNMENT:	<u>09/01/10</u>
DATE MEMORANDUM RECEIVED FROM DCA:	<u>09/01/10</u>
REQUIRED RETURN DATE FOR COMMENTS:	<u>10/01/10</u>

GENERAL BACKGROUND INFORMATION

The City of Vero Beach has submitted DCA amendment package 10-1. The package contains text amendments to the Future Land Use, Traffic Circulation, and Capital Improvements elements of the comprehensive plan. The focus of the Department's review was on major transportation issues, particularly impacts to Strategic Intermodal System (SIS) and other regionally significant transportation facilities.

Objection: The City should modify the Traffic Circulation Element to be a Transportation Element. A local government which has all or part of its jurisdiction included within the urban area of a metropolitan planning organization shall prepare and adopt a transportation element consistent with the provisions of 9J-5.019, FAC and Chapter 163, Part II, PS. In particular, 9J-5.0019, FAC requirements for a Transportation Element identify the need for policies to address a "safe, convenient, and energy efficient multimodal transportation system." The City should change the title to be a Transportation Element and enhance the objectives and policies to include pedestrian, bicycle and mass (public) transit activities, including interconnectivity with other municipalities.

Concern: The City is proposing to amend its Traffic Circulation and Capital Improvements elements to change the level of service (LOS) standard for SR A1A (from SR 60 to south City limits) from LOS standard D to LOS standard D plus 30%, and 27th Avenue/SR 607 (from south City limits to SR 60) from LOS standard D to LOS standard E plus 20%.

The Treasure Coast Transportation Council (TCTC) was created in 2006, under Florida Statute 334.175, to serve as a formal forum for policy coordination and communication to carry out regional initiatives by the three metropolitan/transportation planning organizations designated for the Port St. Lucie Urbanized Area and the Vero Beach - Sebastian Urbanized Area (Indian River, St. Lucie, Martin). A map showing the regional multimodal transportation network is attached. One of TCTC's first initiatives was to identify regionally significant transportation facilities, in addition to SIS facilities. 27th Avenue/SR 607 and SR A1A are two of these facilities and serve as a major means of travel to, through and from the City. The Department recommends that the City identify and actively plan for short- and long-term improvements to address the LOS deficiencies on these regional roadways. The City should include transportation improvements relating to these roadways in its Capital Improvements Plan. The City should also enhance

policies in its Intergovernmental Coordination Element to coordinate these improvements with St. Lucie County.

Citations for Objection and Concern:

§163.3177(6)(j), FS

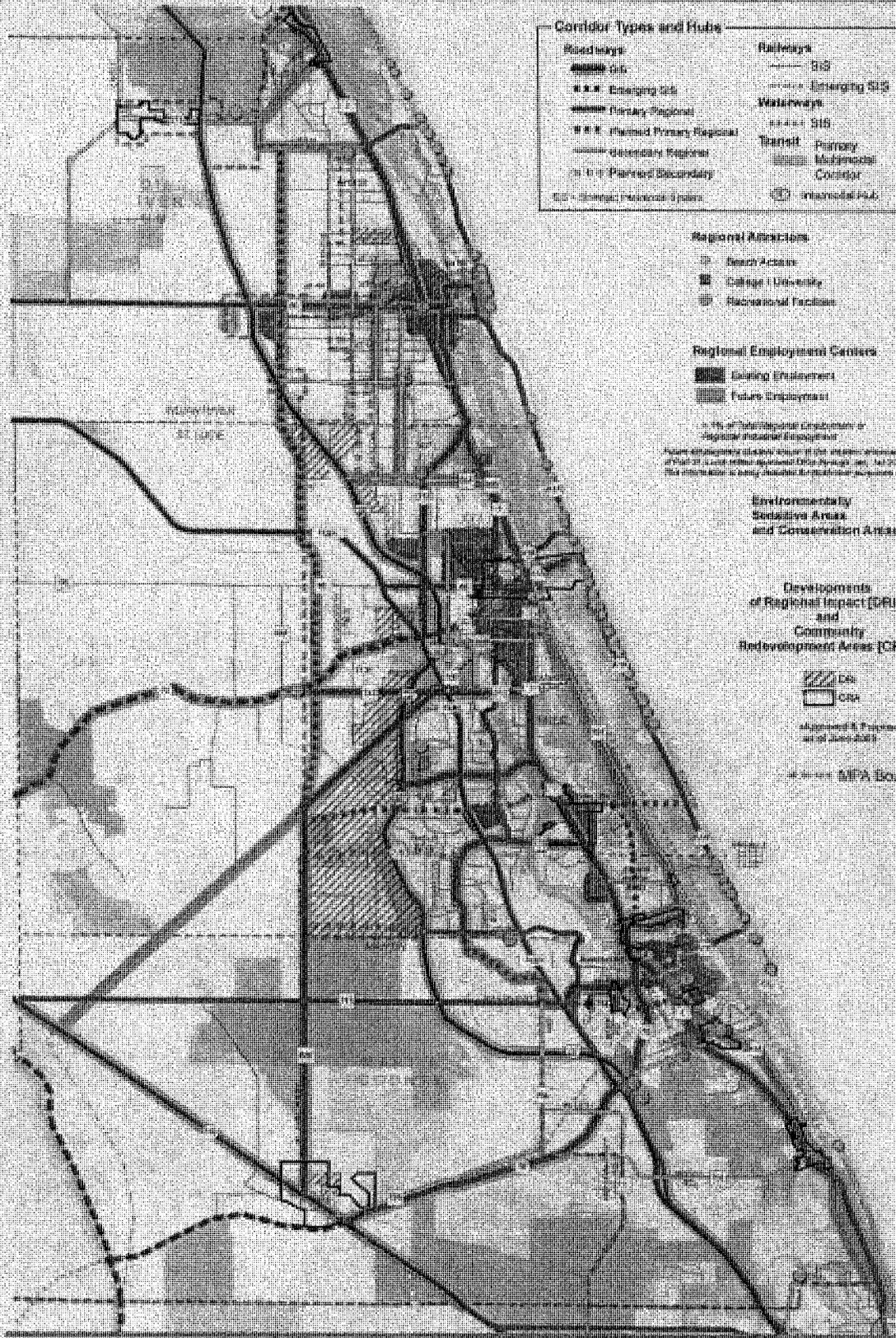
§163.3180, FS

§9J-5.005, FAC

§9J-5.006, FAC

§9J-5.019, FAC

REVIEWED BY:	<u>Andrew Riddle, AICP</u>	PHONE:	<u>954-777-4605</u>
REVIEWED BY:	<u>Lois Bush</u>	PHONE:	<u>954-777-4654</u>
REVIEWED BY:	<u>Nancy A. Ziegler</u>	PHONE:	<u>954-777-4490</u>



Treasure Coast Regional Multimodal Transportation System

1-20-2017



FLORIDA DEPARTMENT OF STATE
Dawn K. Roberts
Interim Secretary of State
DIVISION OF HISTORICAL RESOURCES

September 24, 2010

Mr. Ray Eubanks
Department of Community Affairs
Bureau of State Planning
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Re: Historic Preservation Review of the Vero Beach 10-2 Comprehensive Plan Amendment
(Indian River County)

Dear Mr. Eubanks:

According to this agency's responsibilities under Section 163, *Florida Statutes*, and Chapter 9J-5, *Florida Administrative Code*, we reviewed the above document to determine if data regarding historic resources were given sufficient consideration in the request to amend the Vero Beach Comprehensive Plan.

We reviewed proposed text changes to the Land Use, Traffic Circulation and Capital Improvements Elements of the Vero Beach Comprehensive Plan to consider the potential effects of these actions on historic resources. While our cursory review suggests that the proposed changes may have no adverse effects on historic resources, it is the city's responsibility to ensure that the proposed revisions will not have an adverse effect on significant archaeological or historic resources.

If you have any questions regarding our comments, please feel free to contact Susan M. Harp of the Division's Compliance Review staff at 850.245.6333.

Sincerely,

A handwritten signature in cursive script that reads "Laura A. Kammerer".

Laura A. Kammerer, Historic Preservationist Supervisor
Compliance Review Section
Bureau of Historic Preservation

pc: Mr. Bob Dennis

500 S. Bronough Street • Tallahassee, FL 32399-0250 • <http://www.flheritage.com>

Director's Office
850.245.6300 • FAX: 245.6436

Archaeological Research
850.245.6444 • FAX: 245.6452

Historic Preservation
850.245.6333 • FAX: 245.6437

TREASURE COAST REGIONAL PLANNING COUNCIL

MEMORANDUM

To: Council Members AGENDA ITEM 5N
From: Staff
Date: September 17, 2010 Council Meeting
Subject: Local Government Comprehensive Plan Review
Draft Amendments to the City of Vero Beach Comprehensive Plan
DCA Reference No. 10-2

Introduction

The Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, *Florida Statutes*, requires that the Treasure Coast Regional Planning Council (TCRPC) review local government comprehensive plan amendments prior to their adoption. Under the provisions of this law, the Department of Community Affairs (DCA) prepares an Objections, Recommendations, and Comments (ORC) Report on a proposed amendment only if requested to do so by the local government, the regional planning council, an affected person, or if an ORC Report is otherwise deemed necessary by the DCA. If an ORC Report is to be prepared, then the TCRPC must provide DCA with its findings of consistency or inconsistency with the Strategic Regional Policy Plan (SRPP), and provide any comments and recommendations for modification on the proposed amendments within 30 days of its receipt.

Background

The City of Vero Beach has proposed text amendments to the Future Land Use, Traffic Circulation and Capital Improvements Elements of the City Comprehensive Plan. The City requested that the DCA carry out a formal review of the amendments.

Evaluation

A. Future Land Use Element

1. Policy 1.9, which establishes the Mixed Use Future Land Use Map designation, is revised to include access to multi-modal transportation alternatives as a condition for designation as Mixed Use. The City indicated this reinforces the principle that downtown and other centrally located Mixed Use areas should have adequate access to multi-modal transportation alternatives.

B. Traffic Circulation Element

1. New Policy 3.9 indicates the City will amend their Land Development Regulations (LDRs) to authorize bus, rail and other inter- and multi-modal facilities within areas zoned as Downtown District. The current LDRs do not permit such facilities.
2. New Policy 3.10 is to support efforts to locate an Amtrak passenger rail station in downtown Vero Beach in conjunction with resumed passenger rail service in the Florida East Coast Corridor to increase mobility and enhance opportunities for transit oriented development. This is consistent with a City resolution passed in 2009 and expresses the City support and commitment for locating a passenger rail station downtown in conjunction with renewed passenger rail service.
3. Policy 1.1 is revised to clarify that adopted Level of Service (LOS) D for all arterial and collector roadways and adopted LOS E for all other roadways are based on "Peak Hour/Peak Season/Peak Direction". Also, new exceptions (see Exhibit 2) to these standards are:
 - a. 27th Avenue from the south City limits to State Road 60 (established as LOS E plus 20%). This change had been made during Capital Improvements Element revisions in November of 2009, but was not reflected in the Traffic Circulation Element due to an oversight.
 - b. SR A1A from SR 60 to the north City limits (established as LOS D plus 30%). This modification is necessary because actual traffic volumes are often marginally above the LOS D standard and this roadway is considered constrained from additional capacity expansions. SR A1A is the only through road on the barrier island. The area it traverses is essentially "built out"; but the few vacant landowners would be precluded from developing their property without this revision. This revision is considered to be consistent with Policy 1.4 which indicates the City will restrict the widening of roadways where there are physical or environmental constraints. The significant right-of-way costs and socio-economic impacts preclude the widening of this segment of SR A1A.

C. Capital Improvements Element

1. Table 9.1, LOS Standards for Facilities, is to be modified to include the changes made to Policy 1.1 of the Traffic Circulation Element (summarized above).

Extrajurisdictional Impacts

Under the informal agreement facilitated by the TCRPC, local governments in the northern three counties of the region are to provide copies of amendment materials to other local governments that have expressed an interest in receiving such materials. The City provided copies of the amendment materials to Sebastian, Indian River Shores, Fellsmere, Indian River County and the County School District. The TCRPC sent a memorandum to these agencies/local governments on September 2, 2010 seeking comments regarding conflicts with existing plans or programs. As

of the date of the preparation of this report, no comments have been received. No significant detrimental extrajurisdictional impacts are expected as a result of the adoption of these amendments.

Effects on Significant Regional Resources or Facilities

Analysis of the proposed amendments indicates that they would not have adverse effects on significant regional resources or facilities.

Analysis of Consistency with Strategic Regional Policy Plan

The proposed text revisions are considered to be consistent with Regional Goal 7.1 (A balanced and integrated transportation system); Strategy 7.1.1 (Develop a balanced, complete and fully integrated transportation system); Strategy 7.1.3 (Promote improved community planning and urban design); and Strategy 7.1.4 (Encourage public transportation alternatives). The City should consider adopting a policy to promote transit oriented development around the passenger rail station, consistent with SRPP Policies 7.1.2.3 and 7.1.2.4.

Consistency with Strategic Regional Policy Plan

The contract agreement with the DCA requires the TCRPC to include a determination of consistency with the SRPP as part of the written report to be submitted to the DCA. The TCRPC finds the proposed amendments to be CONSISTENT with the SRPP.

Recommendation

The Treasure Coast Regional Planning Council should adopt the above comments and instruct staff to transmit the report to the Department of Community Affairs.

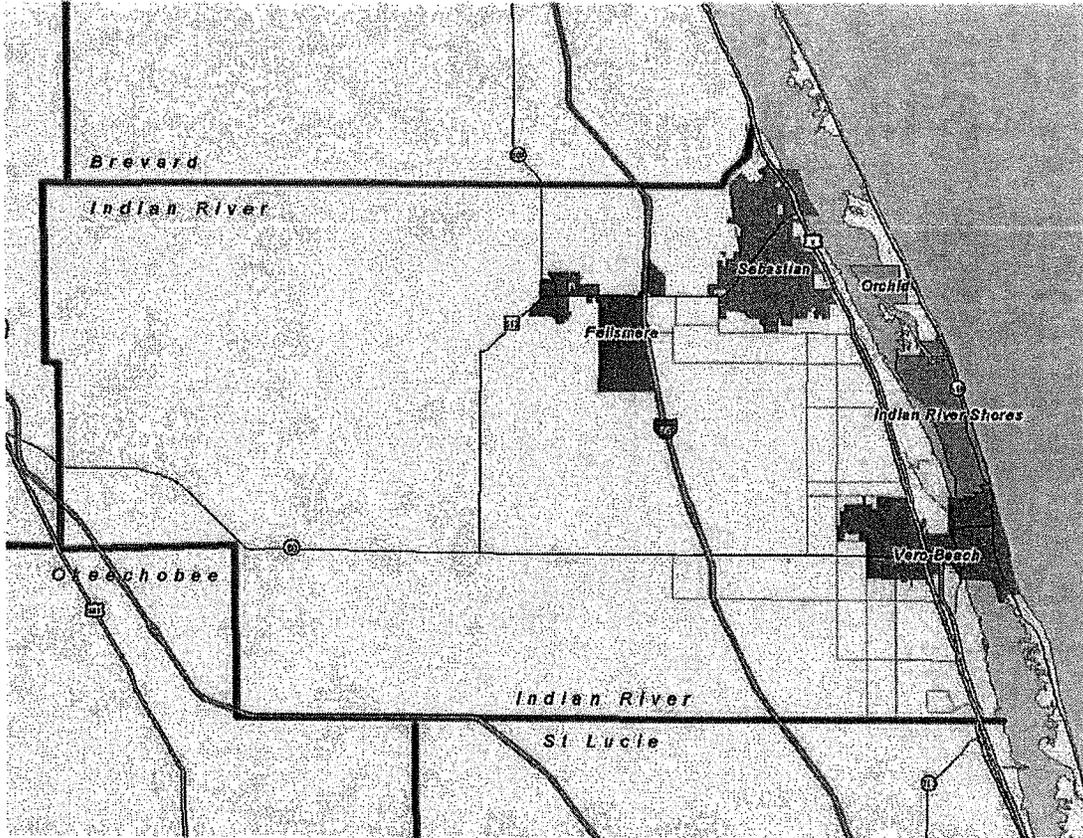
Attachments

List of Exhibits

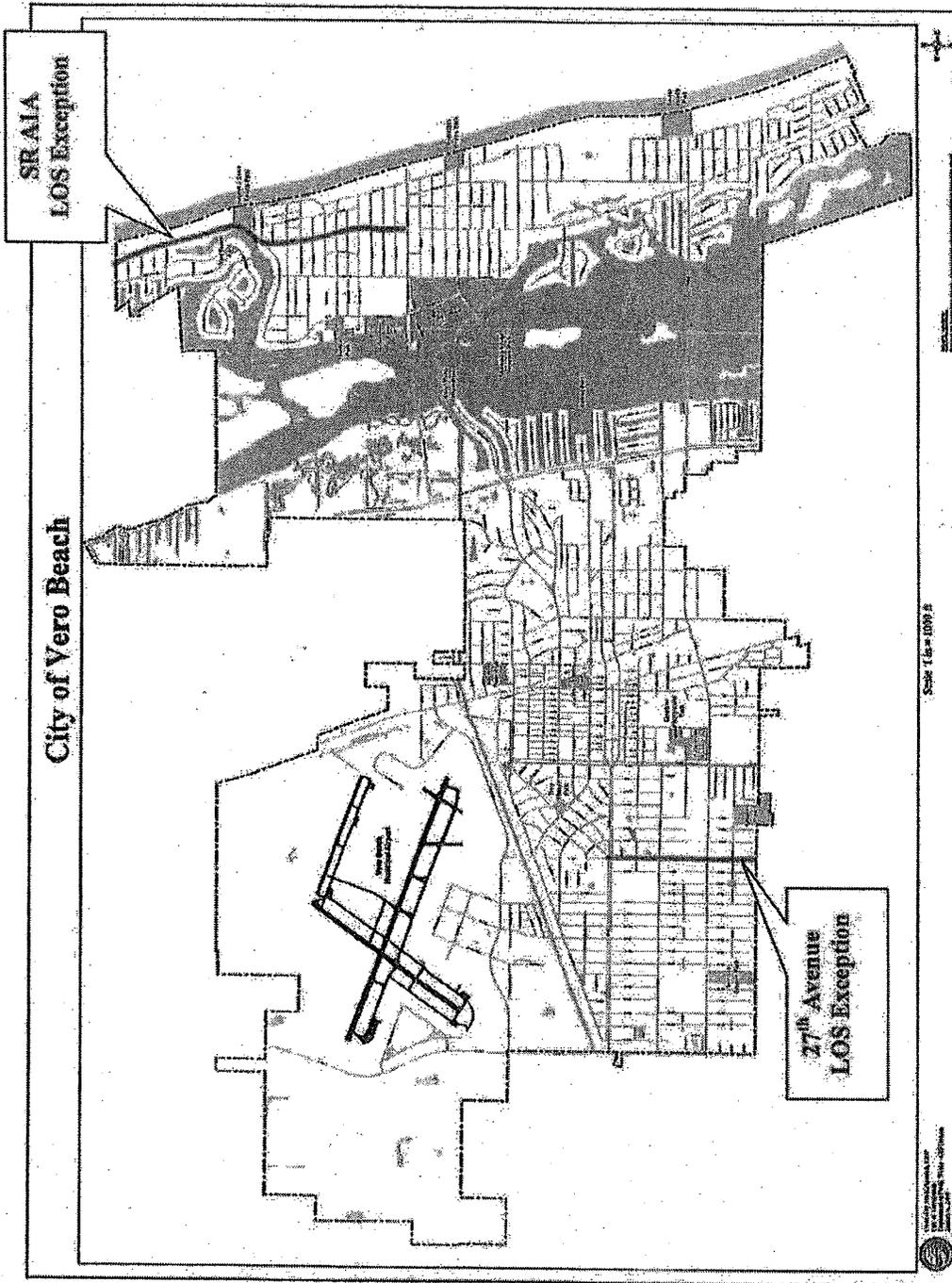
Exhibit

- 1 General Location Map
- 2 Level of Service Exception Map

**Exhibit I
General Location Map
City of Vero Beach**



**Exhibit 2
Level of Service Exception Map**



Staff Reports

DEPARTMENTAL CORRESPONDENCE

TO: Chairman Dennis J. Ryan and Planning
and Zoning Board Members

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

DATE: May 26, 2010

SUBJECT: **Public Hearing on Proposed Text Amendments to the Land Use and
Traffic Circulation Elements of the Comprehensive Plan
Related to Supporting Amtrak Passenger Rail Station Facilities
#C10-000003-CLP-TXT**

Overview

The Planning and Development staff proposes the following amendments to the City of Vero Beach Comprehensive Plan (attached as Exhibit One):

- A. Amend Policy 1.9 under Objective 1 (Land Uses) of the Land Use Element to include reference to the need for access to multi-modal transportation alternatives in areas designated as Mixed Use on the Future Land Use Map, which generally covers the downtown and adjacent inner city neighborhoods.
- B. Create new Policy 3.9 under Objective 3 (Multi-modal Transportation System) of the Traffic Circulation Element to direct revisions to the City's Land Development Regulations to authorize multi-modal facilities within the DTW (Downtown) zoning district.
- C. Create new Policy 3.10 under Objective 3 (Multi-modal Transportation System) of the Traffic Circulation Element that establishes the City's support for locating an Amtrak passenger rail station in the downtown and the re-establishment of passenger rail service in the Florida East Corridor.

Data and Analysis

The 1992 Vero Beach Comprehensive Plan paid little attention to the issue of passenger rail service, which had been discontinued in 1968 to communities along the east coast of Florida between Jacksonville and West Palm Beach. No discussion of any issues regarding passenger rail service was included in the technical support section of the Traffic Circulation Element.

The only reference to passenger rail is Policy 8.2, that states that the City will "ensure adequate access to the one public use airport, passenger rail station, transit transfer points, and other intermodal facilities by supporting roadway and transit improvements identified in this [Traffic Circulation] element." The City's Evaluation Appraisal Report adopted in 1999 did not mention passenger rail service.

In the late 1990s, the issue of reinstating passenger rail service in the Florida's east coast corridor was introduced by FDOT and Florida East Coast Railroad in conjunction with plans by Amtrak to expand its passenger rail services nationwide. The proposal was to establish Amtrak service between Jacksonville and West Palm Beach and seven cities in between, including the City of Vero Beach. The service and construction of new passenger rail stations was to be partially funded by a FDOT grant. The restructuring of Amtrak in the early decade terminated this effort.

Despite this setback, the re-establishment of passenger rail service continued to be a priority for Treasure Coast communities. The Treasure Coast Regional Planning Council's (TCRPC) Strategic Regional Policy Plan encourages the creation of a balanced and integrated transportation system, especially a regional mass transit system. The east coast passenger rail service was included in the FDOT's 2006 Florida Rail Plan as a new corridor passenger rail service between Jacksonville and the City of Miami with intermittent stops at cities in between these two points.

In March 2009, the TCRPC adopted Resolution 09-04 requesting that the State of Florida prioritize the Amtrak/FEC Corridor Project (aka, establishment of passenger rail service between Miami and Jacksonville) for Federal stimulus funding under the "American Recovery and Reinvestment Act." The FDOT officially prioritized the project and coordinated its efforts with Amtrak and Rail America (owner of the FEC railroad).

The Vero Beach City Council passed a resolution in 2009 supporting the effort to re-establish passenger rail service to the east coast of Florida from Jacksonville to Miami. The resolution indicated the City Council's commitment to participate with FDOT, Amtrak, FEC, Treasure Coast Regional Planning Council, and other local communities in securing federal economic stimulus funding for the construction of passenger stations and other infrastructure improvements.

FDOT is currently moving forward with the preparation of necessary environmental, planning, and engineering supporting materials required for submission of the application. It is anticipated that the application will be ready for submittal to the Federal Rail Administration by July 2010.

With the advent of this new opportunity to secure funding for the construction of a passenger rail station and re-establishment of passenger rail service to the City, it is very desirable that the City amend its Comprehensive Plan to address passenger rail service to improve its chances to secure grant funding. With that said, it is also desirable that the current Comprehensive Plan be amended to formally establish the City's long-term policy commitment to supporting passenger rail service, and, very importantly, to provide a policy framework for appropriately linking rail passenger service with other transportation modes and coordinating planning and development activities in a manner that maximizes the benefits and opportunities for transient oriented development in revitalizing the City's historic downtown.

Transit oriented development is an approach to development that focuses land uses around a transit station (one-quarter of a mile or a 5 to 7 minute walk of the transit station) or within a transit corridor. It is typically characterized by:

- A mix of uses
- Moderate or higher density
- Moderate or higher intensity of nonresidential uses
- Pedestrian orientation/connectivity
- Reduced parking
- High quality design

Although Vero Beach doesn't have the potential for the density and intensity of transit oriented development typically found in larger urban areas, some opportunities do exist to capitalize on the accessibility and value to place which a passenger rail station would bring to the downtown. It will provide further opportunities for attracting private and public investment that will help revitalize the Downtown.

As the City is currently preparing its Evaluation Appraisal Report, which will result in comprehensive revisions to the current Comprehensive Plan to address changes in Chapter 163, Florida Statutes, regarding mobility and sustainability, the amendments proposed at this time are the minimum necessary to establish the City's support for passenger rail service and the need to locate any future passenger rail station in the downtown. In doing so, these amendments will provide the enabling policy necessary to implement amendments to the City's Land Development Regulations to permit passenger rail, bus stations, and other inter- and multi-modal facilities in the downtown.

Therefore, the staff has identified one existing policy to be revised and two policies to be created as interim measures until a more thorough data analysis and evaluation is completed during the preparation of the EAR and EAR-based amendments. The rationale for each of the proposed amendments, which are provided in Exhibit One, are discussed below:

- A. Revision of Policy 1.9 of the Land Use Element. This policy which describes the Mixed Use (MX) Future Land Use category inserts language requiring such areas to have access to multi-modal transportation alternatives. Such a requirement reinforces the principle that the downtown and other centrally located mixed use areas should have adequate access to multi-modal transportation alternatives.
- B. Creation of new Policy 3.9 of the Traffic Circulation Element. This new policy provides the enabling language for amending the City's Land Development Regulations to accommodate rail, bus and other inter- and multi-modal facilities. The current Land Development Regulations do not permit rail, bus, or other inter- and multi-modal facilities within the City, except that bus terminals are allowed in the Industrial District and airport terminals are allowed in the Airport District.
- C. Creation of new Policy 3.10 of the Traffic Circulation Element. This new policy expresses the City's support and commitment for locating a passenger rail station in the downtown in conjunction with resumed passenger rail service. The end purposes of this policy are to increase the mobility choices and opportunities for transit oriented development.

Consistency with Comprehensive Plan

This amendment must be found to be internally consistent with the Vero Beach Comprehensive Plan as required by Chapter 163, Florida Statutes and Section 65.22 of the Vero Beach Code. The following are the pertinent objectives and policies to which this amendment is consistent:

- Land Use Element, Objective 7: *The City shall facilitate urban infill and redevelopment using land development regulations and implement a long-range strategy for revitalizing its Downtown commercial core and older residential neighborhoods.*
- Land Use Element, Policy 7.3: *The City shall reinforce downtown as a mixed-use office, employment and government center as well as a unique cultural, arts, entertainment and residential enclave, with shopping and dining opportunities that support the district and its surrounding neighborhoods.*
- Traffic Circulation Element, Objective 3 (Multi-modal Transportation System): *Provisions shall be made for a safe, convenient, and efficient multi-modal transportation system.*
- Traffic Circulation Element, Policy 8.2: *The City shall ensure adequate access to the one public use airport, passenger rail station, transit transfer points, and other intermodal facilities by supporting the roadway and transit improvements identified in this element.*
- Traffic Circulation Element, Policy 10.3: *The City shall pursue and support transportation programs that will help to maintain or improve air quality and help conserve energy.*

Findings

The staff concludes that based on the analysis above, the proposed amendments are consistent with the Vero Beach Comprehensive Plan and compliant with Florida Statutes and the text amendment requirements of the City Code.

Recommendation

The staff recommends that the Planning and Zoning Board recommend to the City Council approval of the proposed text amendments.

TJM/tf
Attachments

**EXHIBIT ONE
AMENDMENTS TO THE
CITY OF VERO BEACH
COMPREHENSIVE PLAN**

1. Policy 1.9 of the Land Use Element under Objective 1 (Land Uses) is hereby amended as follows:
 - 1.9 The Mixed Use (MX) land use designation shall be applied to those areas that are suitable for urban scale development and intensities. Those areas shall be limited to lands near arterial or collector streets with adequate public facilities, access to multi-modal transportation alternatives, existing mixed use central locations, including the central core of the city and the downtown area. This land use category shall allow a mixture of residential and commercial uses, which may be located in the same building. Additional allowed uses include park and recreation uses, public facilities, institutional uses, schools, cultural and civic uses, utilities, professional office uses, and tourist-oriented facilities.

2. The Traffic Circulation Element is hereby amended by creating a new Policy 3.9 under Objective 3 (Multi-modal Transportation System) that reads as follows:
 - 3.9 The City shall through amendments to its Land Development Regulations authorize bus, rail, and other inter- and multi-modal facilities within areas zoned Downtown District (DTW).

3. The Traffic Circulation Element is hereby amended by creating a new Policy 3.10 under Objective 3 (Multi-modal Transportation System) that reads as follows:
 - 3.10 The City shall support efforts to locate an Amtrak passenger rail station in downtown Vero Beach in conjunction with resumed passenger rail service in the Florida East Coast Corridor to increase mobility and enhance opportunities for transit oriented development.

DEPARTMENTAL CORRESPONDENCE

TO: Chairman Dennis J. Ryan and Planning
and Zoning Board Members

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

DATE: May 24, 2010

SUBJECT: **Public Hearing on Proposed Text Amendments to the Traffic
Circulation and Capital Improvements Elements of the
Comprehensive Plan to Change the Level of Service Standard
for SR A1A from SR 60 to the North City Limits
#C10-000002-CLP-TXT**

Overview

The Planning and Development staff proposes the following amendments to the City of Vero Beach Comprehensive Plan (attached as Exhibit One):

- A. Amending Policy 1.1 of the Transportation Element to:
1. Identify as an exception to the Level of Service (LOS) Standards 27th Avenue from south City limits to State Route (SR) 60 to address an oversight when the LOS for this roadway was amended in the annual update to the Capital Improvements Element adopted on November 17, 2009;
 2. Revise the LOS standard for State Route (SR) A1A from SR 60 (Beachland Boulevard) to the north City limits from a LOS standard of "D" to "D" plus 30% and include it as an exception to the LOS standards for arterials and collectors;
 3. Include clarifying language that specifically indicates that LOS is based on the Peak Hour/Peak Season/Peak Direction traffic volumes.
- B. Amending Table 9.1, Level of Service Standards, under the Capital Improvements Element to:
1. Include SR A1A from SR 60 (Beachland Boulevard) to north City limits to reflect the LOS "D" plus 30% in the revised Policy 1.1 above.

2. Include clarifying language that specifically indicates that LOS is based on the Peak Hour/Peak Season/Peak Direction traffic volumes.

Data and Analysis

In accordance with 9J-11.007, Florida Administrative Code (FAC), all proposed comprehensive plan amendments are required to be supported by data and analysis similar to that for the original comprehensive plan. Since the proposed amendments amending Policy by adding 27th Avenue as an exception of the LOS Standards and the clarification language regarding the use of Peak Hour/Peak Season/Peak Direction in both Policy 1.7 and Table 9.1 are only to correct earlier omissions and provide greater clarity to the text, no supporting data and analysis are needed or required.

The data and analysis for the proposed amendment to revise the LOS standard for SR A1A from SR 60 to the north City limits, are presented in the following sections:

Road Segment Description. The subject segment of SR A1A is a 1.5 mile segment of running from Beachland Boulevard to the north City limits, is a 2-lane facility with median (e.g., a two-way left turn lane) and is shown in Exhibit Two attached. It has exclusive left-hand turn lanes at major intersections. The roadway is classified as an Urban Minor Arterial and serves as the single major north-south roadway providing access to commercial centers, hotels, and residential neighborhoods on the Barrier Island. It provides connections to the mainland via SR 60, CR 510, and south SR A1A and is a hurricane evacuation route.

The right-of-way (ROW) width is 100 feet, except for a .45 mile segment of 80 feet between Greytwig and Beachland Boulevard that traverses a single family residential development north of Beachland Boulevard. The roadway has numerous curb cuts to adjacent abutting properties with exclusive right-hand turn lanes for larger commercial and condominium developments.

A sidewalk borders the roadway along its entire west side and partially on its east side near Beachland Boulevard. No regular regional transit service is provided along the length of roadway corridor, except for limited service to the Village Beach Market located near the very northern end of this segment of SR A1A.

Development Characteristics. Properties with immediate access or requiring access to this segment of SR A1A are almost all fully developed with retail, office, seasonal condominiums and hotels uses. Single family and multi-family development surround the SR A1A roadway corridor to the east and west.

North of the City limits, SR A1A runs through the Town of Indian River Shores. The Town is almost entirely built out with little room for additional development.

The primary concentration of commercial, office, hotels, and transient residential uses in the SR A1A corridor are located north of the City's Jaycee Park. Except for a couple of isolated cases, properties located south of this park abutting the roadway are zoned single family.

Excluding isolated single family lots of record, the concentration of vacant lands abutting the roadway are located north of Bahia Mar, except for a single parcel of one acre zoned C-1A (tourist commercial uses -30 hotel units/acre). Eleven of the vacant parcels, totaling 10 acres are zoned C-1A. Three parcels, totaling 0.8 acres, are zoned RM-13 (13 units/acre). Two parcels, totaling 0.5 acres are zoned RM-10/12 (12 units/acre).

Traffic Volumes and Capacity. In accordance with the Florida Statutes and Rule 9J-5, F.A.C., the City adopted a Level of Service (LOS) standard for arterials and collectors of "D" in Policy 1.1 of the Comprehensive Plan and Table 9.1 of the Capital Improvements Element. Therefore, as a minor arterial, this segment of SR A1A has a LOS standard of "D" with a maximum service volume (capacity) of 924 peak hour direction according to the *2009 FDOT Quality/Level of Service Handbook*.¹

Under Florida Statutes and the City's Comprehensive Plan Policy 1.7, no development permit may be approved if insufficient capacity exists on a roadway. Therefore, if a roadway has determined LOS below its adopted LOS, that segment has no available capacity unless specific improvements are programmed as stipulated in Policy 5.12 of the Capital Improvements Element. This deficiency affects development on any property that will generate vehicle trips on the subject roadway, even for properties outside its immediate vicinity.

Based on data from the Indian River County *2006 Comprehensive Plan Evaluation Appraisal Report*, Addendum Table A-2.07 of the Vero Beach Comprehensive Plan shows that the LOS in 2006 for this segment of SR A1A was "F" falling from a LOS of "C" in 1995. This deficiency was identified in the recent update to the Capital Improvements Element. Although in preparation of this report, it has been determined that this table did not account for a 5 percent additional service volume needed to be added to maximum level of service due to the presence of the two-way left turn lane, the segment would still have been a "F" LOS under the FDOT's 2002 *Quality/Level of Service Manual*.²

A partial review of data provided by Indian River County, which maintains the transportation currency data base for both the City and County on a real time basis as new permits are issued, showed a peak hour directional volume of 1,025 in September, 2009, which is a LOS of "F."³ In May of this year, the peak hour directional service volume was 897, which is a LOS of "D."

¹ For both Indian River County and the City of Vero Beach, FDOT's maximum service volumes for roadways published in that agency's latest *Quality/Level of Service Manual* are followed to establish the LOS for roadways. The manual states "maximum service volume deals with the highest number of vehicles for a given LOS, while capacity deals with the maximum number of vehicles that can pass a point during a specific during a specified time." Although not technically correct, the terms "maximum service volume" and "highway capacity" are used interchangeably in report.

² Indian River County has subsequently revised its data base to reflect this change.

³ The peak hour direction volume figures contain both existing background trips and vested trips.

The LOS has fluctuated between LOS of “D” and “F” over the last several years with the peak trip volume declining overall due to the economy. It is highly likely that once the economic recession abates the peak hour directional traffic volume on this segment will increase resulting in a fairly consistent LOS of “F” as little reserve service volume is available to retain a LOS of “D.”

Recent modeling run forecasts by the Indian River County MPO for the MPO 2035 Long Range Transportation Plan (LRTP), using the Florida Standard Urban Transportation Model Structure, reveal that this segment of SR A1A is not likely to improve and will be deficient during the 25-year planning period. No capacity improvements for this roadway have been identified in the State’s Seven Year Work Program or identified in the MPO’s draft Initial 2035 LRTP Base Needs Plan.

Available Options. The following are available options to the City in response to the LOS deficiency on this segment of SR A1A:

- *Do Nothing:* The “do nothing” is not a viable alternative. Although the LOS for this roadway has been fluctuating between a LOS of “D” and “F,” and was recently determined to be a LOS of “D,” it has degraded to a LOS “F” in the past. In all likelihood, it will degrade to a consistent LOS of “F” once the economy returns, especially as the roadway has little additional reserve service volume to retain a LOS of “D”.

The City has already been placed on notice by a law firm representing owners of vacant properties abutting this segment of SR A1A that its clients will seek legal relief as they are being denied reasonable use of their properties due to the “de facto” moratorium. Although the latest data from Indian River County indicates that the segment is at an acceptable level of service, the issuance of any development permit for proposed development projects on many of these vacant properties zoned C-1A may be problematic. Furthermore, as noted previously, this concurrency issue may affect other nonresidential properties outside the immediate area if any these properties should move forward to seek development approval that adds new vehicle trips to this segment of SR A1A.

The City is obligated under the Florida Statutes and its comprehensive plan to adopt LOS standards, eliminate existing service deficiencies, and provide infrastructure to accommodate new growth in its adopted comprehensive plan. Therefore, either the LOS standard for this segment of SR A1A needs to be revised or improvements to highway capacity made, especially as no other alternative north-south roadway or potential route corridor is available to divert traffic from this facility.

- *Improvements to Highway Capacity:* Policy 1.4 of the Comprehensive Plan requires the City to review the existing roadway network to determine whether to consider restricting the widening of roadways that have specific physical and/or environmental constraints. SR A1A is specifically identified as an example of such a facility.

The policy further states that a roadway should be considered “constrained” based on but not limited to the following: historic, cultural or scenic character; right-of-way limitations; high land values and cost of right-of-way acquisition; and environmental or socio-economic impacts on surrounding properties.

In the early 1990’s, this segment of SR A1A was programmed by the FDOT to be upgraded to a 4-lane divided highway as shown in Table 2.3 of the Comprehensive Plan. However, due to significant right-of-way costs and socio-economic impacts, this segment of SR A1A was subsequently improved with only a median two-way turn lane.

The situation has not changed since completion of these improvements. More infill of abutting lots has occurred further increasing potential right-of-way costs and disruption to existing businesses and residences. A 4-lane divided facility generally requires 120 to 150 feet of ROW and SR A1A has only 80 to 100 feet of ROW.

Furthermore, such an improvement would more than double the current maximum service volume, which is not needed or desired to support existing and anticipated development on the Barrier Island. Such improvements in capacity could be argued to be inconsistent with Objective 2 and supporting policies of the Capital Improvements Element regarding limiting public expenditures in coastal high hazard areas that support or encourage an increase overall increase in the density and intensity of development beyond that indicated on the Future Land Use Map.

Therefore, improvements to this segment of highway that involve any further widening of the roadway were eliminated from further evaluation. This decision is reflected in the MPO’s existing adopted 2030 LRTP and in its draft Initial 2035 LRTP Basic Needs Plan.

Other access or congestion management measures, if appropriate would be difficult to implement due to lack of available ROW and numerous existing access points and would not materially affect maximum level of service volumes during peak hour traffic as calculated in the FDOT manual. Extended and expanded transit service would have negligible impact due to low density land use patterns and amount of traffic using the roadway from outside the City limits.

- *Change in LOS Standard.* The third option, a change in the LOS standard for the facility is considered the most practical and cost-effective solution, and is more consistent with other policies in the Comprehensive Plan to limit further increases in density and intensity in Coastal High Hazard Areas. The questions then becomes what is the appropriate LOS consistent with the policies of the Comprehensive Plan?

In Table 7, Peak Hour Directional Volumes for Florida’s Urbanized Areas, in the *2009 FDOT Quality/Level of Service Handbook*, Class 1 State signalized arterials

have no LOS standard of E. Any volume beyond the maximum service volume for LOS “D” automatically falls under a LOS of “F.”

Therefore a revision to the existing LOS standard requires the use of the maximum service volume for LOS “D” plus a percentage of this maximum service volume. For example, the LOS standard could be set at “D” plus 20% ($924 + 185=1,109$ vehicles per peak hour direction) or “D” plus 30% ($924+277=1201$ vehicles per peak hour direction).

Assuming little or no development outside the City that would add new trips to SR A1A, it is anticipated that vacant properties, if fully developed along this segment of SR A1A, would conservatively result in approximately 200 new peak hour vehicle trips to this roadway during peak hour. Assuming 55 percent of these trips are assigned to the peak southbound lane (based on existing trip distribution pattern), the number of new peak hour trips would be 110.⁴

Adding this number of new peak hour vehicle trips to the peak hour trips of 1,025 (2009), the total peak hour trips would result in 1,135 vehicle trips per hour. [Although higher than 2010 figures, using the 2009 figure provides leeway for accommodating background traffic volume when the economy recovers.]

Therefore, a reasonable LOS standard to assign would be “D” plus 30%, which should accommodate future anticipated development. Should conditions make this LOS standard inadequate, the issue will be re-evaluated at that time.

Consistency with Comprehensive Plan

This amendment must be found to be internally consistent with the Vero Beach Comprehensive Plan as required by Chapter 163, Florida Statutes and Section 65.22 of the Vero Beach Code. The following are the pertinent objectives and policies to which this amendment is consistent:

- Land Use Element, Policy 5.3: *For all facilities and services, the minimum levels of service established in the Capital Improvements Element (CIE) and other elements of the Comprehensive Plan shall be maintained.*
- Traffic Circulation Element, Objective 1: *The traffic circulation system, and improvements thereto, shall be coordinated with new development depicted on the Future Land Use Map in order to retain the appropriate level of service or*

⁴ The staff's “rough” trip generation projections were based on the following assumptions for vacant properties in the SR A1A corridor: (1) all multi-family lots would be developed at allowable densities; (2) commercial property not fronting the ocean would develop at full intensity at 50 percent retail and 50 percent office; and (3) ocean front commercial would fully develop as 50 percent condominiums (15 units/acre) and 50 percent resort hotel (30 units/acre). The staff then applied trip rates to these land uses based on the new trip rates for traffic impact studies set forth in the Indian River County Code. These trip volumes were modified by staff to yield the peak hour trips based on rates from the Institute of Traffic Engineers, *Trip Generation*, 7th Edition, 2003.

otherwise provide for adequate and safe access concurrent with such new development or redevelopment.

- Traffic Circulation Element, Policies 1.4 and 1.11:
 - * *The City shall review the existing roadway network to determine whether to consider restricting the widening of roadways that have specific physical and/or environmental constraints. SR A1A on the Barrier Island is an example of such a facility. Criteria to consider as part of the analysis to determine whether a roadway should be considered “constrained” shall include, but not limited to, the following: historic, cultural or scenic character, right-of-way limitation, high land values and cost of right-of-way acquisition, and environmental or socio-economic impacts on surrounding properties.*
 - * *The City shall review the transportation system based on the County’s evaluation on an annual basis. Traffic count data shall be collected on all thoroughfare roads on an annual basis. This data shall be utilized to develop an annual report by the County on the Level of Service provided on major area roads. These findings shall then be used by the City to identify improvement needs and associated costs required to maintain the Level of Service identified in Policy 1.1.*
- Traffic Circulation Element, Policy 6.1: *Major roadways (i.e., minor and principal arterials) and intersections shall, to the extent possible, be located and designed such as to not adversely affect existing neighborhoods nor produce excessive traffic on local roads through residential areas. The following are some of the characteristics by which the City will determine whether neighborhoods are adversely impacted: severs existing neighborhoods, more traffic other than local traffic using roadways, widening of roadways which results in roadways constructed closed to residential homes, and other similar characteristics.*
- Capital Improvements Element, Objective 2: *The City shall limit public expenditures to coastal high hazard areas in accordance with the objectives and policies in the Coastal Management Element that limit the overall density or intensity to existing levels indicated for those areas on the Future Land Use Map.*
- Capital Improvements Element, Policies 2.1 (2.) and 2.2:
 - * *The City shall only expend public funds for capital improvements in coastal high hazard areas that:*

2. *Do not support or encourage a net increase in the overall density and intensity of development beyond that indicated on the Future Land Use Map.*

- * *Capital improvements in coastal high hazard areas shall not be planned or designed to create any capacity beyond that necessary to accommodate the existing overall intensity and density of development of these areas as indicated on the Future Land Use Map.*

Findings

The staff concludes that based on the analysis above, SR A1A is a constrained roadway as defined in Policy 1.7 and that the proposed change in the LOS for this roadway is consistent with the Vero Beach Comprehensive Plan and compliant with Florida Statutes and the text amendment requirements of the City Code.

Recommendation

The staff recommends that the Planning and Zoning Board recommend to the City Council approval of the proposed attached text amendments.

TJM/tf
Attachments

**EXHIBIT ONE
AMENDMENTS TO THE
CITY OF VERO BEACH
COMPREHENSIVE PLAN**

1. Policy 1.1 of the Traffic Circulation Element is hereby revised as follows:

“1.1 The operating level of service standards for roadways shall be as ~~herein established~~: Level of Service “D” (Peak Hour/Peak Season/Peak Direction) or better on all arterial and collector roadways and Level of Service “E” (Peak Hour/Peak Season/Peak Direction) or better for all other local roadways, except for the following:

- 27th Avenue from South City Limits to State Route 60 – “E” plus 20%.
- A1A from State Route 60 to North City Limits – “D” plus 30%.

2. Under the “Roads” category in Table 9.1, Level of Service Standards (LOS) for Facilities, City of Vero Beach, of the Capital Improvements Element is hereby revised as follows:

“Roads

Principal Arterials and Collectors*

Level of Service D (Peak Hour/Peak Season/Peak Direction)

All Other Roadways

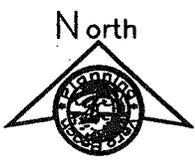
Level of Service E (Peak Hour/Peak Season/Peak Direction)

*Except the following roads:

- 27th Avenue from South City Limits to State Route 60
- A1A from State Route 60 to North City Limits

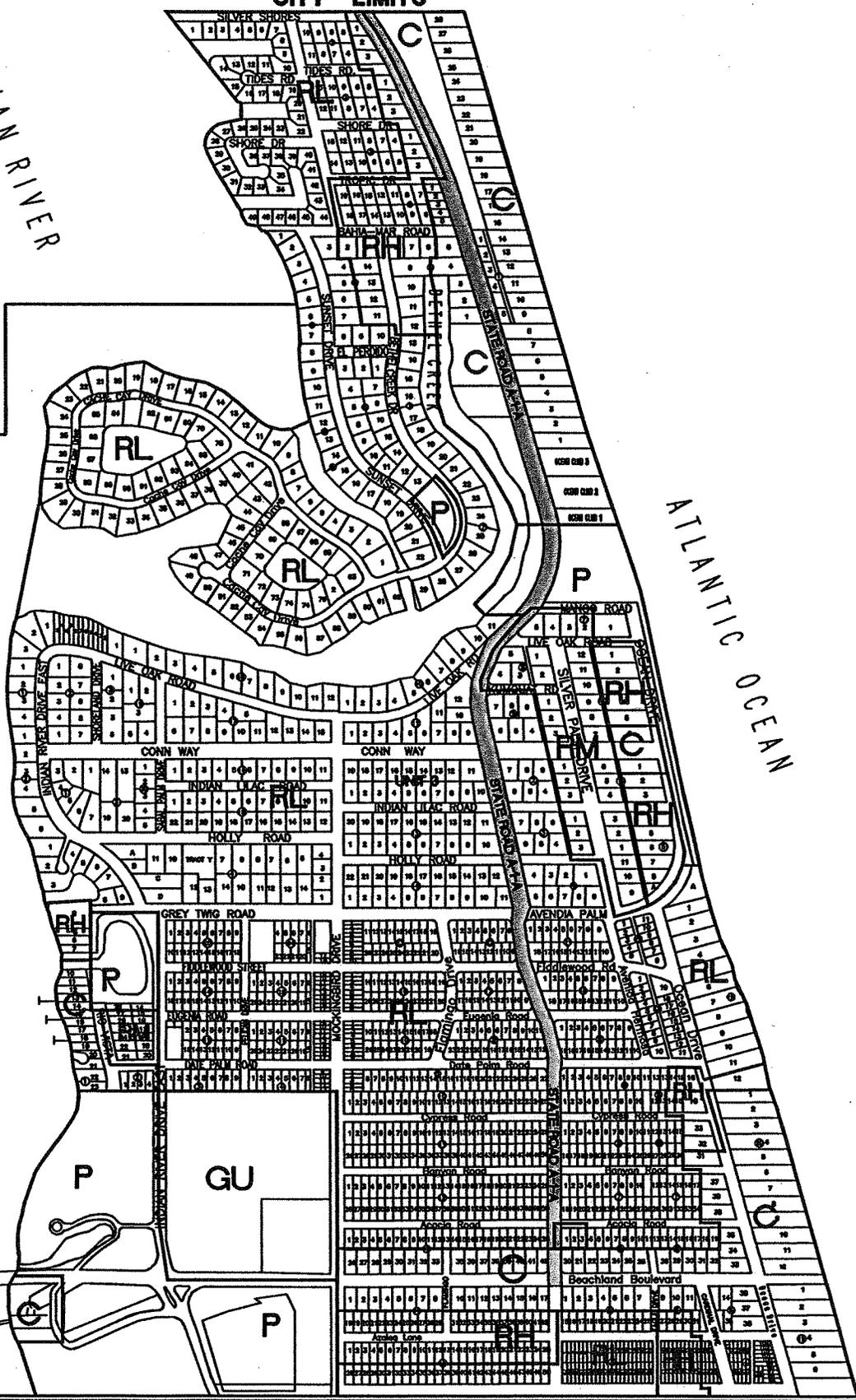
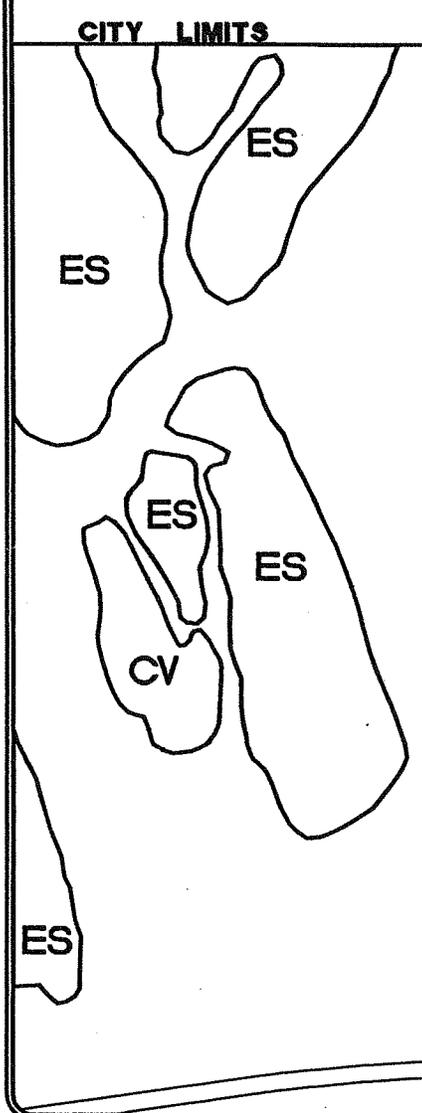
Level of Service E (Peak Hour/Peak Season/Peak Direction) plus 20%

Level of Service D (Peak Hour/Peak Season/Peak Direction) plus 30%”



INDIAN RIVER

CITY LIMITS



ATLANTIC OCEAN



SR A1A SEGMENT PROPOSED FOR A CHANGE IN LEVEL OF SERVICE

DATE 05/24/2010
SCALE-NTS
EXHIBIT TWO

RESOLUTION NO. 2010 - _____

A RESOLUTION OF THE CITY OF VERO BEACH, FLORIDA, AUTHORIZING ITS INTERIM CITY MANAGER, ITS DIRECTOR OF FINANCE, AND ITS ASSISTANT FINANCE DIRECTOR TO ISSUE WARRANTS, CHECKS, AND VOUCHERS OF THE CITY OF VERO BEACH, FOR THE PAYMENT OF FUNDS FROM ANY OF THE DEPOSITORIES UTILIZED BY THE CITY.

WHEREAS, Monte K. Falls is assuming the responsibilities of Interim City Manager; and

WHEREAS, Monte K. Falls, as Interim City Manager, will sign either the original, or by facsimile signature, all warrants for the payment or transfer of money for the City of Vero Beach; and

WHEREAS, Stephen J. Maillet as Director of Finance or Jacqueline S. Mitts, or her successor as Assistant Finance Director, will continue to sign the original, or by facsimile signature, all warrants for the payment or transfer of money for the City of Vero Beach,

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

1. All warrants, checks, and vouchers of the City of Vero Beach for the payment of, and for the withdrawal or transfer of, funds from any of the depositories of the City of Vero Beach, shall be issued by Monte K. Falls, Interim City Manager, and either the Director of Finance or the Assistant Finance Director, and such warrants, checks, and vouchers so issued shall be honored by the depository upon which the same are drawn, and shall be a binding obligation of the City of Vero Beach.

2. That checks drawn on any depository established for employee compensation (payroll account) shall be honored by any depository with the signature of either the Interim City Manager, the Director of Finance, or the Assistant Finance Director.

Section 1 – Effective Date.

This resolution was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted on the _____ day of _____, 2010, by the following vote:

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

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

Signed, sealed, and delivered
in the presence of:

CITY OF VERO BEACH, FLORIDA

Sign: _____
Print: _____

Sign: _____
Print: Jay Kramer
Title: Mayor

Sign: _____
Print: _____

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

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

I HEREBY CERTIFY, that on _____, 2010, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Jay Kramer and Tammy K. Vock, known to be to be the Mayor and City Clerk, respectively, of the City of Vero Beach, a municipal corporation under the laws of the State of Florida. They are personally known to me, and did not take an oath.

NOTARY PUBLIC

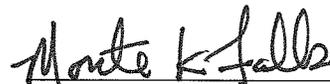
Sign: _____
Print: _____
State of Florida at Large
My Commission Expires:

Approved as to form
and legal sufficiency



Charles P. Vitunac
City Attorney

Approved as conforming to
municipal policy:



Monte K. Falls
Interim City Manager

Approved as to technical
requirements:



Stephen J. Maillet
Director of Finance

This instrument prepared by:
City Attorney
City of Vero Beach
Post Office Box 1389
Vero Beach, Florida 32961-1389

S-A)

DEPARTMENTAL CORRESPONDENCE

TO: Monte K. Falls, PE
Interim City Manager

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

DATE: November 29, 2010

SUBJECT: **First Reading on Ordinance Amending Chapter 72,
Article IV, Tree and Palm Protection of City Code
(#Z10-000007-TXT)**

Overview

The Planning and Development Department requests that the attached draft ordinance amending the City's tree ordinance be placed on the City Council's agenda for first reading. The primary purposes of these revisions are to further streamline the permitting process by modifying the requirements for removal of "specimen trees" and provide a provision for granting of waivers by the Planning and Zoning Board of the strict provisions of the Ordinance.

Issues Recommended to be Addressed

In January of this year, the City adopted a comprehensive set of revisions to strengthen the regulations governing the removal of trees and palms as recommended in the City's adopted Vision Plan. However, since enactment, the staff has identified specific areas where improvements to the regulations are desirable for a more effective and efficient process without any degradation of the tree and palm protection.

Specimen Tree Procedures. The staff has found the procedures governing removal of specimen trees to be rather burdensome to both the applicants and the City in terms of time and money expended. Under the current regulations, except for emergencies and certain exemptions, the removal of a specimen tree for any reason requires approval by the Planning and Zoning Board and must go through a public hearing process similar to a major site plan approval, including notification of property owners within 500 feet of the property. In the staff's opinion this process could be revised to allow most specimen trees to be removed through the administrative process, rather than quasi-judicial process requiring Planning and Zoning Board approval, without weakening the tree and palm protection regulations.

Conditions for Tree Removal Permit Approval. Another area that has created problems has to do with the criteria or conditions required to be met to receive a permit for tree or palm removal. Many trees that have reached the end of their lifecycles are expensive to maintain, subject to disease, and create potential life safety and property hazards. No provision in the current regulations allows a tree removal permit to be issued in the aforementioned situation. In

the staff's opinion, the "end of the lifecycle" of a tree or palm should be added to the list of conditions for approval of a tree removal permit.

Additionally, as no regulations can cover every situation, the staff believes it would be beneficial and prudent to provide the Planning and Zoning Board with the authority to approve issuance of a tree removal permit by granting a waiver in situations where strict adherence to the conditions required for approval of the permit create an unnecessary hardship to the property owner. This provision would not only provide more flexibility in application of the regulations, but would also provide the applicants an administrative relief mechanism where the regulations are creating an undue hardship.

Exemptions. The staff has identified several more exemptions from the permitting requirements of the ordinance that should be considered. The exemption for removal of trees and palms located in public right-of-way or utility easement should be expanded as the current exemption limitations only create further delay and cost for the City's public works and utilities departments in carrying out their duties.

In response to the concerns raised by the Riomar Country Club representative at the Board's workshop regarding removal of trees and palms on the club's golf course, the staff recommends that palms and non-specimen trees within the playing boundaries of the golf course be exempted from the permitting requirements of Article IV. The staff believes this amendment addresses the concerns of the Club regarding the annual number of trees and palms on their golf course that typically require removal. The removal of any specimen tree would still require a permit.

Mitigation. Section 72.43 gives authority to the Planning Director to modify the mitigation requirements for single family and duplex uses where the Director determines that the number of remaining trees and palms preserved on the lots plus any replacement trees or palms to be provided are of sufficient number and quality to substantially comply with the purpose and intent of the tree and palm protection regulations. Similar authority should be given to the Planning and Zoning Board for all other uses.

Proposed Revisions

The following is a summary of the revisions:

- A. 72.41 (b), Exemptions (page 2-3).
 1. Expands exemption in (3) to include all fruit trees. [Note: Many tropical and subtropical fruit trees, not native to region, have been planted by property owners that are not considered an integral element of the City tree canopy and shouldn't require protection.]

2. Expands exemptions in (4) for trees or palms to be removed by public utility or governmental agency within a public right-of-way or utility easement.
3. Adds new exemption in (8) for palms and non-specimen trees located within the playing boundaries of a golf course, except trees or palms required by an approved site plan or landscape plan.

B. Section 72.42(c), Contents of Application (pages 3-4).

1. Allows a single application to be filed for removal of multiple specimen trees, similar to what is allowed for protected trees and palms, except where Planning and Zoning Board approval is required. [Note: This text revision was made by staff subsequent to the Planning and Zoning Board's action on the draft ordinance to correct an oversight by staff. It was never discussed by the Planning and Zoning Board or brought to the Board's attention.]
2. Expands application content of (4) regarding mitigation to require that if modification mitigation requirements is sought, the rationale for this request needs to be included in the application. [Note: Current regulations are silent on this matter.]
3. Adds new application content requirement in (5) to address the proposed provision to allow Planning and Zoning Board to grant waivers from conditions required to approve tree removal permit.

C. Section 72.42(d), Application Review; Conditions for Permit Approval (pages 4-7).

1. Expands authority of Planning Director in (1) to administratively approve removal of specimen trees under certain conditions, except where such trees are to be removed due to construction or site development.
2. Limits the authority of the Planning and Zoning Board in (2), where a waiver is not requested, to reviewing and acting only upon requests to remove specimen trees as a result of proposed construction or site development. [Note: Planning and Zoning Board still has authority to review appeals of decisions by the Planning Director.]
3. Combines existing (2) and (3) into a single section (3), and adds new condition regarding removal of trees or palms at 80 percent or more of the average life cycle for the species. [Note: The provisions of the two existing paragraphs are almost identical and should be combined.]

- D. Section 72.42(e), Waiver of Conditions for Issuance of Permit for Tree or Palm Removal (pages 7-9).
1. Deletes (1) and (2) which can be handled administratively by the Planning Director and replaces (3) with new Section 72.48 (page13)
 2. Creates provisions for Planning and Zoning Board to grant waivers from the conditions for issuance of a tree removal permit.
- E. Section 72.43(h), Exceptions to Mitigation Requirements (pages 11-12).
1. Adds new (2) that provides authority to Planning and Zoning Board to modify mitigation requirements for non-single family and duplex properties, similar to authority granted Planning Director for single family and duplex properties.

Planning and Zoning Board and Tree and Beautification Commission Actions

The Planning and Zoning Board held a public workshop on the draft ordinance on August 19th and a public hearing on October 7, 2010. [Minutes of the public hearing are attached.] Prior to acting upon the ordinance, the Planning and Zoning Board made the decision, based on a staff recommendation, not to exempt the Seagrape from protection as a specimen tree under the City's ordinance. [The Seagrape is designated as a Specimen tree under the City's ordinance if it has a DBH of "8" or more, which is more liberal than the County's criterion for specimen tree protection of a DBH of "5" or more.] Upon conclusion of the public hearing, the Planning and Zoning Board voted unanimously to recommend approval of the draft ordinance.

On November 18th the proposed ordinance was presented to the Tree and Beautification Commission. No action was taken on the draft ordinance.

Recommendation

The staff recommends the attached draft ordinance be placed on the City Council agenda for First Reading.

TJM/tf
Attachment

ORDINANCE NO. 2010 – _____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING CHAPTER 72, ARTICLE IV, TREE AND PALM PROTECTION OF THE CODE OF THE CITY OF VERO BEACH; PROVIDING FOR ADDITIONAL EXEMPTIONS FROM PERMITTING REQUIREMENTS; AMENDING TREE REMOVAL PERMIT PROCEDURES REGARDING SPECIMEN TREES AND PROTECTED TREES AND PALMS; PROVIDING PROCEDURES AND STANDARDS FOR WAIVING TREE REMOVAL PERMITTING REQUIREMENTS BY PLANNING AND ZONING BOARD; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City enacted Ordinance 2010-02 in January, 2010, that comprehensively amended Chapter 72, Landscaping and Tree Protection of the Vero Beach City Code;

WHEREAS, based on its experience in administering the tree removal permitting requirements of Article IV of Chapter 72, the Planning and Development Department staff has found that some of these requirements are burdensome in terms of the additional delay and costs incurred by both applicants and the City; and

WHEREAS, the Planning and Development Department staff in consultation with the Planning and Zoning Board have prepared this ordinance that amends the tree removal permitting requirements that will result in a more effective and efficient process for both applicants and the City without weakening tree and palm protection; and

WHEREAS, the City Council finds that the amendments to Chapter 72, Article IV provided for in this ordinance are consistent with the requirements and criteria in Section 65.22(i) of the Code and that it promotes the public interest by improving the effectiveness of the City's tree and palm protection regulations;

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

Section 1. Amendment of Chapter 72, Article IV.

Chapter 72, Article IV, Tree and Palm Protection, is hereby amended as follows:

ARTICLE IV. TREE AND PALM PROTECTION

Sec. 72.41. Permit required; exemptions.

(a) *Permit required.* An approved tree removal permit issued pursuant to the provisions of this article shall be required before removal of any specimen tree, protected tree or palm, or any tree or palm required by an approved site plan or landscape plan.

(b) *Exemptions.* The following shall be exempt from the permit requirements of this article:

- (1) Trees and palms classified as invasive pursuant to section 72.33, except when the tree or palm was required by an approved site plan or landscape plan.
- (2) Trees and palms grown or sold by licensed plant or tree nurseries, but only for the relocation of those trees and palms for sale or intended for sale in the ordinary course of the licensee's business.
- (3) All ~~citrus~~fruit trees.
- (4) Trees and palms removed by a governmental entity or public utility when located in public right-of-way or utility easement where the tree or palm interferes with the physical construction of improvements within the right-of-way or easement, causes disruption to public utilities and services, is in a hazardous or unsafe condition, is dead or beyond recovery due to disease, infection, infestation or damage, or is at 80 percent or more of the average life cycle for the species.
- (5) Trees or palms removed by a governmental entity when required by Federal Aviation Administration regulations where the tree or palm interferes with navigable airspace.
- (6) Trees having a DBH of less than three inches, except trees required by an approved site plan or landscape plan.
- (7) Palms less than 12 feet in height, except palms required by an approved site plan or landscape plan.

- (8) Palms and non-specimen trees located within the playing boundaries of a golf course, except trees and palms required by an approved site plan or landscape plan.
- (8 9) Mangroves. However, any person trimming, cutting, or removing any mangroves or performing any other action affecting mangroves or causing any such actions shall comply with all permit and other requirements of the Florida Department of Environmental Protection, the St. Johns River Water Management District, and all other governmental and regulatory agencies that now have or may in the future have jurisdiction over and regulate such actions.

Sec. 72.42. Permit application; review and approval.

(a) *Application.* A permit application for tree or palm removal shall be submitted to the planning and development department on a form specified by the planning director together with all required supporting materials and a nonrefundable application fee. If the tree or palm removal is in conjunction with a site plan or other development approval, the permit application shall be submitted with the site plan or development application.

(b) *Multiple trees or palms.* A single permit application may be provided for removal of multiple protected trees and palms. A separate single permit application shall be required for removal of each multiple specimen trees, except that a separate permit application shall be required for each specimen tree requiring approval by the planning and zoning board.

(c) *Contents of application.* The application shall include the following:

- (1) Description of each tree and palm proposed to be removed, including species, DBH, height, and condition.
- (2) Reasons for removal.
- (3) Description of efforts and options the applicant has considered and evaluated to preserve the tree or palm through relocation or through alteration of any proposed structure or site improvement design or location, if applicable.
- (4) Mitigation the applicant proposes to provide for each tree or palm to be removed, if required by section 72.43 and, if modification of mitigation requirements is requested pursuant to section 72.43(h)(1) and (2), the rationale supporting the request.
- (5) If the applicant requests a waiver from any of the conditions required to be met for issuance of a tree removal permit, the justification documentation as required by (e) below.

- (56) If the applicant elects to pay into the city tree replacement fund the cost for purchase and installation of some or all required replacement trees or palms in lieu of installing the replacement trees or palms on the site, a description and accounting of such costs together with supporting documents as may be required by the planning director.
- (67) Two copies of an accurate and legible tree location plan provided on minimum 8 1/2-inch by 11-inch and maximum 24-inch by 36-inch paper specifying the following information:
- a. Location of all existing trees and palms, identifying those to be removed;
 - b. The proposed location for relocated or replacement trees and palms;
 - c. DBH of each relocated or replacement tree and palm and the height of each palm;
 - d. The common or scientific name for each relocated or replacement tree and palm; and
 - e. The location of existing and proposed improvements, including, but not limited to, structures, paving, utility easements, power lines, and stormwater retention and detention areas.
- (78) Written determination and report of a certified arborist for any tree or palm to be removed because it is dead, ~~or beyond recovery,~~ or at the end of its lifecycle, whenever such determination and report are deemed necessary by the planning director because the condition of the tree or palm or the cause of such condition cannot be readily determined without the professional services of a certified arborist. The professional services of a certified arborist and all supporting materials, inspections, and reports shall be provided by the applicant at the applicant's expense.

The planning director may waive or modify any of the above permit application requirements that are deemed unnecessary due to the nature and scope of the proposed tree or palm removal. If the proposed tree or palm removal is tied to an approved landscape plan or site plan, the information provided in the approved landscape or site plan may be used to fulfill some or all of the above application requirements, if approved by the planning director.

(d) *Application review; conditions for permit approval.* The following specified authority, procedures, and conditions shall apply to the review of permit applications and permit approval that do not require a waiver pursuant to (e):

- (1) *Dead, dying, hazardous specimen trees, or specimen trees disrupting utilities.*
Except as provided in (d)(2) below, all permit applications for the removal of any

specimen tree shall be reviewed and approved by the planning director upon finding one or more of the following conditions exists:

- a. The tree is in a hazardous or unsafe condition.
- b. The location or condition of the tree creates a danger of causing disruption to public utilities or services.
- c. The tree is dead or beyond recovery due to disease, infection, infestation, damage, or other condition from natural causes.
- d. The age of the tree is at 80 percent or more of the average lifecycle for its species as supported by the written findings of a certified arborist.
- e. The tree is within a power line right-of-way or easement and cannot be properly pruned.
- f. The tree or its root system is causing damage to a structure, areas or improvements used for pedestrian or vehicular traffic, or utility facilities.

(12) *Specimen trees.* Except as provided in (d)(1) above, Aall permit applications for removal of any specimen tree shall be reviewed by the planning and zoning board. Such review shall be pursuant to the procedures provided by section 64.08 of this Code for major site plan review, including ~~notice~~ and public hearing requirements, but excluding those provisions which by their nature have no application to this chapter. The planning and zoning board shall approve issuance of the permit upon finding ~~one or more~~ that all of the following conditions exist:

- ~~a. The tree is in a hazardous or unsafe condition.~~
- ~~b. The location or condition of the tree creates a danger of causing disruption to public utilities or services.~~
- ~~c. The tree is dead or beyond recovery due to disease, infection, infestation, damage, or other condition from natural causes.~~
- ~~d. The tree is within a power line right-of-way or easement and cannot be properly pruned.~~
- ea. The tree is located on that portion of the site where structural or other construction or site development is proposed;
- b. Such tree location inordinately burdens, restricts, or limits the reasonable use of the property; and
- c. The applicant has made every reasonable effort to the maximum extent practicable to preserve the tree through its relocation or through alteration

of the design or location of the structure or other site improvement. For purposes of this subsection "reasonable use" of the property includes existing and reasonably foreseeable non-speculative land uses permitted by the land development regulations of the city that are suitable for the subject property and compatible with adjacent land uses.

Permit approval may include reasonable conditions deemed necessary by the planning and zoning board to assure compliance with the purpose and intent of this chapter.

(23) Protected trees and palms; trees and palms required under an approved site or landscape plan. All permit applications for removal of any protected tree or palm or tree or palm required by a site or landscape plan shall be reviewed by the planning director. Such review shall be pursuant to the procedures provided by section 64.05 of this Code for code compliance certification review, excluding those provisions which by their nature have no application to this chapter. The planning director shall approve issuance of the permit upon finding one or more of the following conditions exist:

- a. The tree or palm is in a hazardous or unsafe condition.
- b. The location or condition of the tree or palm creates a danger of causing disruption to public utilities or services.
- c. The tree or palm is dead or beyond recovery due to disease, infection, infestation, damage, or other condition from natural causes.
- d. The age of the palm or tree is at 80 percent or more of the average lifecycle for its species as supported by the written findings of a certified arborist.
- de. The tree or palm is within a power line right-of-way or easement and cannot be properly pruned.
- ef. The tree or palm is located on that portion of the site where structural or other construction or site development is proposed; such tree or palm location inordinately burdens, restricts, or limits the reasonable use of the property; and the applicant has made every reasonable effort to the maximum extent practicable to preserve the tree or palm through its relocation or through alteration of the design or location of the structure or other site improvement. For purposes of this subsection "reasonable use" of the property includes existing and reasonably foreseeable non-speculative land uses permitted by the land development regulations of the city that are suitable for the subject property and compatible with adjacent land uses.

- f.g. The tree or palm or its root system is causing damage to a structure, areas or improvements used for pedestrian or vehicular traffic, or utilities.

Permit approval may include reasonable conditions deemed necessary by the planning director to assure compliance with the purpose and intent of this chapter.

~~(3) Other trees and palms required by an approved site plan or landscape plan. All permit applications for removal of any tree or palm required by an approved site plan or landscape plan, other than a tree classified as specimen shall be reviewed by the planning director. Such review shall be pursuant to the procedures provided by section 64.05 of this Code for code compliance certification review, excluding those provisions which by their nature have no application to this chapter. The planning director shall approve issuance of the permit upon finding one or more of the following conditions exist:~~

- ~~a. The tree or palm is in a hazardous or unsafe condition.~~
- ~~b. The location or condition of the tree or palm creates a danger of causing disruption to public utilities or services.~~
- ~~c. The tree or palm is dead or beyond recovery due to disease, infection, infestation, damage, or other condition from natural causes.~~
- ~~d. The tree or palm is within a power line right-of-way or easement and cannot be properly pruned.~~
- ~~e. The tree or palm is located on that portion of the site where structural or other construction or site development is proposed; such tree or palm location inordinately burdens, restricts, or limits the reasonable use of the property; and the applicant has made every reasonable effort to the maximum extent practicable to preserve the tree or palm through its relocation or through alteration of the design or location of the structure or other site improvement. For purposes of this subsection "reasonable use" of the property includes existing and reasonably foreseeable non-speculative land uses permitted by the land development regulations of the city that are suitable for the subject property and compatible with adjacent land uses.~~

~~Permit approval may include reasonable conditions deemed necessary by the planning director to assure compliance with the purpose and intent of this chapter.~~

(e) *Waiver of ~~or modifications of requirements~~ conditions for issuance of permit for tree or palm removal.*

- ~~(1) The permit application requirement for removal of a specimen tree may be waived and issuance of the permit authorized by the city manager whenever the planning director determines based on reasonable and probable grounds that a specimen tree is in a hazardous and unsafe condition that poses an imminent danger of injury to persons or property requiring immediate removal.~~
- ~~(2) The permit application requirement for removal of a protected tree may be waived and issuance of the permit authorized by the planning director whenever the planning director determines based on reasonable and probable grounds that a protected tree or palm is in a hazardous and unsafe condition that poses an imminent danger of injury to persons or property requiring immediate removal.~~
- ~~(3) The requirements of this article may be waived or modified to the extent determined necessary by the city manager in the interest of public health, safety, and welfare during a state of local emergency declared pursuant to article III, chapter 34 of this Code.~~

The planning and zoning board may grant a waiver from meeting any condition of this section required for approval of a permit for the removal of a protected palm, protected tree, or a specimen tree, where strict adherence to such condition creates an unnecessary hardship to a property owner. The procedures and standards for granting the waiver and the tree removal permit shall be as follows:

- (1) The applicant shall submit an application for a tree removal permit pursuant to this section, including the request for a waiver. The waiver request portion of the application shall include justification for the waiver by providing the following:
 - a. a description of all alternatives considered by the property owner to avoid removal of the palm or tree; and,
 - b. explanation of why all such alternatives to the removal of the tree or palm are unreasonable in that they would constitute an unnecessary hardship to the property owner.
- (2) The permit for removal of the palm or tree and waiver request shall be reviewed by the planning and zoning board. Such review shall be pursuant to the procedures provided by section 64.08 of this Code for major site plan review, including, public hearing requirements, but excluding those provisions which by their nature have no application to this chapter. No waiver and issuance of a permit to remove the palm or tree shall be approved unless the planning and zoning board makes the following findings based on competent substantial evidence:
 - a. Implementation of any of the alternatives to the removal of the tree or palm would constitute an unnecessary hardship to the property owner;

b. Approval of the permit with such waiver will be in harmony with the spirit and intent of this article to protect trees;

c. Such a waiver is not adverse to the public interest.

Sec. 72.43. Mitigation required; tree replacement fund; mitigation exceptions.

(a) *Applicability.* Except as otherwise provided in this section, the removal of any specimen tree, protected tree or palm, or tree or palm required by an approved site plan or landscape plan shall be mitigated by the installation of replacement trees and palms pursuant to the requirements of this section.

(b) *Specimen trees.* Mitigation of specimen tree removal shall meet or exceed the following requirements:

- (1) Replacement trees shall be the same species as the tree removed. If such species is not available in sufficient size or quantity or is otherwise shown to be impractical or not reasonably possible, another species from the specimen tree classification, ~~may be as~~ approved by the planning director, may be used as a replacement.
- (2) The total DBH of the replacement trees shall equal or exceed the total DBH of the trees removed. Multiple approved replacement trees meeting the requirements of this section may be installed to satisfy the DBH replacement requirement provided acceptable spacing and design are provided as determined and approved by the planning director.
- (3) Replacement trees shall be a minimum of three inches DBH.
- (4) Replacement trees shall be a minimum overall planted height of 12 feet at the time of installation.
- (5) Replacement trees shall be Florida Grade No. 1 or better in quality as established by the Florida Department of Agriculture and Consumer Services and shall be free from all disease, insects, and other pests.

(c) *Protected trees and palms.* Mitigation of protected tree or palm removal shall meet or exceed the following requirements:

- (1) Replacement trees and palms shall be the same species as the tree or palm removed. If such species is not available in sufficient size or quantity or is otherwise shown to be impractical or not reasonably possible, any native species, ~~may be as~~ approved by the planning director, may be used as a replacement.

- (2) The total DBH of the replacement trees and palms shall equal or exceed one-half of the total DBH of the trees and palms removed. Multiple approved replacement trees and palms meeting the requirements of this section may be installed to satisfy the DBH replacement requirement provided acceptable spacing and design are provided as determined and approved by the planning director.
 - (3) Replacement trees shall be a minimum of two inches DBH.
 - (4) Replacement trees and palms shall be a minimum overall planted height of ten feet at the time of planting.
 - (5) Replacement trees and palms shall be Florida Grade No. 1 or better in quality as established by the Florida Department of Agriculture and Consumer Services and shall be free from all disease, insects, and other pests.
- (d) Trees and palms required by an approved site plan or landscape plan. Mitigation for removal of any tree or palm required by or relocated, preserved, or installed pursuant to an approved site plan or landscape plan shall meet or exceed the following requirements:
- (1) Removal of any tree or palm meeting the classification of a specimen tree or protected tree or palm at the time of removal shall be mitigated pursuant to the requirements of this section for such classification of tree or palm.
 - (2) Removal of any tree or palm, other than a tree or palm meeting the classification of a specimen tree or protected tree or palm shall be mitigated by replacement with the same species and having the same or greater DBH and height.
 - (3) Removal of any tree or palm meeting the classification of an invasive tree or palm at the time of removal shall be mitigated by replacement with an approved non-invasive species with the appropriate DBH and height pursuant to subsections (1) and (2) above.
 - (4) Replacement trees and palms shall be Florida Grade No. 1 or better in quality as established by the Florida Department of Agriculture and Consumer Services and shall be free from all disease, insects, and other pests.
- (e) *Time for mitigation.* All mitigation by installation of replacement trees or palms, except that required in conjunction with an approved site plan or landscape plan as specified below, shall be completed within 30 days after removal of the tree or palm. Such time may be extended by the planning director for good cause shown upon written request of the permit holder. Mitigation by installation of replacement trees or palms required in conjunction with development or redevelopment of a site pursuant to an approved site plan or landscape plan shall be completed prior to the final landscaping inspection.

(f) *Inspection required.* The permit holder shall notify the planning and development department within 5 days after installation of the trees and palms provided in mitigation. Upon notification the planning director or his agent shall make inspection of the site and shall either approve the mitigation or notify the permit holder or his agent of any violations which must be corrected in order to comply with the permit conditions and requirements and this Code. In any instance requiring re-inspection, the permit holder shall pay the assessed re-inspection fee before compliance may be certified.

(g) *Tree replacement fund; alternative mitigation.*

(1) There is hereby established a city tree replacement fund for the purpose and intent of providing applicants with an alternative means for mitigating the removal of specimen trees and protected trees and palms by allowing payment by the applicant into such fund the amount that it would cost for purchase and installation of the required replacement trees and palms. The amount of such costs shall be as determined or approved by the city engineer. All amounts paid into the fund shall be reserved solely for the purchase, installation, and maintenance of trees and palms on public property and rights-of-way within the city.

(2) The applicant for a tree removal permit may, ~~with the approval of the planning and zoning board for removal of a specimen tree or approval of the planning director for removal of a protected tree or palm,~~ mitigate the removal by payment into the city tree replacement fund the amount that it would cost for purchase and installation of the required replacement trees and palms in lieu of installing some or all of the required replacement trees or palms on the property or site. The removal of any tree or palm required by an approved site plan or landscape plan shall be mitigated by replacement and may not be mitigated pursuant to this subsection.

(3) The tree or palm removal permit shall not be issued until the applicant electing to mitigate tree or palm removal pursuant to this section has paid the amount approved for mitigation into the city tree replacement fund.

(h) *Exceptions to mitigation requirements.* The following exceptions and modifications shall apply to the mitigation requirements of this section:

(1) *Single-family and duplex property.* The number of replacement trees and palms and the total replacement DBH required by this section for mitigation may be reduced, adjusted, or otherwise modified by the planning director for any single-family or duplex lot whenever the planning director determines in his professional opinion that the trees and palms preserved on the lot plus the replacement trees or palms to be provided are of sufficient number and quality to substantially comply with the purpose and intent of this chapter.

- (2) All non-single family or non-duplex property. The number of replacement trees and palms and the total replacement DBH required by this section for mitigation may be reduced, adjusted, or otherwise modified by the planning and zoning board for any non-single-family or non-duplex lot pursuant to the procedures provided by section 64.08 of this Code for major site plan review, including public hearing requirements, but excluding those provisions which by their nature have no application to this chapter. The planning and zoning board shall make its decision to reduce, adjust, or modify the mitigation requirements of this section based on competent substantial evidence that demonstrates the trees and palms preserved on the property, plus the replacement trees or palms to be provided, are of sufficient number and quality to substantially comply with the purpose and intent of this chapter.
- (23) *Relocated trees and palms.* Successful relocation of a specimen tree, protected tree or palm, or a tree or palm required by an approved site plan or landscape plan on the lot or site pursuant to an approved permit shall not require mitigation. Relocation shall be deemed successful only if the tree or palm survives and is thriving one year after relocation, otherwise the relocated tree or palm shall be deemed removed and require mitigation or in compliance with this section. A relocated tree or palm required by an approved site plan or landscape plan shall remain subject to the replacement requirements of this chapter regardless of successful relocation.
- (34) *Replacement trees and palms.* Any replacement tree or palm planted pursuant to required mitigation or an approved permit for replacement of a specimen tree, protected tree or palm, or tree or palm required by an approved site plan or landscape plan that does not survive or is not thriving one year after planting shall be replaced with another tree or palm of the same species and equal or greater in size and quality as such unsuccessful replacement tree.
- (4 5) *Dead or unsafe trees and palms.* Except for a tree or palm required by an approved site plan or landscape plan, mitigation shall not be required for removal of a specimen tree or protected tree or palm that is dead or beyond recovery due to natural causes or that is in a weakened and unsafe condition due to age, storm, fire, insects, disease, or other natural causes.

Sec. 72.44. Removal without permit unlawful.

[Note: Retain as written.]

Sec. 72.45. Protection before and during site development and construction.

[Note; Retain as written.]

Sec. 72.46. Planting invasive trees and palms discouraged; removal.

[Note; Retain as written.]

Sec. 72.47. Pruning.

[Note; Retain as written.]

Sec. 72.48. Emergency waivers.

The requirements of this article may be waived or modified to the extent determined necessary by the city manager in the interest of public health, safety, and welfare during a state of local emergency declared pursuant to article III, chapter 34 of this Code.

Sec. 72.4849-72.60 Reserved

Section 2. Conflict and Severability.

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

Section 3. Effective Date.

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

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

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 _____, 2011, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

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

ATTEST:

CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

Jay Kramer
Mayor

Approved as to form and legal sufficiency:

Approved as conforming to municipal policy:

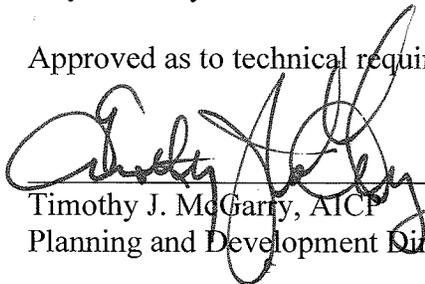


Charles P. Vitunac
City Attorney



Monte K. Falls, PE
Interim City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director

III. PUBLIC HEARING

[LEGISLATIVE]

A. Public Hearing to Consider Proposed Text Amendments to Chapter 72, Article IV, Tree and Palm Protection of the City Code (#Z10-000007-TXT).

Mr. Tim McGarry, Planning and Development Director, went over the proposed amendments to Chapter 72, Article IV of the City Code with the Board members (on file in the City Clerk's office). He explained that staff felt that the removal of specimen trees were burdensome to both the applicants and to the City in terms of time and money. He explained that under the current regulations the removal of a specimen tree requires approval by the Planning and Zoning Board during a public hearing. It was staff's opinion that they revise this to most specimen trees to be removed through the administrative process. He said that there is not a provision in the Code that allows removal of trees that have come to the end of their lifecycle where there is susceptible disease. Staff is suggesting that they amend the Code to state that those trees could be removed if they have reached 80% of the average lifespan of that tree species. He said that the Planning Director has the authority to waive some mitigation requirements for removal of protected trees where there are a lot of trees on site for single family duplexes. Staff feels that the Planning and Zoning Board should have similar authority for all other properties. Under Section 72.41 (b), they changed "citrus trees" to "fruit trees." He said that they had a Representative from the Riomar Country Club who brought up the issue of having so many trees to have to always get tree removal permits. Staff suggests that they exempt them to be exempt for non-specimen trees outside the playing area. All other tree removals would have to come before the Board.

Mr. Sammons asked if the permit fee would be changed.

Mr. McGarry answered no.

Mr. Sammons asked who determines the age of the tree.

Mr. McGarry answered a Certified Arborist. He said that Planning staff has reasonable knowledge, but when there is doubt there is a provision in the Code that allows them to use an independent Arborist.

Mr. Sammons asked Mr. McGarry to notify the Board when this happens so they don't wonder why a tree is being removed.

Mr. McGarry said that they would give the Board a list of specimen tree removal.

Mr. Sammons asked have the owners of tree businesses been notified of the Ordinance.

Mr. McGarry answered yes. He said that this has been advertised in the newspaper and it also is on the City's website.

Mr. Mucher said what if they have a tree with a lifespan of 75 to 80 years, would they use 80% of the maximum years or the minimum years.

Mr. McGarry said they would use the average lifespan.

Mr. Mucher said it was stated that they do not need a permit for removal of invasive trees.

Mr. McGarry said that was correct.

Mr. Mucher said that a friend of his had to remove some invasive trees in Sebastian and they had to get a \$650 Grubbing permit.

Mr. McGarry said the County has land clearing permits.

Mr. McGarry said that the Sea Grape is protected by the County. He said that the Sea Grapes in the County only need to have a five inch DBH, which is smaller than what the City requires.

Mr. Mucher asked has the Tree and Beautification Commission discussed the Sea Grapes.

Mr. McGarry answered no, but he would be discussing it with them.

Mr. Doty was concerned that they continue to lose native trees and canopy to non-native trees. He said that there are a lot of people who plant trees that are inappropriate for Vero Beach. He asked under mitigation, what would prohibit someone from trading a specimen tree for a non-specimen tree.

Mr. Fletcher said the Ordinance states that they replace the tree with the same specimen.

Mr. McGarry said there are occasions where they cannot get the same species. In those cases they need to have some leeway. He said that he could amend the proposed Ordinance to state that they prohibit non-native trees.

Mr. Coment said that it states in the Ordinance that if protected trees are not available any native trees may be approved.

Mr. Doty would accept that.

Mr. Fletcher said when they state it "may" be approved they really mean that it "must" be approved.

Mr. McGarry said that they could change it from "may be approved" to "as approved by the Planning Director."

Mr. McGarry then continued with the proposed amendments. He reported that the contents of the application have been expanded. He stated that the biggest change was located on page eight of the proposed Ordinance, which states that the Planning and Zoning Board may grant a waiver from meeting certain conditions, which basically is an "out clause." There are specific guidelines that would have to be followed and it does make the applicant go through several steps to show why they were in this position.

Mr. Doty referred to Article IV, Section 72.41 (b)(2). He asked is this exempting growers from

taking trees or palms out of the ground in order to sell them.

Mr. McGarry answered yes.

Mr. Fletcher made a motion to adopt the proposed Ordinance as amended. Mr. Sammons seconded the motion.

Mr. Ryan closed the public hearing at 1:54 p.m., with no one in the audience wishing to be heard.

The motion passed 6-0 with Mr. Fletcher voting yes, Mr. Doty yes, Mr. Sammons yes, Mr. Mucher yes, Mr. Vogt yes and Chairman Ryan yes.

IV. PLANNING DEPARTMENT MATTERS

Mr. McGarry reported that the Flood Planning Management Regulations would be heard during a public hearing at their next meeting.

Mr. Mucher said that he saw a copy of a new flood area map.

Mr. McGarry said that City staff is working on the maps.

Mr. Mucher asked would the maps be a part of this.

Mr. McGarry said that is not part of this Ordinance, but there is a reference to the maps. He said that there would be some changes that would affect some properties.

Mr. Vogt asked what is the timeline.

Chairman Ryan said that it was coming before the Board on October 21st.

Mr. McGarry explained that the Ordinance would be going before the Board, not the maps.

Chairman Ryan asked are there any site plans coming before the Board at their October 21st meeting.

Mr. McGarry answered no.

Chairman Ryan said then this proposed Ordinance would be the only item on the agenda.

Mr. McGarry said that is correct.

Mr. Vogt asked about the Panera Bread development.

Mr. McGarry reported that Mr. Parker of the "Three Avenues" was going to appeal before the City Council.

Mr. Sammons asked that the Board members are notified when the appeal is scheduled.

6-H)

MEMORANDUM

TO: Mayor Jay Kramer and
City Councilmembers

FROM: Tammy K. Vock, MMC *Tammy*
City Clerk

DATE: December 1, 2010

SUBJECT: Appointments to the Veterans Memorial Island Sanctuary Advisory Committee

The Veterans Memorial Island Sanctuary Advisory Committee has two (2) full openings and (1) alternate position open on the Committee.

Applications on file:

- Eric Wieler
- Anthony (Tony) Young
- Barbara Fallon

/tv

From: jay@ceilley.com
Sent: Tuesday, November 30, 2010 8:34 PM
To: Vock, Tammy
Subject: Agenda Item #1 from Jay Kramer

Special Call meeting for Airport discussion and presentation on possible lead contaminants and noise pollution.

The Mayors office has been contacted by members of the community to hold a special call meeting to allow presentations on issues relating to the Vero Beach Airport and how it affects the local neighborhoods. These issues relate to safety concerns from the use of leaded gasoline found in aviation fuel and the amount of noise the aircrafts produce. The venue of a special call meeting of the city council was chosen to induce an atmosphere of impartiality and to publicize the issue on local television channels. In my meetings with representatives a possible date of Thursday February 3rd in the evening was chosen to allow for pre-submitted questions to be processed in advance and to allow for working individuals of the community to be able to attend an evening meeting. It is requested of this Council to consider the special call meeting as both an action of continuance from the previous council that had agreed to a special session and as a respect to the community leaders who have demonstrated their commitment to this issue through their hard work and dedication to improving their community.

9B-2)

Vock, Tammy

From: jay@ceiley.com
Sent: Tuesday, November 30, 2010 8:41 PM
To: Vock, Tammy
Subject: Agenda Item #2 from Jay Kramer

Using utility bill mailing for the promotion of non-profit community based services.

In 2009 the United Way engaged in a program with the Internal Revenue Service to provide tax assistance to low income persons in our community. The program consisted of using volunteers who were trained by the IRS to prepare and file Federal tax forms on behalf of participants of the program. Through the expertise of the United Way volunteers and the training of the IRS the program brought back over \$800,000 into our community in 2009. It is the desire of the United Way VITA (Volunteer Income Tax Assistance) group to have this program advertised through the Vero Beach's utility bill system, similarly as the previous "Currents" newsletter had been done, as a paid insert by the United Way to promote this program to the ratepayers of the Vero Beach utilities. In doing this the United Way Vita program hopes to bring back over \$1,500,000 back into the community in 2010. I would hope this would be considered as an opportunity to help our local economy.

Addendum to the City Council Meeting Agenda

9B-3)

Author: Tracy Carroll

Council Meeting Date: 12/6/10

Priority 1 **of** 39

Title: Discussion of the Meetings with FPL held during last week individually with each councilmember

Summary: not held yet so no backup

Public need or issue addressed:

Relevant City Charter, code references, legal:

Dates of past decisions by Council relevant to the issue:

Statement of the proposed solution to the public need or issue:

Additional attached documentation includes:

Addendum to the City Council Meeting Agenda

4B-4)

Author: Tracy Carroll

Council Meeting Date: 12/7

Priority 2 of 3

Title: Required Documentation form for Council members to add agenda items to Council meetings

Summary: By providing the attached form and either documents or references in order to place items on the agenda, the Council members can have the opportunity to do their homework before the meetings, to adequately prepare for issues of importance in our City, and members of the public can provide comments.

Public need or issue addressed: Much debate in the last council centered on the lack of a specific method for introducing agenda items. If the public and interested parties are unaware of issues to be discussed, they have no opportunity to provide public comment. Inadequate notice to the public of issues to be discussed may be considered a Sunshine Rules violation. Also, by just a one line or few words statement on the agenda, Council members are not provided the opportunity to sufficiently prepare for the discussion to take place, or to do more research into the issue if they personally feel the need.

Relevant City Charter, code references, legal: Charter 2.08d, Code Article II, Div 2, Sec 2-46 (c)

Dates of past decisions by Council relevant to the issue:

Statement of the proposed solution to the public need or issue:

Council members are required to provide the Addendum to City Council Agenda Form and any relevant documentation in order to place on the City Council agenda matters of discussion.

Additional attached documentation includes:

Form

Addendum to the City Council Meeting Agenda

Author:

Council Meeting Date:

Priority ____ of ____

Title:

Summary:

Public need or issue addressed:

Relevant City Charter, code references, legal:

Dates of past decisions by Council relevant to the issue:

Statement of the proposed solution to the public need or issue:

Additional attached documentation includes:

Addendum to the City Council Meeting Agenda

4B-5,

Author: Tracy Carroll

Council Meeting Date:

12/6/10

Priority 3 of 3

Title: Resolution to create a Youth Advisory Board

Summary: see attached

Public need or issue addressed: see attached

Relevant City Charter, code references, legal: see attached

Dates of past decisions by Council relevant to the issue:

Statement of the proposed solution to the public need or issue: see attached

Additional attached documentation includes:

Request of **Resolution** to create
City of VB Youth Advisory Board

9 B-7)

The Youth Advisory Board will meet monthly or by special call of the City Council to discuss and provide recommendations of items of importance to our City concerning our youth and young families.

Goals of the Board:

Primary Goal: The Board will discuss the impacts on our City youth on matters involving recreation, marine, traffic around school and parks, community events with City participation, and the welfare and safety of children.

Secondary Goals:

The members will also serve as liaisons to their schools and community organizations of City events geared toward youth activities.

The Board will request Mayor and Board participation at school and community activities in order to teach our children the value of public service.

Term of office:

Adults will be selected for a four year term, as per the City ordinance and, to the extent practicable, at least 2 members shall be residents of the city.

In an effort to offer the experience of public service to a greater pool of candidates, students selected for the Board or as alternates may serve only a one year term on the Advisory Board. All student appointees must reside in the City of Vero Beach.

Number of Members:

7 and 3 alternates

Composition of the Youth Advisory Board

3 City resident high school students appointed in August of their 10th or 11th grade to a one year term
Ideally, selections would be 1 current VBHS student, 1 current private school student and 1 current other public (Charter, SRHS, FL. Virtual school, homeschool)

1 full time local college student, City resident, no more than 20 years old at appointment for one year term

3 adults appointed for a four year term:

Ideally, selections would include:

1 current elementary or middle school teacher of 5+ years in IRC

1 current adult volunteer of 3+ years in area non-profits or agencies for youth issues (GS, BS, B&G Club, Youth Guidance, Childcare Resources, Youth Sailing, Homeless Family Center, etc.)

1 Custodial Parent of an infant or child under the age of five at appointment

Three alternates will be selected, as follows:

2 student alternates, in local high school, grades 10-12, appointed in August for one year terms

1 adult alternate (a custodial parent of at least one school age student at local schools or an adult with a current role or job in youth activities with city children)

Advertisement for Advisory Board selection will take place in November, with interviews in December to be placed on the first City Council meeting of January.

The Board will take office in January, 2011.

2 adult board members will be selected for a four year term, and one for a two year term initially.

Tracy Carroll
City Council

Student Application

Name: _____ Date of birth: _____ Circle one _____ Circle one _____
Fresh Soph Female Male
Jr. Sr.
Parent Name: _____ School: _____ GPA weighted: _____
Home Address: _____ Tele # s: Home Mobil Parent mobile

City Resident: Y N E-mail :

Describe briefly what you can offer to the City of Vero Beach City Council / why pick you?

List your leadership activities during High School:

Do you belong to a school Service Club and why?

What non-school activities are you involved in?

Favorite community service project you have ever worked on:

What are your career/college goals?

Advisory Board meetings will take place at 4 pm once a month. Do you have transportation from school to City Hall?

Student Signature

Date

Parent Signature

I affirm that my student under the age of 18 may participate in the selection process and if selected may serve a one year term to the City of Vero Beach Advisory Board.

Backup material

CITY ORDINANCES

Sec. 2-101. General provisions.

The city council may establish commissions and boards to advise the city council with respect to certain matters coming before the city council. Commissions that only give advice to the city council are designated "advisory". Boards that take governmental action and give advice to the city council are designated "regulatory". Boards that are created and operate strictly pursuant to Florida Statute are designated "statutory." All future advisory commissions and regulatory boards shall be created by resolution instead of by ordinance. The city clerk shall keep a binder containing copies of all resolutions creating current and future advisory commissions and regulatory boards, and all past historical ordinances creating advisory commissions and regulatory boards, including a current roster of their membership.

(Ord. No. 2003-36, § 1, 11-18-2003)

Sec. 2-102. Term, reappointment and vacancies.

Unless otherwise provided by state law, the Charter or this Code, the regular term of office shall be four years, although members may continue to serve until their successors are appointed. Members may be reappointed. Vacancies shall be filled for the unexpired term.

(Code 1982, § 4.01(a); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-36, § 1, 11-18-2003)

Sec. 2-103. Alternate members.

Each commission and board shall have at least one alternate member who shall be appointed in the month designated for appointment to that commission or board. Alternate members shall be interviewed for this position when they are first appointed. The alternate member shall sit on the commission or board in the absence of any regular member or members and shall be appointed as a regular member when a position becomes available.

(Code 1982, § 4.01(b); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-12, § 1, 2-4-2003; Ord. No. 2003-36, § 1, 11-18-2003; Ord. No. 2006-06, § 1, 5-16-2006)

Sec. 2-104. Number of members.

The planning and zoning board shall have nine members; the recreation commission, the board of adjustment, the board of building appeals, the finance commission and the utilities commission shall each have seven members; and all other commissions and boards shall each have five members, unless designated otherwise.

(Code 1982, § 4.01(c); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-36, § 1, 11-18-2003; Ord. No. 2007-05, § 1, 2-20-2007)

Sec. 2-105. Appointment dates.

(a) Appointment dates for boards and commissions shall be as follows:

TABLE INSET:

Commission or board	15th of the month
Finance commission	May

Architectural review commission	June
Historical preservation commission	June
Tree and beautification commission	June
Utilities commission	June
Board of building appeals	June
Veterans Island Memorial Sanctuary Committee	June
Marine commission	October
Planning and zoning board	October
Airport commission	November
Recreation commission	November
Board of adjustment	November
Fire pension board	January
Police pension board	April

(b) The present term of all commission and board members in office at the time of adoption of the ordinance from which this section is derived shall expire at the normal expiration date as established by prior ordinance. The initial term of future commission and board members may be extended or shortened, and the normal appointment terms of four years may be shortened, to coincide with appointment dates as set forth in this section by the council.

(c) At the time a new commission or board having five members is created, the council shall appoint as follows:

- (1) One member shall initially be appointed for a term of two years;
- (2) One member shall initially be appointed for a term of three years;
- (3) Three members shall initially be appointed and each member thereafter shall be appointed for terms of four years; and

(4) Council shall appoint two members to the fire pension board and police pension board every two years. The other members of these boards are chosen according to F.S. chs. 175 and 185.

(d) At the time a new commission or board having seven members is created, the council shall appoint as follows:

- (1) One member shall initially be appointed for a term of two years;
- (2) Three members shall initially be appointed for terms of three years; and
- (3) Three members shall initially be appointed and each member thereafter shall be appointed for terms of four years.

(Code 1982, § 4.01(d); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-05, § 1, 1-21-2003; Ord. No. 2003-36, § 1, 11-18-2003; Ord. No. 2008-18, § 1, 10-7-2008)

Sec. 2-106. Removal.

Members shall serve at the pleasure of the city council and may be removed from office by the majority vote of the full council. The chair of the board or commission is responsible for reporting to the city clerk any member's failure to meet attendance requirements, inability to serve because of a long-term illness or health problem lasting for a year or more and inability or refusal to work in a cooperative manner with fellow board and commission members and city staff. The city clerk shall then relay the report to the city council for appropriate action.

(Code 1982, § 4.01(e); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, §

2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-36, § 1, 11-18-2003)

Sec. 2-107. Absence of members.

(a) Absence of any member or alternate member from two consecutive meetings or more than 25 percent of the scheduled meetings within one year, without approval of the commission or board, shall constitute an abandonment of the office by such member.

(b) A member's absence from a meeting can be considered as an excused absence only if the member has notified the city clerk's office at least two hours in advance of the scheduled meeting. Should a member miss two or more consecutive meetings or more than 25 percent of the scheduled meetings within one year without approval of the board or commission, the city clerk shall relay that information to the city council for appropriate action.

(c) A member of a commission or board will be considered absent if not present at the time the meeting commences, unless such absence is with the approval of the commission or board. An alternate who has been seated at the commencement of a meeting due to the absence of the member may not be removed during the meeting, but shall instead sit in the place of the regular member for the duration of that meeting. A tardy member may not be seated after the meeting begins unless other regular members are absent.

(Code 1982, § 4.01(f); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-36, § 1, 11-18-2003)

Sec. 2-108. Advisory capacity; formal annual report on recommendations to the city council; procedures for submission of reports to the city council.

(a) Commissions and boards shall act only in an advisory capacity to the city council except as otherwise provided.

(b) Pursuant to the procedure outlined in subsection (c), below, each commission and board shall submit to the city council annually, by the end of the calendar year, a formal written report summarizing commission or board concerns, recommendations, or other information pertinent to the commission or board's purpose. Additional advisory reports determined necessary by each commission or board may be submitted to the city council at anytime throughout the year, pursuant to the procedure outlined in (c), below.

(c) The required annual report to the city council by each commission and board, and additional advisory reports, shall be submitted to the city council by each commission and board after discussion by the commission and board members and a formal vote taken pursuant to section 2-114. This provision is not intended to prevent input to the city council from individual commission or board members speaking on behalf of themselves.

(Code 1982, § 4.01(g); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-36, § 1, 11-18-2003)

Sec. 2-109. Compensation.

Members of commissions or boards shall receive no salary, but the city council may make provision for the payment of any expenses necessary to the proper functioning of the commission or board.

(Code 1982, § 4.01(h); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-36, § 1, 11-18-2003)

Sec. 2-110. Meetings.

All meetings shall be given public notice by the city clerk, shall be open to the public, and shall generally be held in the city hall. Unless provided otherwise, the city clerk shall act as secretary of all commissions and boards and shall keep minutes and a permanent record of their proceedings. A copy of the minutes shall be forwarded by the city clerk to the city council. All commissions and boards shall meet whenever necessary, at the call of the chair, or as directed by council.

(Code 1982, § 4.01(i); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-06, § 1, 1-21-2003; Ord. No. 2003-36, § 1, 11-18-2003)

Sec. 2-111. Election of officers.

Beginning in November of 2008, each commission and board shall elect a chair and a vice-chair annually in the month of November, or at its next meeting if no meeting is held in November. The chairs and vice-chairs of each commission and board elected in March of 2007 shall continue in office until the November 2008 election.

(Code 1982, § 4.01(j); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-36, § 1, 11-18-2003; Ord. No. 2007-21, § 4, 10-2-2007)

Sec. 2-112. Rules of procedure.

Each commission and board shall follow such appropriate rules of procedure as are set forth by this Code for the city council.

(Code 1982, § 4.01(k); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-36, § 1, 11-18-2003)

Sec. 2-113. Quorum.

A majority of members of any commission or board shall constitute a quorum.

(Code 1982, § 4.01(l); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-36, § 1, 11-18-2003)

Sec. 2-114. Commission or board action.

Any matter, motion, or application before any commission or board with five members must receive the affirmative vote of at least three members for passage. Any matter, motion, or application before any commission or board with more than five members must receive the affirmative vote of at least four members and a majority of those present for passage. Any matter, motion, or application which is voted for approval on and which receives less than the number of votes required for passage shall be deemed to have been denied.

(Code 1982, § 4.01(m); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-36, § 1, 11-18-2003)

Sec. 2-115. Appointment of resident and nonresident members.

Unless provided otherwise by this Code, a majority of members of each commission or board shall be residents of the city.

(Code 1982, § 4.01(n); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-36, § 1, 11-18-2003)

Sec. 2-116. Applicants for commission or board seats.

All applicants for appointment to all boards and commissions shall submit a fully completed application to the city clerk listing their qualifications, areas of interest, current residence address and telephone number. Applicants shall make themselves available to city council members for personal interviews prior to appointment. Each commission or board chair who has one or more member seeking reappointment will be responsible for submitting to the city clerk the names of those wishing to be reappointed, statistics detailing the individual's attendance records, including the number of excused absences during the past 12-month period, and may make a statement as to whether or not the chair considers the individual warrants being reappointed. Anyone applying to be on one of the commissions or boards must have lived in the county for at least one year. The city council shall consider the knowledge, relevant experience and education of the applicant in its appointments. Appointments to the code enforcement board shall not have had an adverse finding from such board for a period of one year prior to appointment. No person serving as a commission or board member may simultaneously serve as an advisory board member or elected official of any other local government unless approved by council.

(Code 1982, § 4.01(o); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-17, § 1, 4-15-2003; Ord. No. 2003-36, § 1, 11-18-2003)

Sec. 2-117. City attorney's annual meeting.

The city attorney, with the assistance of the charter officers, shall host a meeting one time each year for the purpose of briefing commission and board members on their purpose and duties, procedures, and legal requirements. All current commission and board members are encouraged to attend. All newly appointed persons who have never been briefed on duties, procedures, and legal requirements shall attend.

(Code 1982, § 4.01(p); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-36, § 1, 11-18-2003)

Sec. 2-118. Legal advice.

The city attorney shall provide legal advice and assistance to each commission or board upon the request of its chair.

(Code 1982, § 4.01(q); Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 84-13, § 1, 6-5-1984; Ord. No. 85-13, § 2, 5-21-1985; Ord. No. 86-25, § 1, 8-19-1986; Ord. No. 87-59, §§ 1, 2, 8-18-1987; Ord. No. 88-06, § 2, 2-16-1988; Ord. No. 88-31, § 1, 9-6-1988; Ord. No. 92-25, § 2, 8-18-1992; Ord. No. 93-32, §§ 2, 3, 11-16-1993; Ord. No. 94-14, § 2, 10-18-1994; Ord. No. 96-08, § 2, 8-20-1996; Ord. No. 98-16, § 2, 11-3-1998; Ord. No. 99-01, § 2, 1-5-1999; Ord. No. 2003-36, § 1, 11-18-2003)

Sec. 2-119. Title and purpose of advisory commissions.

(a) *Airport commission.* The purpose of the airport commission shall be to recommend measures to the city council in all phases of aviation and airport matters relating to the Vero Beach Municipal Airport. To the extent practicable, at least three members of the airport commission shall be residents of the city.

(b) *Finance commission.* The purpose of the finance commission shall be to recommend measures to the city council in financial matters affecting the city, including selection of an accounting firm, selection of bond counsel, and review of investments. All members of the finance commission shall be residents of the city.

(c) *Marine commission.* The purpose of the marine commission shall be to recommend measures to the city council in all phases of marine activities affecting the city. To the extent practicable, at least three members of the marine commission shall be residents of the city.

(d) *Recreation commission.* The recreation commission shall advise the city council with regard to matters pertaining to recreational activities affecting the city and meet routinely with a similar county recreation commission to coordinate efforts. The recreation commission shall be composed of seven members and, to the extent practicable, at least four members shall be residents of the city.

(e) *Tree and beautification commission.* The tree and beautification commission shall be composed of five voting members and three nonvoting members. At least one member of the nurserymen's association and one member of garden circles shall be voting members of the tree and beautification commission. The three nonvoting members shall be the director of planning, director of public works and engineering, and director of recreation, or their designee. The tree and beautification commission shall fulfill the following functions:

(1) Advise city council on all matters concerning trees and the beautification needs of the city;

(2) Recommend action necessary and desirable to maintain the city as a member in good standing of "Tree City, U.S.A.", and

(3) Hear and decide all applications for trees planted in honor of individuals, groups and/or organizations and dedicated to the city (hereinafter referred to as "dedication trees") within the city and monitor the planting of approved dedication trees.

a. The tree and beautification commission shall produce a list of species and specifications of suitable and desirable trees, types and specifications of memorials and/or plaques and related materials and planting methods that shall be utilized for dedication trees with associated estimated fees to accomplish such tree dedication. This list, to be known as the dedication tree's specifications and fees list, shall be considered and adopted by resolution of city council and may be changed from time to time by city council. The dedication tree's specifications and fees list shall also prescribe the tree dedication application fee.

b. The city manager, or his designee, shall accomplish all purchasing, planting and maintaining of approved dedications submitted to the tree and beautification commission.

c. Applications for dedication trees shall be filed with the department of public works and engineering in accordance with the procedures and fees set forth in the dedication tree's specifications and fees list.

(4) Advise the city council regarding beautification and the preservation of natural beauty in the city.

(f) *Utilities commission.* The purpose of the utilities commission shall be to recommend measures to the city council in all phases of the operation and management of the city's utilities. As long as the Town of Indian River Shores receives utility services from the City of Vero Beach under a franchise, at least one member of the utilities commission shall be a resident of the Town of Indian River Shores. To the extent practicable, at least three members shall be residents of the city.

(g) *Veterans Memorial Island Sanctuary Advisory Committee.* The purpose of the Veterans Memorial Island Sanctuary Advisory Committee is to review documentation for memorials proposed to be constructed on the island, and to make recommendations to the city council. The committee shall also consider and advise the city council on such other matters as may be referred to the committee by the city council. The committee shall be composed of five members, one each from the Veterans Service Office and the Veterans Council of Indian River County, and three civilian members to be nominated by the city council.

(h) *Architectural review commission.* The purpose of the architectural review commission is to provide guidance and recommendations on the quality of architecture and urban design to work toward preserving and enhancing the city's unique character and attributes as outlined in the city comprehensive plan, vision plan, and other district and small area plans as may be adopted by the city council, as more fully provided in Chapter 77 of this Code. The commission shall also consider and advise the city council on such other matters as may be referred to the commission by the city council. The commission shall be composed of seven members with an additional two members as alternates. The members and alternates shall be architects, engineers, or landscape architects, or have related training or experience. A majority of the commission shall be city residents, or those who own real

property or work in the city. There shall be no meeting without at least one member of the quorum being an architect.

(Code 1982, § 4.02; Ord. No. 82-4, § 1, 5-4-1982; Ord. No. 83-21, § 1, 10-18-1983; Ord. No. 86-25, § 2, 8-19-1986; Ord. No. 87-59, § 3, 8-18-1987; Ord. No. 88-06, § 3, 2-16-1988; Ord. No. 92-25, § 1, 8-18-1992; Ord. No. 93-32, § 4, 11-16-1993; Ord. No. 94-01, § 3, 2-15-1994; Ord. No. 94-14, § 3, 10-18-1994; Ord. No. 95-03, § 2, 2-7-1995; Ord. No. 96-18, § 2, 11-15-1996; Ord. No. 00-25, § 1, 10-17-2000; Ord. No. 2003-05, § 2, 1-21-2003; Ord. No. 2003-36, § 1, 11-18-2003; Ord. No. 2008-18, § 1, 10-7-2008; Ord. No. 2010-01, § 1, 1-5-2010)

CENSUS DATA: <http://censtats.census.gov/data/FL/1601274150.pdf>

- 2000 Census data shows CofVB residents: 17,700
- 17.8% under the age of 19
- 19.6% of all household have a child under 18
- 28.6 percent of the population is aged 20 to 44, the most likely to have children at home
- Over 45% of our population is under 45, we are not just a city of retirees!



Sarasota County is moving to create an international rowing destination at Nathan Benderson Park.

SPORTS TOURISM

Crew Cut

In the 1960s, workers began mining a borrow pit in Sarasota County, using the rock and shell to create foundations for buildings, overpasses and miles of roads, including Interstate 75 through Sarasota and Manatee counties. By the early 1990s, mining was complete, and the pumps that kept the hole from filling with water shut down, leaving a rectangular 500-acre lake of flat, still water. Rowers took notice, and the lake, incorporated into Sarasota County's Nathan Benderson Park, has become one of Florida's top spots for rowing.



Nathan Benderson Park

Now, the county is poised to invest millions to improve the park so it can host national and international rowing regattas. "If we build infrastructure around it and master-plan it, we can

easily have one of the top rowing venues in North America," says Paul Blackketter, a project supervisor for Benderson Development, a Manatee County-based development company that has pledged \$1 million to the effort.

Sarasota County has targeted \$5 million in tourism tax money for the proposed work, which would include building boathouses and grandstands. The lake would be extended from around 1,800 meters long to more than 2,000, allowing it to host Olympic-caliber events. Blackketter says the changes will coincide with a \$20-million extension of Cattlemen Road through the park. Both projects should be completed in time to host the 2012 NCAA rowing championships.

Jason Puckett, sports manager for the Sarasota Convention & Visitors Bureau, says the changes should help attract other major events. Based on the bureau's projections of 100,000 people a year visiting the park to attend regattas, Puckett estimates an annual economic impact of at least \$43 million.

"Most of our lakes and rivers in Florida have current and a lot of boat traffic," Blackketter says. "They don't have straight shorelines. They undulate. They're the wrong shape. But this lake has everything you need to be world-class."

PROPERTY VALUES

Depreciation

The total value of taxable property in Hernando County fell 14% from 2009 to 2010.

\$9.3 billion property values in 2009

\$8 billion property values in 2010

\$8 million estimated amount county government will lose in tax revenue as a result

\$9.7 million amount of decline from 2009 in tax revenue for Hernando County School District

Source: Hernando County Property Appraiser



Tamblin

>> John "Jack"

Tamblin has been named president and CEO of the Bank of Naples. A banker since 1969, Tamblin was most recently Lee County market president for Florida Community Bank. >> **William "Bill" A. Gillen Jr.** has been named 2010-11 chairman of

the Tampa Downtown Partnership. He is an attorney at Shook, Hardy & Bacon. >> **Mary Lallucci**, senior vice president of Right Management, has been named interim president and CEO of the St. Petersburg Area Chamber of Commerce. She replaces John Long.

BUSINESS BRIEFS

CLEARWATER — Medline Industries plans to close its Clearwater plant, leaving 275 people jobless. The Illinois-based company, which makes healthcare

Continued on page 34

RESOLUTION NO. 2010-R03

A RESOLUTION OF THE TREASURE COAST REGIONAL LEAGUE OF CITIES, FLORIDA, DECLARING SUPPORT FOR PROPOSED CHANGES TO SECTION 287.055, FLORIDA STATUTES, ALSO KNOWN AS "THE CONSULTANT'S COMPETITIVE NEGOTIATION ACT" OR "CCNA;" PROVIDING AN EFFECTIVE DATE.

WHEREAS, local and state agencies through out Florida are experiencing severe and significant reductions in revenue; and

WHEREAS, professional services agreements constitute a significant public expenditure; and

WHEREAS, many local and state agencies throughout the United States routinely compare fees among competing firms before selecting an architect or engineer; and

WHEREAS, current Florida law prohibits local and state agencies from competitively comparing architectural/engineering fees and related costs; and

WHEREAS, current Florida law limits the ability of local and state agencies ability to conduct competitive negotiations; and

WHEREAS, several public organizations including the Florida Association of Counties, the Florida Governmental Finance Officers Association, the Florida Association of Public Procurement Officers, the National Institute of Government Purchasing, Florida League of Cities, and Florida League of Counties support the use of alternative procurement methods for the acquisition of professional services; and

WHEREAS, the enclosed proposed language would modify the existing state law and would give local and state agencies the discretion to competitively compare fees

and make a best value selection that considers qualifications and price among pre-qualified firms.

NOW THEREFORE, BE IT RESOLVED BY THE LEAGUE OF THE TREASURE COAST REGIONAL LEAGUE OF CITIES, FLORIDA:

Section 1. To support the proposed changes to the Consultant's Competitive Negotiation Act to allow local and state agencies to procure professional services on a "best value basis" as set forth in the enclosed language.

Section 2. This resolution shall become effective immediately upon its adoption.

PASSED AND APPROVED by the League of the Treasure Coast Regional League of Cities, Florida, this _____ day of _____, 2010.

TREASURE COAST REGIONAL LEAGUE OF CITIES

By: _____
President Richard H. Gillmor,
Council Member, City of Sebastian

ATTEST:

Sally Maio, Secretary